

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

IN THE MATTER OF THE CLAIM OF

RUTH H. DOMINGUEZ
ROSALIE EMILIA DOMINGUEZ

Claim No. CU -2990

Decision No. CU -5746

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

Victor H. Eskenas, Esq.

Appeal and objections from a Proposed Decision entered August 19, 1970;
no hearing requested.

Hearing on the record held September 8, 1971.

FINAL DECISION

This claim was based on a 1/5 interest in properties assertedly formerly owned by Angel Dominguez, deceased, which were said to have passed to his five children. The record included a Joint Ownership Agreement of 1957 whereby the five children of Angel Dominguez, and their spouses, agreed that the properties listed in that Agreement were in fact the property of the five, equally, regardless of how the title might be recorded. The properties so listed in the Agreement were described as purchases and not as formerly owned by Angel Dominguez.

Claimants RUTH H. DOMINGUEZ and ROSALIE EMILIA DOMINGUEZ are the widow and only child of Antonio Dominguez, one of the five siblings referred to above.

The Proposed Decision found that one property as to which a report of ownership was obtained for the claimants, was in fact the property of the five although recorded in the name of another of the siblings. Further, the decision found that in fact this property, listed under Item A in the Proposed Decision, consisted of 60 caballeria and had a value of \$30,000 (although a report from abroad ascribed only a value of \$15,221.77).

Accordingly the Proposed Decision held that claimants succeeded to a loss in the amount of \$6,000, sustained on June 3, 1959. The remaining items were denied as the record did not establish ownership in any of the siblings and a negative report was received from abroad in respect thereof.

Claimants through counsel have objected and contend that all of the properties listed in the Joint Agreement were taken by Cuba; that all of the said properties had a value of \$1,250,000; that the report from abroad must have been the result of improper search (although in fact the claimants' joint agreement went forward with the request for evidence); that the properties produced \$90,000 or \$100,000 a year in sugar cane (although no ownership was established of sugar cane properties); that cattle owned by the said Angel Dominguez produced \$30,000 a year (whereas, however, no cattle was shown to have been owned by Antonio Dominguez); and further that the 60 caballeria would not permit the sugar cane production which they contend existed and which warranted the setting of a quota by the Cuban Government. As stated above, no ownership was established of sugar cane plantations.

In support of the Statement of Objections, counsel submitted the statement of claimant RUTH H. DOMINGUEZ, and further, affidavits from three persons who state they knew the Dominguez family for more than 35 years; that Angel Dominguez owned three sugar plantations (with names as listed in the Joint Agreement), and that he also owned cattle lands in Camaguey.

The reports from abroad reflect that records of all the claimed properties were searched in the manner as they were listed by name and registry number in Document No. 629, the very document on which claimants rely in proof of their claim. Said document specifically evidences that the properties were purchased from third parties, and were not vested in the Dominguez family as a result of inheritance through one Angel Dominguez. Accordingly, counsel's contention that an improper search was made since title was not searched through the said Angel Dominguez is irrelevant.

The Commission has considered the objections and evidence submitted and finds it not sufficiently probative to establish that the five siblings, including claimants' predecessor in interest, owned the properties claimed (other than Item A), although Angel Dominguez may have operated them at some time.

However, the Commission now holds that the 60 caballeria found to be involved in Item A, in fact were cattle-grazing land. On the basis of evidence available to the Commission as to the value of similar property in Cuba, the Commission now finds that the 60 caballeria had a value of \$99,900, that the interest therein of Antonio Dominguez, deceased, had a value of \$19,980 and that claimants herein each succeeded to a loss in the amount of \$9,990.00.

Accordingly, the Certifications of Loss in the Proposed Decision are set aside, the following Certifications of Loss will be entered, and in all other respects the Proposed Decision, as amended herein, is affirmed.

