



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

RBG,

Complainant,

-versus-

CID Case No. 18-F-064

*For: Violation of the Data
Privacy Act of 2012*

CB,

Respondent.

x-----x

DECISION

AGUIRRE, D.P.C.

For consideration of this Commission is the Affidavit-Complaint by Complainant RBG dated 01 June 2018 against Respondent CB for an indeterminate violation of the Data Privacy Act (DPA).

These Proceedings

On 24 July 2018, this Commission, through the Complaints and Investigations Division (CID), issued an Order for the parties to confer for discovery on 14 August 2018. On 13 August 2018, the counsel for respondent filed a formal entry of appearance with Motion [to] Reset Hearing due to a prior scheduled hearing of counsel even before he was engaged for this case.¹

On 14 August 2018, the complainant and her counsel appeared at the Discovery Conference, where the CID gave a verbal order to complainants to file written interrogatories for the respondent to answer. On 20 August, the complainant, through counsel, filed "Proposed Queries of the Complainant for the Respondent to Answer."²

Only the complainant's counsel attended the discovery conference on 17 September 2018.³ The respondent was then ordered to submit his

¹ Records, p. 23-25.

² *Ibid* at p. 29.

³ *Ibid* at p. 35.

answer to the complainants' written interrogatories within five (5) days from receipt of the Order.⁴ On 26 September 2018, the respondent filed his Responsive Comment to the Complainant's Affidavit-Complaint.⁵ On the same day, the respondent filed a manifestation invoking his right against self-incrimination and asked to be excused from answering the written interrogatories.⁶

On 19 October 2018, the complainant filed an Ex-Parte Motion to Declare the Respondent As In Default and to Resolve the Instant Case based on the Pleading Submitted by the Complainant.⁷ The motion was grounded on the fact that the respondent failed to file the pleadings required of him within the provided reglementary periods. In the same motion, the complainant attached a judicial affidavit of LBC, the younger sister of the complainant and the respondent.

On 15 November 2018, the complainant filed her reply to the respondent's comment on 15 November 2018.

Facts

On the basis of these, the following facts are established:

The complainant and the respondent are siblings. The complainant resides in New Jersey, United States. On 30 May 2017, the Philippine Statistics Authority (PSA), Sta. Mesa branch, acting on a letter-request allegedly by the complainant, released two (2) marriage certificates which matched the name "RCB" - one between her and a certain JM dated 18 September 1977, and another with a certain VG dated 16 June 1983.⁸ Along with the two documents was a certification by National Statistician and Civil Registrar General LSB.⁹ The complainant was not in the Philippines for the whole month of May 2017.¹⁰

Sometime in August 2017, the respondent filed a bigamy case against the complainant and her present husband, VG, with the City Prosecutor's Office of Manila.¹¹ The counsel of complainant wrote the PSA to request for a copy of the letter request allegedly signed by the complainant and the copy of the acknowledgment receipt and

⁴ *Ibid* at p.38.

⁵ *Ibid* at p.41.

⁶ *Ibid* at p.39-40.

⁷ *Ibid* at 44-47.

⁸ *Ibid* at 50-54.

⁹ *Ibid* at 55.

¹⁰ *Ibid* at 64.

¹¹ *Id.*

authorization of the person who received the marriage contracts of the complainant.¹² The PSA, through the Assistant National Statistician, replied that they cannot provide a copy of the requested documents, despite exhausting all efforts.¹³

In a resolution dated 12 December 2017, the Office of the City Prosecutor of Manila dismissed the complaint for bigamy¹⁴ as well as the Motion for Reconsideration.¹⁵

Arguments of the Parties

The Complainant now comes to the Commission to file a case against the respondent for an unspecified violation of the DPA. In her Affidavit Complaint, she alleges that she was taking a tour in Europe during the time her marriage certificates were requested from the PSA.¹⁶ She alleges that she never requested for a copy of her marriage certificates as she was not in need of it, neither did she authorize the respondent to make the said request. She claims that the respondent forged her signature and later used the marriage certificates to file a bigamy case against her despite his knowledge that her first marriage was annulled. She asserts the respondent intends to malign, besmirch, and destroy her reputation by obtaining the marriage certificates and filing the bigamy case against her. She alleges that the respondent, in falsifying her signature in the letter request, did not just violate the DPA but also the PSA Office Memorandum No. 2017-050 dated 17 April 2017 which provides that a marriage certificate can only be released to the owner or their representative.¹⁷

The respondent denies any personal participation regarding the alleged falsified letter request and points out that such copy of the alleged falsified letter was not attached to the Affidavit-Complaint.¹⁸ He alleges that numerous cases have been filed before various offices and courts involving the parties herein and their other siblings arising out of their disagreements and/or misunderstandings involving co-owned properties.¹⁹

¹² *Ibid* at 56.

¹³ *Ibid* at 57.

¹⁴ *Ibid* at 58-61.

¹⁵ *Ibid* at 62.

¹⁶ *Supra* at note 8.

¹⁷ *Supra* at note 8.

¹⁸ *Records*, p. 41

¹⁹ *Ibid*, p. 42.

Issue

The sole issue to be resolved in this case is whether the respondent committed a violation of the DPA to warrant a recommendation for prosecution.

