



**AFV,**

*Complainant,*

**NPC 21-251**

For: Violation of the  
Data Privacy Act of  
2012

-versus-

**FRA,**

*Respondent.*

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## DECISION

**AGUIRRE, D.P.C.;**

Before this Commission is a Complaint filed by AFV against FRA for an alleged violation of Sections 28, 31, and 32 of the Data Privacy Act of 2012 or Republic Act No. 10173 (DPA).

### Facts

AFV is a resident of [the Condominium] and is a member of the homeowners' association (HOA) of [the Condominium].<sup>1</sup> FRA is the President of [the HOA].<sup>2</sup>

Sometime in February 2019, AFV checked her personal mailbox in [the Condominium] and discovered that it had been destroyed.<sup>3</sup> She requested a written incident report from [the Condominium's] building administration who informed her that it will not be able to give her a copy because of her delinquent account with [the HOA].<sup>4</sup>

On 13 February 2019, AFV informed [the Condominium's] building administration by email that for the past two weeks, her mailbox had

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<sup>1</sup> Complaints-Assisted Form, 22 September 2021, *in* AFV v. FRA, NPC 21-251 (NPC 2021).

<sup>2</sup> *Id.* at 2.

<sup>3</sup> *Id.* at 3.

<sup>4</sup> *Id.*

already been opened each time she tried to open it.<sup>5</sup> She also informed it of a previous incident where her mailbox was forcefully broken.<sup>6</sup>

On 22 August 2019, KSY, the then [ ], replied to AFV's email.<sup>7</sup> KSY informed AFV that the payment of condominium dues by unit owners is essential for maintaining the property.<sup>8</sup> He also requested a copy of the items that were allegedly damaged due to the forceful opening of AFV's mailbox.<sup>9</sup> He further requested AFV to settle her outstanding balance by 27 August 2019 otherwise her utilities would be disconnected.<sup>10</sup> FRA was copied as a recipient of the email sent to AFV.<sup>11</sup>

On 28 May 2021, AFV claimed that [the Condominium's] building administration emailed [the Condominium's] unit owners and residents with delinquent accounts and informed them of the existing amnesty program for qualified unit owners.<sup>12</sup> On 29 May 2021, a "YIG" replied to the 28 May 2021 email and copied several recipients, including AFV.<sup>13</sup>

On the same day, AFV replied in a separate email asking why all delinquent unit owners were copied in the same email.<sup>14</sup> She also asked how the sender, YIG, obtained her email.<sup>15</sup> She also added that as to the amnesty program, she was still waiting for the results of the case she filed against [HOA].<sup>16</sup>

AFV also alleged that delinquent unit owners of [the Condominium] were mocked in a Viber group chat that included FRA and other unit owners of [the Condominium].<sup>17</sup> She further stated that FRA suggested publishing a list of delinquent unit owners.<sup>18</sup>

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<sup>5</sup> *Id.* Appendix 1.

<sup>6</sup> *Id.*

<sup>7</sup> Complaints-Assisted Form, 22 September 2021, Appendix 2, *in* AFV v. FRA, NPC 21-251 (NPC 2021).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 3.

<sup>12</sup> *Id.* at 4.

<sup>13</sup> Complaints-Assisted Form, 22 September 2021, Appendix 5, *in* AFV v. FRA, NPC 21-251 (NPC 2021).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 4.

<sup>18</sup> *Id.* Appendix 3.

On 01 June 2021, AFV discovered that her personal mail was opened, which included her BPI Bank Statement and a package.<sup>19</sup> She also claimed that a mail addressed to another unit owner was delivered to her mailbox.<sup>20</sup>

On 22 September 2021, AFV filed her Complaints-Assisted Form (CAF) with the National Privacy Commission (NPC).<sup>21</sup>

On 06 December 2021, the Complaints and Investigation Division (CID) of the NPC ordered FRA to file a verified comment within fifteen (15) calendar days from receipt of the Order.<sup>22</sup> The CID set the case for a virtual preliminary conference on 23 March 2022.<sup>23</sup>

On 10 February 2022, FRA's counsel filed an Entry of Appearance and Motion for Extension of Time to File Comment, requesting for an extension of ten (10) days from 11 February 2022.<sup>24</sup>

On 11 February 2022, the CID issued an order noting the entry of appearance of FRA's counsel and granting the motion for extension.<sup>25</sup>

On 14 February 2022, FRA filed his Motion to Compel Complainant to Furnish the Respondent with a Legible Copy of the Complaint and Appendices stating that the copy of the complaint and its appendices that he received from AFV were not legible due to the size of the text used.<sup>26</sup>

On 15 February 2022, AFV filed her compliance and submitted legible copies of the CAF and its appendices.<sup>27</sup>

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<sup>19</sup> Complaints-Assisted Form, 22 September 2021, at 4, *in* AFV v. FRA, NPC 21-251 (NPC 2021).

