



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

JBA

Complainant,

NPC 20-026

-versus-

For: Violation of the
Data Privacy Act of
2012

FNT and NNT

Respondents.

X-----X

RESOLUTION

AGUIRRE, D.P.C.;

This Commission resolves the Motion for Reconsideration (MR) filed by FNT on the Decision dated 22 September 2022.

Facts

On 22 September 2022, the Commission issued a Decision and held FNT liable for a violation of Section 25 (Unauthorized Processing of Personal Information and Sensitive Personal Information) of Republic Act No. 10173 or the Data Privacy Act (DPA):

WHEREFORE, premises considered, this Commission hereby:

1. **DISMISSES** the case against NNT for lack of merit; and
2. **FINDS** that FNT violated Section 25 of the Data Privacy Act of 2012 (DPA) and **FORWARDS** this Decision and a copy of the pertinent case records to the Secretary of Justice. This Commission **RECOMMENDS** the prosecution of FNT for Unauthorized Processing of Personal or Sensitive Personal Information under Section 25 of the DPA.

SO ORDERED.¹

On 29 December 2022, FNT received the Decision by email.²

¹ Decision, 22 September 2022, at 22, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2022).

On 06 January 2023, FNT received the Decision by registered mail.³

On 07 January 2023, FNT sent an email inquiry to the National Privacy Commission (NPC) Adjudication Secretariat at adjudication@privacy.gov.ph.⁴ She requested clarification on whether to submit a “Motion” or a “comment about the Decision.”⁵

On 20 January 2023, FNT visited the NPC Adjudication Secretariat, specifically Atty. Lee Santos-Javier or the Clerk of the Commission, to clarify the date when she can submit her MR.⁶

On the same day, FNT stated that she sought to avail herself of the services of the Public Attorney’s Office (PAO), but her request was denied due to “conflict of interest”.⁷ She narrated that the PAO declined to represent her because JBA, the Complainant, was already assisted by the same PAO at F.B. Harrison Street, Pasay City.⁸

According to FNT, she also completed the requirements to avail of the legal assistance program of the Integrated Bar of the Philippines (IBP) Cavite, but it was “subject for approval.”⁹

Nonetheless, on 20 January 2023, FNT filed her MR, arguing the following:

1. She denies using nor processing JBA’s personal information after her resignation in 2018.
2. She denies having access to the account in the Sheryna.ph website (Sheryna) and her staff members create the account for her.

² Statement in Support for the Submission of Motion of Extension of Time and Motion for Reconsideration, 13 February 2023, at 2, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

³ Motion For Extension of Time to Submit the Final Copy of Motion for Reconsideration, 26 January 2023, at 1, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

⁴ Statement in Support for the Submission of Motion of Extension of Time and Motion for Reconsideration, 13 February 2023, at 3, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

⁵ *Id.*

⁶ Motion For Extension of Time to Submit the Final Copy of Motion for Reconsideration, 26 January 2023, at 1, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

⁷ *Id.*

⁸ *Id.*

⁹ Motion for Extension of Time to Submit the Final Copy of Motion for Reconsideration, 26 January 2023, at 1, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

3. She denies having knowledge about the accounts relating to the “AUTO-RENEW” ads in Sheryna. She explained that the ads were manually posted only on 2016 and the ads were “system generated” or “system automated.”
4. She did not pay for the subscription of the website’s auto-renewal feature.¹⁰

In her MR, FNT denies having access to Sheryna and clarifies that her staff members are the ones who created the account for her:

Never ko naaccess ang account na Sheryna ph, pero inaalal ko may umulit ang posts pero nagbabago ang DATE ng post. Kaya nasa System to ng Sheryna.ph na nag "AUTO-RENEW" at - ENCRYPTED" ito sa Website. Kapag ENCRYPTED" meaning conceal data by converting it into a "code" to prevent unauthorized access. ".¹¹

May[sic] STAFF created also my Account. Hundreds of Ads posted Online from different websites, for House and Lot selling and Recruitment. I check my secondary email [] and [] using keyword: Property and Alexandra to view AD different websites.¹²

FNT likewise explained that the ads in Sheryna were still being posted as late as February and November 2021 even though the ads were originally posted in 2016 because the posting of ads is “automatically renewed” by Sheryna:

Bakit meron listings still "being posted" as late as February and November 2021? My Answer 'AUTOMATED RENEW' or 'AUTO-RENEW' or "AUTOMATIC RENEWAL". I analyzed the ADS ID Number each post, ang first FOUR (4) Digits ng ADS ID pareho-pareho at hindi nagkakalayo ang last Two (2) Digits, pero ang Date at year ay iba iba at kung basis ang PRICE pareho ito sa mga ADS posted year 2016.¹³

How would I know na may ADS sa Sheryna.ph kung wala akong lists saan nakapost ang Agent? How would I know na may AUTO RENEW "Features" ang Sheryna.ph? If I have the lists, nadelete or deactivated na ang account and posts are

¹⁰ Motion for Reconsideration, 20 January 2023, at 1-14, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

¹¹ *Id.* at 1.