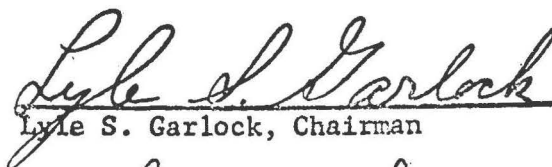
CERTIFICATIONS OF LOSS

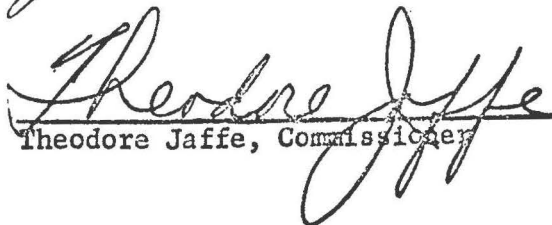
The Commission certifies that RUTH H. DOMINGUEZ suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Nine Thousand Nine Hundred Ninety Dollars (\$9,990.00) with interest thereon at 6% per annum from June 3, 1959 to the date of settlement; and

The Commission certifies that ROSALIE EMILIA DOMINGUEZ 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 Nine Thousand Nine Hundred Ninety Dollars (\$9,990.00) with interest thereon at 6% per annum from June 3, 1959 to the date of settlement.

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

SEP 8 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

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

IN THE MATTER OF THE CLAIM OF

RUTH H. DOMINGUEZ
ROSALIE EMILIA DOMINGUEZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2990

Decision No. CU 5746

Counsel for Claimants:

Victor H. Eskenas, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by RUTH H. DOMINGUEZ for \$250,000 based upon the asserted ownership and loss of a one-fifth interest in certain real and personal property in Cuba. Claimant RUTH H. DOMINGUEZ has been a national of the United States since birth.

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

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), as amended, 32 Fed. Reg. 412-13 (1969).)

Claimant RUTH H. DOMINGUEZ has stated that she inherited her interest from her late husband, Antonio Dominguez, who was naturalized as a United States citizen in 1940 and who died in Florida on January 30, 1959, survived only by his widow, RUTH H. DOMINGUEZ, and daughter, ROSALIE EMILIA DOMINGUEZ, a United States national since birth. Although RUTH H. DOMINGUEZ had been appointed as Administratrix of the Estate of Antonio Dominguez, Deceased, the record also shows that the Letters of Administration are no longer in effect as an Order for No Further Administration Necessary was issued on November 29, 1961 and the case was closed. Accordingly, the Commission holds that RUTH H. DOMINGUEZ and ROSALIE EMILIA DOMINGUEZ are the proper parties claimant in this matter.

The loss was originally described as a one-fifth interest in the estate of one Angel Dominguez, deceased, consisting of three sugar plantations, cattle, horses, machinery, two residences in Vertientes, Cuba, and a residence in Camaguey, Cuba.

The record includes a copy of a General Power of Attorney (No. 630) dated December 30, 1957, conferred by RUTH H. DOMINGUEZ on her husband Antonio Dominguez Lopez. Claimant contends through counsel that this should be considered with the "Joint Ownership Agreement" of December 30, 1957, to reflect a continuity of interest in the property therein described.

The "Joint Ownership Agreement" (No. 629) submitted in copy (the original being in Cuba and unavailable) was entered into on December 20, 1957 by five Dominguez Lopez siblings and their consorts, as follows: Piedad Dominguez Lopez (widow), Adolfo Dominguez Lopez (married to Ofelia Costa), Francisco Dominguez Lopez (married to Rosalina Rodriguez), Antonio Dominguez Lopez (married to Ruth H. Cooley), and Caridad Dominguez Lopez (married to Longino Carballo). It set out asserted ownership of properties described below:

Francisco Dominguez Lopez:

- A. Lot No. 7 - 60 cabs, 288 cordeles, equalling 817.1287 hectares, bought in 1939
- B. Farm Maria - 16.5 cabs, equalling 221.433361 hectares, bought in 1949
- C. Sugar Plantation Maria Luisa - 16 cabs, equalling 214.7232 hectares (developed apparently on the property in Item B)
- D. Colonia de Cana Jaguey - 1 cab, equalling 13.4202 hectares (developed apparently on the property in Item A)

Adolfo Dominguez Lopez:

- E. Rustic Farm Maria Luisa - 46.5741-1/1000 cabs, equalling 619.705974 hectares, bought in 1948, encumbered by mortgage of \$32,000, carrying 8 per cent interest, due June 21, 1958
- F. Sugar Plantation "Permuta" - 3-1/2 cabs, equalling 46.9707 hectares
- G. 350 Head of animals

Adolfo Dominguez Lopez, Francisco Dominguez Lopez, Mrs. Caridad Dominguez Lopez, Mrs. Piedad Dominguez Lopez and Mr. Longino Carballo:

A 2-story, brick house at 267 and 269 Avellaneda in Camaguey; acquired 1/4 by Adolfo Dominguez Lopez in 1952 and the remaining four persons acquiring the rest of the property also in 1952.

