

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

DORA POGOLOTTI

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-1287

Decision No. CU  
**1504**

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$17,500.00, was presented by DORA POGOLOTTI and is based upon the asserted loss of land, a mortgage interest, a cemetery lot, and personal property, located in Cuba. Claimant has been a national of the United States since her naturalization on April 27, 1953.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)]<sup>7</sup>, the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant herein, DORA POGOLOTTI, asserted a claim for loss of real property and personal property in Cuba, including land, an interest in a mortgage, a bank account and other properties. By Commission letter of May 26, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. Thereafter, by letter of July 19, 1967, claimant was invited to submit any evidence available to her within 45 days from that date, and she was informed, that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record.

By letter of September 2, 1967, claimant submitted an unsigned copy of a "Declaration" indicating that in 1947 one Dr. Gonzalo Ramirez de Arellanoy Gonzalez de Mendoza, Cuban, married to Grace Pantin y Ehlers, loaned money to an unnamed person; and that payments and interests were to be paid to the mother of claimant who would hold such funds in trust

for the claimant. However, no evidence was submitted to establish ownership of real or personal property when such property was assertedly taken by the Government of Cuba; and data pertaining to taking and value of properties, subject of this claim, has not been submitted.

By letter of December 13, 1967, the Commission made additional suggestions in development of this claim, both with respect to the above mentioned "Declaration" and other elements pertaining to ownership, loss and value. When no response was received, the Commission advised claimant by letter of January 26, 1968, that if no supporting evidence was received within 30 days it may become necessary to determine the claim on the basis of the existing record. No additional information or evidence has been submitted by the claimant.

The Commission finds that claimant has not met the burden of proof in that she has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

Dated at Washington, D.C.,  
and entered as the Proposed  
Decision of the Commission

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

APR 10 1968

CERTIFICATION

This is a true and correct copy of the decision of  
the Commission which was entered as the Final  
Decision on MAY 21 1968

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Francis H. ...*

Clerk of the Commission

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)