¹² *Id.*

¹³ *Id.*

deleted also gaya ng mga ibang account sa mga ECOMMERCE Website at ang facebook account na ginagamit ni Agent JBA noon are all DELETED.¹⁴

To further justify her claim that the ads were “auto-renewed,” FNT explained that the digits of the newly posted ads’ ID numbers are different compared to the ID number of previously posted ads:

Mga analysis ko bakit AUTORENEW ang mga ADS sa Sheryna.ph the following:

1. Two (2) House Model Unit sa Sheryna.ph Posts ay PHASE-OUT na ang Catherine Townhouse since 2018 and Diana Townhouse since 2017. Hindi na Removed kaya activate pa rin. It’s not reasonable ipost ang mga House Model Units that are already SOLD-OUT and PHASE-OUT at walang Inventory.
2. Prices are not updated since 2016, hindi ito na-access para ma-update
3. **Check the AD ID, pareho ang first four (4) digits “4083” and ang last two (2) Digit Numbers all ADS hindi nagkakalayo.**
4. May Screenshot na umulit ang AD ID #408339 na Catherine Townhouse at AD ID #408326 an Alexandra House. Ang Catherine Townhouse ay nag AUTORENEW ito ng November 2018 at November 2021, magkaibang year pero same Month “November” Ganun din ang Alexandra House captured sa screenshot ni Ms JBA, Last AUTO RENEW was February 07, 2017 at ang bagong AUTO RENEW date was February 08, 2021 same month “February” pero magkaibang year.¹⁵

...

4) Are ADS newly posted? NO! **Go to Sheryna.ph website post at least Three (3) ADS at the same day, and check the AD ID, analyze the series or numbers and compare AD ID sa mga ADS sa Account ni Aqua (Screenshot) versus mga NEWLY POST AD.**¹⁶

...

Ang Series ng mga AD ID sa 151 four digits "4083" pareho lahat ang six (6) ADS at ang last two (2) digits ay hindi nagkakalayo.

¹⁴ *Id.* at 13.

¹⁵ *Id.* at 3.

¹⁶ Motion for Reconsideration, 20 January 2023, at 8, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

Kapag nagposts ng ADS sa Sheryna.ph. the higher the Series Number the newest the AD, and the lowest Series Number the Oldest Posts.

Dahil sa SERIES NUMBER ng AD ID na pareho ang mga 1st Four (4) Digits "4083" at hindi nagkakalayo ang mga last Two (2) Digits, nangangahulugan na ang mga ADS na ito ay naipost sa isang araw sa magkaibang oras at dahil "RANDOM" ang AUTOMATED RENEW ng Sheryna.ph, nagbago ang mga DATE at YEAR pero walang nagbago sa AD ID. **Paisa-isa ang pag AUTORENEW sa Sheryna.ph sa account na ito, tama dahil "RANDOM" ang sagot nila, at kaya tinatawag itong SYSTEM GENERATED OR SYSTEM AUTOMATION, at hindi manual posting.**¹⁷

...

Wala din proof na may "NEWLY" posts sa iba pang Websites based sa screenshot sa mga ADS Posted and mga DATE from 2015; 2016 only. **Except sa Sheryna.ph ADS na may AUTO RENEW Feature. Are the ADS at Sheryna.ph [are] NEWLY POSTED? NO. Hindi NEWLY Posted ang mga ADS, inaaral ko base sa AD ID; PRICES; TITLE ADS & details walng nagbabago, unreasonable na mag post ng ADS na hindi updated.** Unreasonable dahil my staff created [me] an account at Sheryn.ph at iba't ibang website na mas marami ADS. Hindi ko din naaccess since 2016 ang mga account ginawa sa akin kaya hindi rin ito updated.¹⁸

FNT also narrated that she even messaged the Sheryna website to ask the reason for the renewal "every 90 days [sic] or yearly basis", to which Sheryna replied "Random".¹⁹

On 21 January 2023, FNT emailed the NPC Adjudication Secretariat requesting an extension of fifteen (15) days to submit a "FINAL COPY of Motion."²⁰ FNT explained that she did not receive any response or acknowledgement from the Adjudication Secretariat.²¹

¹⁷ *Id.* at 6.