<sup>20</sup> *Id.*

<sup>21</sup> Complaints-Assisted Form, 22 September 2021, *in* AFV v. FRA, NPC 21-251 (NPC 2021).

<sup>22</sup> Order, 06 December 2021, *in* AFV v. FRA, NPC 21-251 (NPC 2021).

<sup>23</sup> *Id.*

<sup>24</sup> Entry of Appearance and Motion for Extension of Time to File Comment, 10 February 2022, *in* AFV v. FRA, NPC 21-251 (NPC 2022).

<sup>25</sup> Order (Noting the Entry of Appearance and Granting the Motion for Extension of Time to File Comment), 11 February 2022, *in* AFV v. FRA, NPC 21-251 (NPC 2022).

<sup>26</sup> Motion to Compel Complainant to Furnish the Respondent with a Legible Copy of the Complaint and Appendices, 14 February 2022, *in* AFV v. FRA, NPC 21-251 (NPC 2022).

<sup>27</sup> Compliance, 15 February 2022, *in* AFV v. FRA, NPC 21-251 (NPC 2022).

On 16 February 2022, the CID issued an Order granting FRA's motion and suspending the period for filing the Verified Comment pending the receipt of the legible copy of the CAF and its appendices.<sup>28</sup> The CID required AFV to submit a legible copy of the CAF and its appendices within fifteen (15) calendar days from receipt of the Order.<sup>29</sup>

On 22 February 2022, FRA filed his Verified Comment.<sup>30</sup> In his Verified Comment, FRA prayed for the dismissal of the complaint.<sup>31</sup> He argued that AFV failed to provide proof that would establish FRA's involvement in the destruction of her personal mailbox.<sup>32</sup> According to FRA, while AFV discovered that her mailbox was destroyed sometime in February 2019, he was appointed Interim Treasurer only on 08 May 2019.<sup>33</sup> Additionally, he stated that his appointment as Interim Treasurer is supported by the Memorandum dated 28 May 2019.<sup>34</sup>

FRA also pointed out that he was authorized to be informed of the status of the collection of dues since he was the Treasurer of [HOA] at that time.<sup>35</sup> He argues that as Treasurer, he had the authority to receive information on delinquent accounts pursuant to Section 1 (d) of the [HOA's] By-Laws since this involved [HOA's] financial status.<sup>36</sup> He explained that he was [ ] in a special meeting dated 08 May 2019.<sup>37</sup> He presented as proof the Affidavit of VSM who was the [ ],<sup>38</sup> the Affidavit of LNF who was a [ ] from 21 February 2018 until 08 May 2019<sup>39</sup> and [HOA] Memo No. 039-2019 informing the unit owners and residents of [the Condominium] of FRA's appointment.<sup>40</sup>

FRA further claimed that he had no control over the acts and opinions of the other unit owners in [the Condominium] and that he was not

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<sup>28</sup> Order (on the Motion to Compel Complainant to Furnish the Respondent with a Legible Copy of the Complaint and Appendices), 16 February 2022, *in* AFV v. FRA, NPC 21-251 (NPC 2022).

<sup>29</sup> *Id.*

<sup>30</sup> Comment, 22 February 2022, *in* AFV v. FRA, NPC 21-251 (NPC 2022).

<sup>31</sup> *Id.* at 28.

<sup>32</sup> *Id.* at 5-7.

<sup>33</sup> *Id.* at 6.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 9.

<sup>36</sup> Comment, 22 February 2022, at 7-9, *in* AFV v. FRA, NPC 21-251 (NPC 2022).

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* Annex A.

<sup>39</sup> *Id.* Annex B.