The agreement specifically provided that regardless of registration of the above properties, they and the cattle are really owned equally by the five partners, Piedad, Adolfo, Francisco, Antonio and Caridad Dominguez Lopez, and their consorts, in five equal parts. The agreement continues to discuss management and inventorying.

The Commission by its letter of July 3, 1967 originally advised claimant, through counsel, of the desirability of submitting evidence in support of the asserted ownership, and the value of the properties. By its letter of May 29, 1968, the Commission again made suggestions as to evidence appropriate for submission, including an itemized list of personalty involved, and value of the properties. Counsel replied, however, on June 4, 1968 that the itemization is set out in Document No. 629 and that the value was submitted on the claim form.

The Commission appreciates the difficulties encountered by some claimants in establishing their claims against the Government of Cuba. However, the Commission must be guided by evidence of record pertaining to ownership, loss and value of the property in each claim.

The record includes reports from abroad, received in about March 1969, and of which claimant was apprised. One report states that it has not been possible to verify the asserted ownership of the farms Maria Luisa, Maria, or La Permuta. The other report indicates that a section of a farm is registered in favor of Francisco Dominguez Lopez, purchased in 1939, then valued at \$15,221.77, and is unencumbered.

Accordingly, the Commission finds that the property recorded in Book 23, pages 212, 213 and over, in Santa Cruz del Sur, Camaguey, is that described under Item A in the "Joint Ownership Agreement" consisting of approximately 60 caballerias; and that pursuant to the Agreement, Antonio Dominguez Lopez had a one-fifth interest therein.

On June 3, 1959, the Government of Cuba published in its Official Gazette its Agrarian Reform Law which provided for the expropriation of

rural properties and distribution thereof among peasants and agricultural workers. The Commission finds that the real property subject of this claim was taken by the Government of Cuba pursuant to the Agrarian Reform Law and in the absence of evidence to the contrary, that it was taken on June 3, 1959. (See Claim of Council Bluffs Savings Bank, Trustee, Estate of Grenville M. Dodge, Deceased, Claim No. CU-1290, Decision No. CU-1143.)

Based on the record and evidence available to the Commission as to values of similar properties in Camaguey, Cuba, the Commission finds that the 60 caballerias had a value of \$30,000 and the interest which passed to the heirs of Antonio Dominguez Lopez had a value of \$6,000.

Accordingly, the Commission concludes that each claimant suffered a loss in the amount of \$3,000 within the meaning of Title V of the Act, as the result of the taking of the property by the Government of Cuba on June 3, 1959.

There is no evidence that the other properties listed in the Joint Ownership Agreement remained in the ownership of the Dominguez Lopez family subsequent to 1957 and were taken by the Government of Cuba after January 1, 1959. Further, there is no evidence that any of the cattle listed in the agreement were taken from the heirs of Antonio Dominguez Lopez in 1959.

The Commission therefore finds that claimants herein have not met the burden of proof in that they have failed to establish ownership of rights and interests in the other properties claimed. Accordingly, the Commission is constrained to and does deny these portions of the claim.

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 as follows:

	<u>FROM</u>	<u>ON</u>
RUTH H. DOMINGUEZ	June 3, 1959	\$3,000.00
ROSALIE EMILIA DOMINGUEZ	June 3, 1959	\$3,000.00

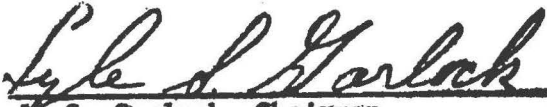
CERTIFICATIONS OF LOSS

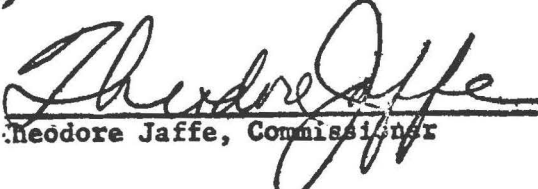
The Commission certifies that RUTH H. DOMINGUEZ suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Three Thousand Dollars (\$3,000.00) with interest thereon at 6% per annum from June 3, 1959 to the date of settlement; and

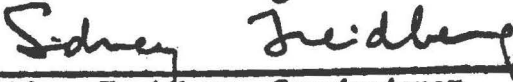
The Commission certifies that ROSALIE EMILIA DOMINGUEZ suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Three Thousand Dollars (\$3,000.00) with interest thereon at 6% per annum from June 3, 1959 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 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).)