¹⁸ Decision, 22 September 2022, at 9, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2022).

¹⁹ Motion for Reconsideration, 20 January 2023, at 2, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

²⁰ Motion for Extension of Time to Submit the Final Copy of Motion for Reconsideration, 26 January 2023, at 2, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

²¹ *Id.*

On 26 January 2023, FNT visited Atty. Santos-Javier for the second time to submit a physical copy of her Motion of Extension of Time.²²

On the same day, FNT also filed a Motion for Extension of Time to Submit the Final Copy of Motion for Reconsideration by email.²³ FNT prayed that the Commission grant another fifteen (15) days to submit the “FINAL COPY” of her Motion for Consideration [sic].²⁴ She also prayed that other reliefs that are deemed just and equitable be granted.²⁵

On 27 January 2023, FNT again returned to the NPC Adjudication Secretariat “for clarification of days to be counted for the submission [sic] of the Motion for Extension of Time and Motion for Reconsideration.”²⁶

FNT explained her confusion on the basis on when she should count the deadline for her submission:

Sinabi ko kay Attorney Javier na nalilito ako sa date na pagbabasehan? Kung ang Date ng Decision sent thru email or the data I received the physical copy via courier? Dahil noong nabasa ko ang Decision ng December 31 ng gabi, I anticipated since it was National Holiday up to January 02, 2023, no one from National Privacy Commission (NPC) can assist me or answer my inquiries.²⁷

FNT mentioned that she inquired about the deadline of submissions last 07 January 2023 via email:

I informed Attorney Javier that last January 07, 2023, na nag-email ako sa NPC - Adjudication kay sir Joseph the Secretariat, nagtanong ako kung hanggang kailan pwede magsubmit, pero wala akong nareceived na reply. Attorney Lee Ann Santos-Javier explained, the Secretariat is hesitant to give an answer because Adjudication Department [sic] should remain neutral

²² Statement in Support for the Submission of Motion of Extension of Time and Motion for Reconsideration, 13 February 2023, at 1, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

²³ Motion for Extension of Time to Submit the Final Copy of Motion for Reconsideration, 26 January 2023, at 1, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

²⁴ *Id.* at 2.

²⁵ *Id.*

²⁶ Statement in Support for the Submission of Motion of Extension of Time and Motion for Reconsideration, 13 February 2023, at 2, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

²⁷ *Id.*

in this case. Baka sasabihin binibigyan ka naming ng advice or legal assistance. I replied to Attorney Javier, nag-inquire ako dahil when I received the hardcopy may nakalagay '**further inquiries or clarifications**', kaya sa NPC - Adjudication po ako nagsend ng email.²⁸

FNT also asked Atty. Santos-Javier if her submissions are already considered late.

I asked Attorney Javier kung late na ang submission ko ng Motion? Attorney Javier explained, she cannot give the answer, since wala siyang power to decide. Attorney Javier further said, hintayin ko kung anong magiging sagot ng Committee En Banc of [the National Privacy Commission (NPC)] kung tatanggapin nila ang nasubmit mo [sic] Motion for Reconsideration and Motion for Extension of Date. Hindi niya maisagot kung hanggang kailan pwede magsubmit, ang sinabi niya lang 'naitable' ko sa Committee lahat ng nasubmit na Motion noong last January 20, 2023 at ang mga email mo.²⁹

On 13 February 2023, FNT filed her Statement in Support for the Submission of Motion of Extension of Time and Motion for Reconsideration (Statement).³⁰ In the Statement, FNT reiterated her prayer that the Commission grant both her Motion for Extension and MR.³¹

Issue

Whether the MR filed by FNT dated 20 January 2023 should be granted.

Discussion

The Commission denies FNT's MR. The Commission finds no reason to overturn the Decision dated 22 September 2022 since the MR was filed out of time, and FNT provided no new or material arguments that could overturn the Decision.

²⁸ *Id.* at 2-3.

²⁹ *Id.* at 4.

³⁰ *Id.* at 2.

