

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

IN THE MATTER OF THE CLAIM OF

LYDA RODRIGUEZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1051

Decision No. CU - 5731

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 \$55,000.00, was presented by LYDA RODRIGUEZ based upon the asserted loss of certain real property in Cuba. Claimant has been a national of the United States since April 9, 1956.

Under Title V of the International Claims Settlement Act of 1949 [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.

Claimant asserts the following losses:

Farm known as Mabujina Llanta in Fomento, Las Villas Province	\$24,000.00
Wooden structures and land in Fomento, Las Villas Province	18,000.00
House and lot at 99 Cespedes Street, Fomento, Las Villas Province	<u>13,000.00</u>
Total	<u>\$55,000.00</u>

The evidence includes reports from abroad corroborating claimant's assertions; copies of claimant's father's and mother's wills duly recorded with Cuban authorities; and affidavits from claimant and other individuals having personal knowledge of the facts. On the basis of the foregoing, the Commission finds that claimant inherited the three pieces of real property claimed herein upon the death of her father and mother in 1933 and 1947, respectively. The record shows that the farm and the land with the wooden structures were situated in a rural area of Fomento, while the house and lot at 99 Cespedes Street was located in an urban area.

On December 6, 1961, the Cuban Government published Law 989, which confiscated all real property, personal property, rights, shares, stocks, bonds, securities and bank accounts of persons who had left the country. The Commission finds that this law applied to claimant, who had left Cuba prior to that date, and that her rural properties were taken by the Government of Cuba on December 6, 1961 pursuant to Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

The Commission further finds that the urban property was within the purview of the Urban Reform Law, published in the Cuban Official Gazette on October 14, 1960. In the absence of evidence to the contrary, the Commission finds that the property was taken by the Government of Cuba on October 14, 1960. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann Rep. 39.)

The valuations asserted by claimant are supported by the reports from abroad, and affidavits from individuals who are familiar with the properties and from members of claimant's family. The record shows that the farm known as Mabujina Llanta consisted of land covering an area of 3 caballerias, a caballeria being equivalent to 33.162 acres. One affiant who owned a cattle ranch in the same area attested to the fact that he had offered claimant \$24,000.00 for the property in 1957, but that his offer was refused because claimant was not interested in selling the property.

The other rural property included a wooden warehouse and 3 one-family frame houses. An accountant formerly employed at a bank in Fomento stated in an affidavit that he was familiar with property values in that area and that \$18,000.00 was the fair market value thereof in 1958.

The house at 99 Cespedes Street, Fomento, contained 8 rooms and 2 bathrooms and was situated on a lot measuring 289.92 square meters in area. Claimant states that the property also included a patio and garden.

Upon consideration of the entire record, the Commission finds that claimant's valuations are fair and reasonable. The Commission therefore finds that claimant's properties had the following values on the respective dates of loss:

Farm known as Mabujina Llanta	\$24,000.00
Wooden warehouse, 3 frame houses and land	18,000.00
House and lot at 99 Cespedes Street	<u>13,000.00</u>
Total	<u>\$55,000.00</u>

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 in the instant case it is so ordered.

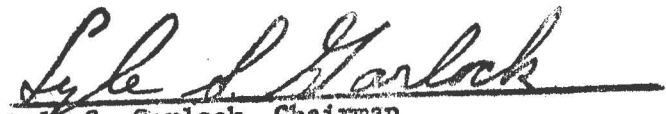
<u>FROM</u>	<u>ON</u>
October 14, 1960	\$13,000.00
December 6, 1961	<u>42,000.00</u>
Total	<u>\$55,000.00</u>


CERTIFICATION OF LOSS

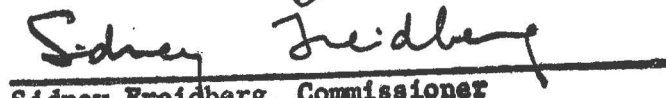
The Commission certifies that LYDA RODRIGUEZ suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Fifty-Five Thousand Dollars (\$55,000.00) with interest at 6% per annum from the respective dates of loss to the date of settlement.

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

AUG 19 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


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 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).)

CU-1051