<sup>40</sup> *Id.* Annex F.

involved in the mocking of delinquent unit owners.<sup>41</sup> FRA admitted that he suggested publishing the unit numbers of the delinquent unit owners but he emphasized that [the HOA] did not actually publish this information.<sup>42</sup> Also, FRA stated that he denied the request of some [the HOA] members to disclose the names of the delinquent unit owners.<sup>43</sup> According to FRA, he could not be faulted for the acts of [the HOA] members as they are entitled to their own opinion on the matter surrounding delinquent unit owners.<sup>44</sup> He added that if there was indeed a valid request from a member in good standing of [the HOA] to be furnished a list of delinquent members for a valid purpose, the disclosure would be supported based on NPC Advisory Opinion 2018-011.<sup>45</sup>

FRA also argued that AFV did not prove his involvement in the opening of AFV's personal mail and packages.<sup>46</sup> FRA also pointed out that AFV failed to establish his involvement in sending the email to the delinquent unit owners.<sup>47</sup>

On 23 February 2022, the CID issued an Order noting AFV's compliance.<sup>48</sup>

On 01 March 2022, the CID issued an Order noting the Comment.<sup>49</sup>

On 23 March 2022, both parties attended the Preliminary Conference. On the same day, the CID issued an order requiring the parties to submit their respective memoranda within twenty (20) calendar days from receipt of the order.<sup>50</sup>

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<sup>41</sup> *Id.* at 9-11.

<sup>42</sup> Comment, 22 February 2022, at 11, *in* AFV v. FRA, NPC 21-251 (NPC 2022).

<sup>43</sup> *Id.* at 10-11.

<sup>44</sup> *Id.* at 10.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at 14.

<sup>47</sup> *Id.*

<sup>48</sup> Order (Noting the Compliance of Complainant), 23 February 2022, *in* AFV v. FRA, NPC 21-251 (NPC 2022).

<sup>49</sup> Order (Noting the Comment of Respondent), 22 February 2022, *in* AFV v. FRA, NPC 21-251 (NPC 2022).

<sup>50</sup> Order (After the 1<sup>st</sup> Preliminary Conference held on 23 March 2022, Cancelling the Second Setting of the Preliminary Conference, and Requiring the Parties to Submit their Simultaneous Memoranda), *in* AFV v. FRA, NPC 21-251 (NPC 2022).

On 11 April 2022, FRA filed his Memorandum stating substantially the same arguments raised in his Comment.<sup>51</sup>

On 20 April 2022, AFV refiled her CAF and its attachments as her memorandum. She also submitted her table of evidence and Anti-Red Tape Authority (ARTA) Transmittal.<sup>52</sup>

### **Issues**

- I. Whether FRA had legitimate interest under Section 12 (f) to process AFV's personal information.
- II. Whether there is substantial evidence to find FRA liable for violating Sections 28, 31, and 32 of the DPA.

### **Discussion**

The Commission dismisses the case for lack of merit.

At the outset, the Commission points out that the forceful destruction of AFV's mailbox, the mockery of delinquent unit owners that occurred in the Viber Group, and the suggestion to publish the names of the delinquent unit owners are not privacy violations.

A privacy violation is defined as follows:

A privacy violation pertains to the processing of personal information in violation of a person's reasonable expectation of confidentiality or privacy or in violation of any law, rules, or regulation relating to the protection of personal data, such as the DPA. It includes but is not limited to a violation of the general principles of privacy, a violation of the rights of the data subjects, unauthorized processing, improper disposal of personal data, processing for an unauthorized purpose, concealment of security breaches, and unauthorized or malicious disclosure.<sup>53</sup>

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<sup>51</sup> Memorandum, 11 April 2022, *in* AFV v. FRA, NPC 21-251 (NPC 2022).

<sup>52</sup> E-mail, 20 April 2022, *in* AFV v. FRA, NPC 21-251 (NPC 2022).

<sup>53</sup> GSS v. Global Dominion Financing Inc., NPC 21-064, 16 June 2022, at 7, *available at* <https://privacy.gov.ph/wp-content/uploads/2024/05/NPC-21-064-2022.06.16-GSS-v.-Global-Dominion-Financing-Inc-Decision-FinalP.pdf> (last accessed 09 September 2024).



Section 3 of the DPA defines processing as follows:

Section 3. *Definition of Terms.* Whenever used in this Act, the following terms shall have the respective meanings hereafter set forth:

...

(j) Processing refers to any operation or any set of operations performed upon personal information including, but not limited to, the collection, recording, organization, storage, updating or modification, retrieval, consultation, use, consolidation, blocking, erasure or destruction of data.<sup>54</sup>

The destruction of AFV’s personal mailbox and the exchange of comments made by the participants in the Viber group chat about the delinquent unit owners cannot be considered processing as defined in the DPA.

Nevertheless, while the other alleged acts involve the processing of personal information, such personal information was processed with lawful basis under Section 12 (f) of the DPA.

AFV, however, failed to prove by substantial evidence that FRA violated Sections 28, 31 and 32 of the DPA.