³¹ *Id.*

I. FNT filed the MR out of time.

For cases before the NPC, judgments, orders, or resolutions shall be served either personally, by registered mail, by courier, or by electronic mail.³² Rule III, Section 6 of the NPC Circular 2021-01 (2021 NPC Rules of Procedure) provides:

Section 6. *Service of judgments, orders, or resolutions of the NPC. Judgments, orders, or resolutions shall be served either personally, by registered mail, by courier, or by electronic mail: Provided, that service by electronic mail shall only be made if the party recipient consents to such mode of service or by order of the Commission. Provided further, that when a complaint or pleading is filed through electronic mail, the Commission may serve its judgments, orders, or resolutions by electronic mail through the same electronic mail address used in the filing of the complaint or pleading, unless otherwise indicated therein.*³³

The Commission's judgments, orders, or resolutions shall only be served through courier when an updated email of the party is unavailable.³⁴ This is to prevent a situation where an adverse party will insist on computing the period to comply with the Commission's directive from the later date of receipt.

This situation, however, cannot apply to this case. FNT cannot claim that her email is unavailable since she herself admitted that she received the e-mails from the NPC Adjudication Secretariat. In fact, the records show that FNT received the Decision by email on 29 December 2022.³⁵

A period of fifteen (15) days from the receipt of the copy of the decision is given to a party for him or her to file an appeal.³⁶ Section 4, Rule 8 of the 2021 NPC Rules of Procedure provides that the

³² National Privacy Commission, 2021 Rules of Procedure of the National Privacy Commission [NPC Circular No. 2021-01], rule III, § 6 (28 January 2021).

³³ National Privacy Commission, 2021 Rules of Procedure of the National Privacy Commission [NPC Circular No. 2021-01], rule III, § 6 (28 January 2021). Emphasis supplied.

³⁴ *Id.*

³⁵ Statement in Support for the Submission of Motion of Extension of Time and Motion for Reconsideration, 13 February 2023, at 2, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

³⁶ NPC 2021 Rules of Procedure, rule II, § 4.

Commission's decision becomes final and executory within fifteen (15) days from receipt of the parties:

Section 4. *Appeal*. **The decision of the Commission shall become final and executory fifteen (15) calendar days after receipt of a copy by both parties.** One motion for reconsideration may be filed, which shall suspend the running of the said period. Any appeal from the Decision shall be to the proper courts, in accordance with law and rules.³⁷

Thus, a party may appeal the Commission's Decision by filing a motion for reconsideration within the fifteen-day period. If no motion for reconsideration is filed within the period, then the Decision becomes final and executory.³⁸

FNT received the Decision by email on 29 December 2022.³⁹ Following Section 4, Rule 8 of the 2021 NPC Rules of Procedure, she had fifteen (15) days from 29 December 2022 or until 13 January 2023 to file her MR.

FNT herself acknowledged that she knew that the Decision was already final and executory on 13 January 2023:

*Tinanong ko ulit si Atty. Lee kung paano ang bilangan ng submission ng Motions dahil ang nakasaad sa CERTIFICATION 'The said Decision was delivered to and received by both parties on 29 December 2022, via electronic mail, and the same has become **final and executory on 13 January 2023.***⁴⁰

Despite this, FNT only filed her MR on 20 January 2023 or seven (7) days beyond the fifteen-day period for appeal.⁴¹ As a result, FNT's MR filed on 20 January 2023 was filed out of time, and the Decision dated 22 September 2022 became final and executory.

³⁷ *Id.* Emphasis supplied.

³⁸ *Id.*

³⁹ Statement in Support for the Submission of Motion of Extension of Time and Motion for Reconsideration, 13 February 2023, at 2, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

⁴⁰ *Id.*

⁴¹ Motion for Reconsideration, 20 January 2023, at 1, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

II. FNT provided no new or material arguments to warrant a reversal of the Decision dated 22 September 2022.

Nevertheless, even if the MR was filed on time, FNT still did not provide any new or material allegations to justify a reversal of the Decision dated 22 September 2022.