Discussion

The Commission must first resolve the complainant's Ex-Parte Motion to Declare the Respondent as in Default dated 18 October 2018 based on the allegation that he failed to file the pleadings required of him within the provided reglementary periods. Specifically, the complainant asserts that on 17 September 2018, the CID issued an order requiring the respondent to submit his answer to the written interrogatories of the complainant dated 20 August 2018. In the complainant's motion, she alleges that:

8. The order dated September 17, 2018 was received by the complainant thru her sister LBC on September 22, 2018 at her given address at Quezon City **so it follows that respondent also received his copy of the order on the same date or even earlier.**

xxx

10. One month has lapsed from the date of the order and no answer/comment has been filed by the respondent. The deliberate failure of the respondent to file an answer/comment on the written interrogatories of the complainant and the instant complaint is tantamount to a waiver of his right to file an answer/comment therefore it is but fair and proper that the respondent be declared as in default and the instant complaint be finally resolved by the Honorable Commission based on the affidavit complaint of the complainant together with its annexes.²⁰

The complainant, through counsel, thus assumed that the respondent received the Order on 22 September 2018 - the same day she received it. In the respondent's Manifestation filed on 26 September 2018, however, he alleges that he received the Order on 24 September 2018 which gave him ten (10) days to file a Responsive Comment and five (5) days to submit Answers to the Complainant's written

²⁰ *Ibid* at 46. Emphasis supplied.

interrogatories.²¹ Such Manifestation is his response in lieu of an Answer to the written interrogatories, alleging that:

6. Considering the foregoing and invoking the right of herein respondent against possible self-incrimination, without necessarily admitting anything, with all due respect to the Honorable Commission, herein respondent would beg to be excused from answering the Questions propounded by the complainant. The complainant should prove their allegations against herein respondent with their own evidence and with their own witness.²²

The respondent's Responsive Comment was also filed on 26 September 2018.

The respondent having submitted the pleadings two (2) days from receipt of the Order, or within the five and ten day reglementary periods provided, and the complainant not having presented any evidence to support her allegations, the Commission finds that there is no ground to grant the complainant's Ex-Parte Motion to Declare the Respondent as in Default.

The respondent did not commit a violation that warrants a recommendation for prosecution under the Data Privacy Act of 2012.

The complaint is premised on the allegation of falsification of the letter-request to the PSA for the release of the two (2) marriage certificates.

In the Affidavit-Complaint, the complainant alleges that:

xxx In the instant case my signature is forged neither have I authorized CB to obtain my marriage certificates from the Philippine Statistics Office. It is an absurd situation on my part to secure copies of my marriage certificates just to incriminate myself for the crime of bigamy. Since CB has not controverted my denial on the letter request before the city prosecutor of Manila, **he is presumed to be the author of the falsified letter request.**²³

²¹ *Ibid* at 39.

²² *Ibid* at 40.

²³ *Supra* at note 8. Emphasis supplied.

Contrary to the complainant's position, in administrative proceedings such as this case, it is the complainant who carries the burden of proving their allegations with substantial evidence or such "relevant evidence that a reasonable mind might accept as adequate to support a conclusion."²⁴

Such allegation by the complainant remains unsubstantiated. The letter request to the PSA, the document where the forged signature would have been found, has not been included in the record due to PSA's inability to locate it.²⁵

In her Reply to Responsive Comment of the Respondent to Complainant's Affidavit-Complaint, the complainant states:

2. The fact that the respondent failed to explain how did he obtain said marriage certificates of the complainant from the Philippine Statistics Office he is presumed to be the author of the falsified letter request allegedly signed by the complainant as he benefited from it when the same documents was used by the respondent in filing a case of bigamy against the complainant and her husband VG before the City Prosecutor of Manila.

The Commission cannot rely on presumptions that are unsupported by fact or by law. It is bound to adjudicate following its Rules of Procedure, which provides:

Section 22. Rendition of decision. – The Decision of the Commission shall adjudicate the issues raised in the complaint **on the basis of all the evidence presented** and its own consideration of the law.²⁶

As such, on the basis of all the evidence presented, the Commission finds that there is insufficient evidence to support the claim of the complainant that the respondent forged her signature in the letter request to the PSA. There is nothing in the Affidavit-Complaint or its supporting documents that would reasonably connect the respondent to any of the possible violations enumerated under the DPA.

The Commission therefore resolves to dismiss the complaint for lack of substantial evidence required in establishing cases before quasi-judicial bodies.

²⁴ Ombudsman v. Fetalvero, G.R. No. 211450, 23 July 2018.

²⁵ *Supra* at note 23.

²⁶ NPC Circular No. 16-04 dated 15 December 2016 ("NPC Rules of Procedure"), Sec. 22, Emphasis supplied.

WHEREFORE, all these premises considered, the Commission resolves to:

- (1) DENY the Motion to Declare the Respondent as In Default filed by Complainant RBG; and
- (2) DISMISS the complaint of RBG against Respondent CB

SO ORDERED.

Pasay City, 19 November 2019.

Sgd.
LEANDRO ANGELO Y. AGUIRRE
Deputy Privacy Commissioner

Concurring:

Sgd.
IVY D. PATDU
Deputy Privacy Commissioner

Sgd.
RAYMUND ENRIQUEZ LIBORO
Privacy Commissioner

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ENFORCEMENT DIVISION
GENERAL RECORDS UNIT
National Privacy Commission