

PANAMA AND JOSÉ C. MONTEVERDE (PANAMA) *v.* UNITED STATES

(*June 29, 1933, dissenting opinion of Panamanian Commissioner, undated. Pages 631-632.*)

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This is a claim for 17,634 balboas, on behalf of José C. Monteverde, or the Government of Panama, as their interests may appear. Monteverde is an Italian subject, but jurisdiction to decide the claim is expressly conferred upon the Commission by art. I of the convention under which it acts.

The facts of this case are substantially identical with those in the claim of Abundio Caselli (Registry No. 16). Monteverde is the successor in interest of Pellas who, with Caselli, was in 1909 the owner *pro indiviso* of that part of the El Tivoli property with which both claims are concerned. Like Caselli, Pellas sold his half-interest in the property in 1909 to the Government of Panama. Pellas died, and in 1912 his widow assigned to Monteverde all her rights relating to El Tivoli. Like Caselli, Monteverde brought suit against the Government to rescind for *lesión enorme*. His first suit was unsuccessful, but in his second suit the Supreme Court of Panama, on November 1, 1918, entered a decree in his favor giving the Government the option of returning the property or paying the balance of the price declared by the Court to be just. The Government never returned the property but has chosen the other alternative and paid to Monteverde the price decreed by the Court.

The property, which is the identical tract with which the Commission dealt in the Caselli case, became a part of the Canal Zone by the Boundary Convention of 1914. The only difference between this and the Caselli case is that

here it is even more clear that the claim belongs in its entirety to the Government of Panama.

As to the merits of the claim the considerations are identical with those in the Caselli case. The Commission holds that the claim is unfounded on the authority of its decision in that case.

The Commission decides that the claim must be disallowed.

*Dissenting opinion of Panamanian Commissioner*

For the same reasons set forth in the case of Panama as substitute for Caselli, Registry No. 16, I am not in agreement with this decision.

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