In the Decision dated 22 September 2022, the Commission held FNT liable for Section 25 (Unauthorized Processing of Sensitive or Personal Information) of the DPA.⁴² FNT processed JBA's personal information by posting ad listings even after JBA's resignation.⁴³ When JBA submitted her official resignation letter, she withdrew her consent and explicitly exercised her right to erasure as a data subject.⁴⁴

In the MR, FNT relies heavily on the allegation that she denies the processing of JBA's personal information after her resignation because of the "AUTO-RENEW" feature of ads posted on the Sheryna website.⁴⁵

To recall, in her Verified Comment dated 23 December 2021, she explained:

Isang beses lang mag posts, at hindi na binabalikan dahil ang ibang posting naka AUTO RENEW, ibig sabihin after 30 days kapag na-expire may auto renewal posts either 3 months, 6 months, or 1 year.⁴⁶

While the Commission takes note of the explanations provided by FNT on this point in the MR, these arguments, however, are neither new nor material to warrant the reversal of the Commission's Decision.

⁴² Decision, 22 September 2022, at 22, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2022).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Motion for Reconsideration, 20 January 2023, at 1, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

⁴⁶ Verified Comment of FNT, 23 December 2021, at 2, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2021).

The Commission stresses the obligation of Personal Information Controllers (PIC) to remain accountable for personal information in its control.⁴⁷

Section 3(h) of the DPA defines a PIC as:

Section 3. *Definition of Terms.*

...

(h) *Personal information controller* refers to a person or organization who **controls the collection, holding, processing or use of personal information**, including a person or organization who instructs another person or organization to collect, hold, process, use, transfer or disclose personal information on his or her behalf.⁴⁸

In her Verified Comment, FNT explained how the business of her real estate agency is conducted.⁴⁹ FNT described that she orients newly recruited agents while her staff members create “secondary accounts” for the agents to use in selling real estate properties on various platforms for “online marketing.”⁵⁰ In her MR, she reiterated that her staff members create the accounts in her name and that she personally has no access to those accounts.⁵¹ FNT also explained that she herself has no copy of any list showing where the ads are being posted by her staff.⁵²

In this kind of relationship, even if FNT’s staff members are the ones tasked with making these secondary accounts, FNT is still considered the PIC. After all, she is the person who instructs another person or organization to collect, hold, process, use, transfer, or disclose personal information on her behalf. Further, because these accounts, as well as the ads posted using those accounts, were not only created

⁴⁷ An Act Protecting Individual Personal Information in Information and Communications Systems in the Government and the Private Sector, creating for this purpose a National Privacy Commission, and For Other Purposes [Data Privacy Act of 2012], Republic Act No. 10173 § 21 (a) and (b) (2012). Emphasis supplied.

⁴⁸ Data Privacy Act, § 3 (h). Emphasis supplied.

⁴⁹ Verified Comment of FNT, 23 December 2021, at 5, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2021).

⁵⁰ *Id.*

⁵¹ Motion for Reconsideration, 20 January 2023, at 29, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

⁵² *Id.* at 15.

following her instructions but, more importantly, all benefit her company, she cannot evade liability as the PIC.

Section 21 of the DPA provides that a PIC is responsible for personal information under its control:

Section 21. *Principle of Accountability.* **Each personal information controller is responsible for personal information under its control or custody**, including information that have been transferred to a third party for processing, whether domestically or internationally, subject to cross-border arrangement and cooperation.

- (a) The personal information controller is accountable for complying with the requirements of this Act and shall use contractual or other reasonable means to provide a comparable level of protection while the information are being processed by a third party.
- (b) The personal information controller shall designate an individual or individuals who are accountable for the organization's compliance with this Act. The identity of the individual(s) so designated shall be made known to any data subject upon request.⁵³

As a PIC, FNT is accountable for overseeing the type of information utilized by her team and ensuring the accuracy of the platform where such information is being published. This also means that it is her obligation to ensure that the processing of personal information being carried out is in accordance with the legal basis provided by law.

In her MR, however, FNT denies that she had access and control over the ads because her staff failed to give her a list of all websites their agency used.⁵⁴ Additionally, FNT denied that she had access to the website accounts because her staff member had already resigned prior to JBA's resignation.⁵⁵ This argument is a reiteration of one of her claims in her Verified Comment:

I already commented na may mga account and ADS na hindi na-delete noon **dahil hindi ako nabigyan ng listahan ng staff**

⁵³ Data Privacy Act, § 21 (a) and (b). Emphasis supplied.

