

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

IN THE MATTER OF THE CLAIM OF

ANNA F. GONZALEZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2078

Decision No. CU 4526

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$40,000.00 was presented by ANNA F. GONZALEZ based upon the asserted loss of improved and unimproved realty, a business, bank accounts and an automobile in Cuba. Claimant has been a national of the United States since her birth.

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)], 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.

Claimant's husband, Oscar B. Gonzalez, has petitioned to join in this matter. However, the record does not disclose that he is a national of the United States. Accordingly, as no purpose would be served by such joinder, the petition is denied.

Claimant has described her asserted losses as follows:

(1) House at Suarez 8, Guines, Havana, Cuba	\$20,000
(2) House at Soparda 564, Guines	3,500
(3) House at San Julian 205, Guines	2,500
(4) Two lots at Reparto Fomento Agrivola, Guines	6,000
(5) Business at the market of Guines	5,000
(6) Automobile, 1954 Ford	800
(7) Two bank accounts	2,200

The record establishes that pursuant to the Community Property Law of Cuba, claimant had a one-half interest in two rental properties at Soparda Street and at San Julian Street; and in a property on Suarez Street, two lots at Reparto Fomento Agrivola, and in a 1954 Ford automobile.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this

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law the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties was outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15). Following Chapter VI of the law appears a section entitled "Temporary Provisions" and the third paragraph thereof provides that citizens of foreign countries who do not have the status of legal residents shall be excluded from the rights and benefits conferred by this law.

On December 6, 1961 the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country.

Realty and Automobile

On the basis of the above, the Commission finds that the property on Soparda Street and the one on San Julian Street were taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Official Gazette.

Further, the Commission finds that the property on Suarez Street and the two lots at Reparto Fomento Agrivola, as well as the automobile, were taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of Law 989.

Value

In arriving at the value of these properties, the Commission has considered all evidence of record including the description of the Suarez property as one purchased in 1952 to which improvements

were added, and again that the house was demolished and rebuilt of brick having five usual rooms and other facilities; that the property at Soparda was purchased in 1958, had five usual rooms and other facilities; that the property at San Julian was purchased in 1944, was also constructed of wood, with four usual rooms and other facilities; affidavits submitted by claimant and others concerning the properties; reports received from abroad; as well as general information available to the Commission concerning similar properties.

On the basis of the entire record the Commission finds that the fair and reasonable values of the properties at the dates of loss were as follows:

(1) Suarez Street property	\$ 6,500
(2) Soparda Street property	3,500
(3) San Julian Street property	2,500
(4) Two lots	900
(5) 1954 Ford automobile	<u>370</u>
	\$13,770

Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$6,885 within the meaning of Title V of the Act.

Business and Bank Accounts

Claim has also been asserted for a business said to have been conducted in the Market of Guines and further described as Stand #4 in Plaza del Mercado, in Guines, the stand known as "Casa Oscar", dedicated to the sale of Republic of Cuba Lottery Bills. Efforts to obtain evidence as to this item have resulted in a negative report.

Claimant has also asserted that a savings account existed in the Industrial Bank of Guines and one in the Agricola Bank of Guines, with an aggregate approximate balance of \$2,200. No information can be acquired from Cuba with regard to bank accounts.

Although affidavits have been submitted by acquaintances of claimant as to these items, the Commission finds them to be of insufficient probative value to permit certifying a loss in this respect.

Accordingly, these parts of the claim are denied.

Interest

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and it is so ordered in this case.

CERTIFICATION OF LOSS

The Commission certifies that ANNA F. GONZALEZ suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Six Thousand Eight Hundred Eighty-five Dollars (\$6,885.00) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

MAR 4 1970

Lyle S. Garlock

 Lyle S. Garlock, Chairman

Theodore Jaffe

 Theodore Jaffe, Commissioner

Sidney Freidberg

 Sidney Freidberg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

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).)