

REPORTS OF INTERNATIONAL ARBITRAL AWARDS

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José Azael Ruiz (Panama) v. U.S

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This, unexplained, is sufficient evidence of negligence. The United States is answerable therefor (see the opinion of this Commission in the claim of Juan Manzo, Registry No. 21).

The compensation of a year's salary originally awarded to the claimant seems clearly inadequate, in view of the seriousness of his injury. It is equally clear, however, that if, from the time of his injury, he had been entitled to the benefits of the system of compensation established by the 1916 Act, which was made applicable to him by the special Act of 1930, he would have been justly treated.

The Commission finds that the claimant has not been prejudiced by the fact that he did not receive the protection of the 1916 compensation law until 1930. During the period from his injury until the passage of the Act of June 30, 1930, the Canal Zone authorities took pains to provide him with employment. The amounts received by him from the United States alone during this period total only slightly less than what he would have received if he had gotten a regular monthly compensation of \$50 during the entire time.

It is to be noted, moreover, that from 1915 to 1924 the claimant was not employed by the United States. The evidence shows that he was gainfully employed during at least part of that period, by the Government of Panama. And in that interval he was twice offered employment by the United States.

The Commission therefore feels that the facts show that the claimant, in net result, is as well off as he would have been if the present system of compensation had been available to him from the time of his injury. Since that present system is adequate and just, the claimant is not entitled to an award. In reaching this conclusion the Commission assumes that the claimant will in the future continue to enjoy the protection afforded by the 1916 act.

The Commission decides that the claim is disallowed.

JOSÉ AZAEL RUIZ (PANAMA) *v.* UNITED STATES

(June 28, 1933. Pages 636-637.)

JURISDICTION: CLAIMS ARISEN AFTER SIGNATURE OF CLAIMS CONVENTION.—

INTERPRETATION OF TREATIES. *Held* that Commission has jurisdiction to entertain claims after signature of Claims Convention, July 28, 1926: reference to Walter A. Noyes award, p. 308 *supra*.

RESPONSIBILITY FOR ACTS ASHORE OF SAILORS.—EVIDENCE: TESTIMONY OF

WITNESSES, CERTIFICATE. Pecuniary loss caused in March, 1931, by sailors of United States navy who during manoeuvres landed on Saboga Island. Evidence: testimony of witnesses, certificate issued by municipal authority. *Held* that United States liable: reference to J. M. Vásquez Díaz award, p. 341 *supra*. Damages allowed.

Cross-reference: Comisión General de Reclamaciones entre Panamá y Estados Unidos de América, Reclamación de la República de Panamá en su propio nombre y en representación de José Azael Ruiz, Registro No. 18. (Publicación Oficial, Panamá, 1934.)

Bibliography: Hunt, Report, p. 637, and "The United States-Panama General Claims Commission", Am. J. Int. Law, vol. 28 (1934), pp. 70-71; Borchard, "The United States-Panama Claims Arbitration", Am. J. Int. Law, vol. 29 (1935), p. 101; Friede, "*Die Entscheidungen . . .*", Z.a.o.R.u.V., Band V (1935), pp. 453, 459.

The Republic of Panama files this claim in the sum of \$125.00 without interest on behalf of José Azael Ruiz versus the United States of America, for loss and damage which the claimant alleges he suffered at the hands of sailors of the American Navy, on a plantation belonging to him, located on Saboga Island, Archipelago of Las Perlas, Republic of Panama.

The Panaman nationality of the claimant is established.

The facts on which this claim is based happened between the signing and the exchange of ratifications of the convention of July 28, 1926. On the grounds stated in the case of Walter A. Noyes (Registry No. 5) the Commission holds that it has jurisdiction to decide the claim.

In the month of March, 1931, several units of the American Navy held maneuvers in the Archipelago of Las Perlas. Some of the sailors of that fleet landed on Saboga Island and trespassed upon the claimant's property and ate ripe fruit which he had intended to harvest and market. The resultant loss and damage are established by the testimony of witnesses and by a certificate issued by the municipal authority of the island.

This is a case analogous to that of José María Vásquez Díaz (Registry No. 19) in which the Commission has decided that the United States is liable.

Decision

The United States of America is obligated to pay to the Republic of Panama, on behalf of José Azael Ruiz, the sum of fifty dollars (\$50.00) without interest.

CAROLINE FITZGERALD SHEARER, ADMINISTRATRIX OF THE ESTATE OF GEORGE FITZGERALD (UNITED STATES) *v.* PANAMA

(*June 29, 1933. Pages 111-114.*)

PRESCRIPTION UNDER MUNICIPAL LAW.—INTERPRETATION, PROOF OF MUNICIPAL LAW.—EVIDENCE: BURDEN OF PROOF. Acquisition of six-tenths of an acre of *baldío* land on beach, in about 1850, by United States citizen. Enactment in 1882 of Panamanian law converting *baldío* lands into *bienes de uso público* not subject to prescription. Acquisition of land above, in 1886 or 1887, by Mr. George Fitzgerald. Enactment in 1904 of Panamanian law regulating adjudication of "tidal lots". Assertion by Governor of Province that Mr. Fitzgerald had no right but to be adjudicated part of tract on conditions defined by this law. *Held* that claimant failed to prove acquisition of ownership by predecessor, prior to coming into force of law of 1882, by alleged ordinary prescription requiring just title: at material time no public instrument of transfer was registered, and claimant did not show that Panamanian law did not require registration of such instrument as condition for beginning of running of period of possession for ordinary prescription.

Cross-reference: Comisión General de Reclamaciones entre Panamá y Estados Unidos de América, Reclamación de la Norteamericana Carolina Fitzgerald Shearer, Registro No. 3. (Publicación Oficial, Panamá, 1934.)

Bibliography: Hunt, Report, p. 115; Friede, "*Die Entscheidungen . . .*", Z.a.o.R. u.V., Band V (1935), p. 466.

Claim for \$30,000, with interest, is made on behalf of the heirs of George Fitzgerald, deceased. The claimants are American citizens. The claim is based