

**THE PHILIP C. JESSUP INTERNATIONAL LAW MOOT
COURT COMPETITION**

1964

**Case Concerning Cuban Nationalizations
of United States owned Property, Greece
v. United States, 1964.**

Problem

ASSOCIATION OF STUDENT INTERNATIONAL LAW SOCIETIES
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1964 International Moot Court Competition

Statement of the Case

Situation:

In June 1962 a Greek flag vessel, the S.S. Juan de Cuba, loaded a shipment of sugar in a Cuban port. The sugar came from a refinery of the XYZ Refining Company, a Cuban corporation, which had been founded and wholly owned by the U.S. Sugar Co., a Delaware corporation, all of whose stock was owned by United States citizens. In 1961 the Cuban Government had nationalized the XYZ Co., seizing all its properties in Cuba. No compensation was paid, in accordance with a Cuban decree, which provided for expropriation of any property, owned by American citizens, designated by the Administrator as forfeited in retaliation for inimical actions by the United States Government.

The Juan de Cuba, in 1961, had been owned by the XYZ Co. At the time of the nationalization of that company the vessel was in a Cuban port and was seized by the Cuban Government as part of the property of the company. The vessel was then registered in Cuba as a vessel owned by the Government of Cuba.

The sugar aboard the Juan de Cuba had been sold by the nationalized XYZ Co. to a Greek importing firm in Athens. Payment for the sugar was made, and title was declared passed, on loading aboard ship. The Juan de Cuba sailed on June 15, 1962. On June 17th most of the ship's crew forced the master at gunpoint to change course and sail into a port in Florida. There the crew sought political asylum in the United States.

Officers of the XYZ Refining Company, who were also officers of the U.S. Sugar Co., brought an action in a state court in Florida for possession of the sugar on board the ship. Their claim was that the nationalization was contrary to international law and that a seizure without compensation would be contrary to public policy in this country. At the same time the XYZ Company brought an action in the U.S. District Court for possession of the ship.

The Cuban Government retained counsel, who moved in federal court for release of the vessel on the ground of sovereign immunity. The Greek buyer of the sugar also retained counsel, who appeared in the state court and contested the claim of the XYZ Company, asserting that the act

of the Cuban Government nationalizing property within Cuba had to be recognized by the Court. Both counsel also argued that there was no jurisdiction over the ship or the sugar because they had come into port in distress. The District Court Judge, acting on a suggestion from the U.S. Department of State, held that the ship was immune from the court's jurisdiction on the ground of sovereign immunity. No appeal was taken. The Florida state judge, with respect to the sugar, however, held that the nationalization would not be recognized in his court, and that the sugar was owned by the XYZ Company. There was no word from the Department of State before him. After this decision, the Greek importer deposited with the court funds equal to the value of the sugar so that the shipment could be released and be left on board when the ship sailed with a new crew. Thereupon, the Juan de Cuba sailed for Greece with her cargo intact.

An appeal was taken as far as the Supreme Court of Florida, but the lower court decision was affirmed. Nothing was heard directly from the Department of State, and no further appeal was sought. The Greek firm's money was duly paid to the officers of the XYZ Company in the United States.

Shortly after this the Greek Government espoused a claim of the Greek importing company against the United States, asserting that the payment of money had been exacted in violation of international law. The claim was rejected by the U.S. Department of State. Thereupon the Greek Government instituted a proceeding against the United States in the International Court of Justice, demanding a judgment for the amount taken from the Greek company. Assume that Greece has unconditionally accepted the jurisdiction of the court under Article 36-2 of the statute. The United States has decided not to question the jurisdiction of the Court on any ground and is prepared to let the case be decided on the merits. It has been stipulated by the two governments that (1) no contention will be made that the courts sitting in Florida, state and federal, lacked personal jurisdiction because the Juan de Cuba was taken there under the duress of the defecting crew, and (2) if the Court finds that under the law the sugar belonged to the Greek firm, the award should be in the form of repayment of the funds deposited with the court.

Arguments are to be made on behalf of the Greek and United States Governments. All facts are hypothetical, except that the actual relations between the United States and Cuba during the past few years are to be deemed part of the situation.