⁵⁴ Motion for Reconsideration, 20 January 2023, at 1, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

⁵⁵ *Id.*

kung saan saan websites siya nag post. Isa na dito ang Sheryna.ph Website at gaya ng Piliko.com na iisa ang website builder, ay parehong HINDI DELETED ang account. At naunang mag-resign ang Staff ko, Ms. JBA resigned 2018, rason hindi ito naaccess dahil walang lists kung kaya from 2016 the date it was registered and ADS was published at still nag-exists until 2022.⁵⁶

FNT cannot simply evade her obligations by claiming that her staff members did not provide her with a comprehensive list of the websites where the various ads were published. FNT should have taken the appropriate measures to ensure that there are designated processes and procedures in place. Since these could have been foreseen, the procedures will be useful when it comes to managing the personal information of her recruited real estate agents.

FNT's actions, or lack thereof, demonstrated her lack of accountability on her part as a PIC.

In the Decision dated 22 September 2022, the Commission ruled that "availing of automatic renewal methods does not remove a [PIC's] obligation to ensure that personal information is properly processed and that a data subject's rights are observed."⁵⁷

Even if FNT argues that the ads are not "newly posted" by her, this does not change the fact that the ads which contain JBA's personal information keep appearing on the website because of the feature she availed of in 2016. This reinforces the fact that FNT was unable to discontinue such ads. She also failed to do anything from the time the staff member who had access resigned until JBA resigned and exercised her right to erasure and even after that.

Lastly, FNT averred that she did not pay for the subscription of Sheryna's auto-renewal feature.⁵⁸ In her MR, she again failed to provide additional circumstances that would warrant a denial of the request for erasure under Section 10(B)(2) of NPC Advisory 21-01 on

⁵⁶ *Id.*

⁵⁷ Decision, 22 September 2022, at 21, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2022).

⁵⁸ Motion for Reconsideration, 20 January 2023, at 1, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2023).

Data Subject Rights. Absent any of those circumstances, she should have acted on JBA's request for erasure.

Upon JBA's resignation on 30 October 2018, FNT should have initiated the removal of ads containing JBA's personal information. The ads served a specific purpose which is no longer relevant after JBA's resignation making its continued presence in the website unnecessary.⁵⁹ Thus, FNT should have removed the same since it was specifically requested in JBA's resignation letter that "all the dummy account [sic] you created in my name will be remove [sic] in [sic] Facebook, [LinkedIn] [and] any website and other online services."⁶⁰

As emphasized in the Decision, there is no longer any reason to post the ads with JBA's name since JBA was no longer affiliated with FNT or any of her businesses.⁶¹ Since the dates of the ads in Sheryna were posted after JBA's resignation on 30 October 2018, JBA's personal information are no longer necessary for the purposes for which they were collected.⁶²

Besides, when JBA exercised her right to erasure, any consent previously given for the use of her name in these ads and for those accounts is no longer valid since she has effectively withdrawn her consent.

Even if FNT did not purchase the auto-renewal method, the fact remains that she took advantage of the feature in advertising her property listings. JBA's resignation and exercise of her right to erasure should have prompted FNT to act strictly in managing how long those ads would be posted.

The DPA imposes stricter obligations on entities processing personal data. PICs or PIPs must protect the personal data in their custody and ensure that any processing undertaken is fair, lawful, and in accordance with the rights of data subjects. The obligations and responsibilities under the DPA are primarily targeted to PICs and

⁵⁹ Decision, 22 September 2022, at 21, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2022).

⁶⁰ Complaints-Assisted Form, 20 January 2020, at 11, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2020).

⁶¹ Decision, 22 September 2022, at 21, *in* JBA v. FNT and NNT, NPC 20-026 (NPC 2022).

⁶² *Id.*

PIPs since they are in a better position to ensure the protection of their data subjects' personal data.

Considering the foregoing, the Decision dated 22 September 2022 is maintained. FNT is liable for a violation of Section 25 (Unauthorized Processing of Personal Information and Sensitive Personal Information) of the DPA.

WHEREFORE, premises considered, this Commission **DENIES** the Motion for Reconsideration filed by FNT. The Decision dated 22 September 2022 is hereby **AFFIRMED**.

SO ORDERED.

City of Pasay, Philippines.
22 February 2023.

Sgd.
LEANDRO ANGELO Y. AGUIRRE
Deputy Privacy Commissioner

WE CONCUR:

Sgd.
JOHN HENRY D. NAGA
Privacy Commissioner

Sgd.
NERISSA N. DE JESUS
Deputy Privacy Commissioner

Copy furnished:

JBA
Complainant

FNT and NNT
Respondents

COMPLAINTS AND INVESTIGATION DIVISION
ENFORCEMENT DIVISION
GENERAL RECORDS UNIT
National Privacy Commission