**I. FRA processed AFV personal information pursuant to Section 12 (f) of the DPA.**

FRA processed AFV’s personal information when he received KSY’s email reminding her to pay her condominium dues and when he sent to all delinquent unit owners an email reminding them of the existing amnesty program of [the HOA].<sup>55</sup> These find lawful basis under Section 12 (f) of the DPA.

Section 12 (f) of the DPA provides:

Section 12. *Criteria for Lawful Processing of Personal Information.* -  
The processing of personal information shall be permitted only if

<sup>54</sup> An Act Protect Individual Personal 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 § 3 (2012).

<sup>55</sup> Complaints-Assisted Form, 22 September 2021, at 4, *in* AFV v. FRA, NPC 21-251 (NPC 2021).

not otherwise prohibited by law, and when at least one of the following conditions exists:

...

(f) The processing is **necessary for the purposes of the legitimate interests pursued by the personal information controller or by a third party or parties to whom the data is disclosed**, except where such interests are overridden by fundamental rights and freedoms of the data subject which require protection under the Philippine Constitution.<sup>56</sup>

Processing based on legitimate interest requires the fulfillment of the following conditions: (1) the legitimate interest is established; (2) the means to fulfill the legitimate interest is both necessary and lawful; and (3) the interest is legitimate and lawful and it does not override fundamental rights and freedoms of data subjects.<sup>57</sup>

All the requisites for processing based on legitimate interest are present in this case.

**A. FRA established his legitimate interest in processing AFV’s personal information.**

FRA’s legitimate interest is established. FRA had legitimate interest when he processed AFV’s personal information. FRA obtained AFV’s personal information when he was copied in KSY’s email to AFV.<sup>58</sup> As reflected in AFV’s complaint, KSY, [ ], sent the email to AFV in response to her concern regarding the destruction of her mailbox and to remind her to settle her outstanding balance with [the HOA].<sup>59</sup> KSY included FRA as a recipient in the email he sent to AFV because FRA was the Treasurer of [the HOA] at that time.<sup>60</sup> As the Treasurer of [the HOA], FRA was responsible under the By-Laws of [the HOA] for monitoring and collecting the amounts due to [the HOA].<sup>61</sup> Based on the [the HOA’s] By-Laws, the Treasurer “shall keep the required and proper books of account, and enter therein a full and accurate account of all moneys and properties received and paid by him in behalf of or

<sup>56</sup> Data Privacy Act of 2012, § 12 (f). Emphasis supplied.  
<sup>57</sup> MAF v. Shopee, NPC 21-167, 22 September 2022, at 9, *available at* <https://privacy.gov.ph/wp-content/uploads/2024/05/NPC-21-167-2022.09.22-MAF-v.-Shopee-Decision-FinalP.pdf> (last accessed 10 October 2024).  
<sup>58</sup> Complaints-Assisted Form, 22 September 2021, Appendix 2, *in* AFV v. FRA, NPC 21-251 (NPC 2021).  
<sup>59</sup> *Id.*  
<sup>60</sup> Comment, 22 February 2022, at 7-9, *in* AFV v. FRA, NPC 21-251 (NPC 2022).  
<sup>61</sup> *Id.* Annex G.



for the account of the Corporation.”<sup>62</sup> Additionally, the By-Laws also provide that the Treasurer “shall perform all acts incidental to the position of Treasurer and financial officer of the Corporation, subject to the control of the Board of Trustees and the President.”<sup>63</sup> Clearly, the disclosure made by KSY to FRA was necessary to fulfill their respective responsibilities as officers under [the HOA] By-Laws. FRA, who was then the Treasurer of [the HOA], had legitimate interest in the processing of AFV’s personal information.

FRA also had legitimate interest when he processed AFV’s personal information by sending out an email addressed to all delinquent unit owners. FRA established that he sent out the email requiring unit owners, including AFV, to settle their unpaid balance. FRA, as the President of [the HOA], had a legitimate interest because the association dues are used by [the HOA] to manage the common areas in the condominium and to continue its daily operations.<sup>64</sup>

Therefore, FRA established his legitimate interest in processing AFV’s personal information and satisfied the first requisite based on Section 12 (f) of the DPA.

**B. The means that FRA used to fulfill the legitimate interest were both necessary and lawful.**

The second requisite of processing based on Section 12 (f) of the DPA is that the means to fulfill the legitimate interest is both necessary and lawful.

The disclosure made by KSY to FRA was adequate, relevant, suitable, necessary, and not excessive to facilitate the collection of any amount due from AFV. The recipients of KSY’s email were limited to FRA, as [the HOA’s] Treasurer, and the official [the HOA] email addresses.<sup>65</sup> Other than the allegation that the email was sent to unauthorized individuals, AFV did not present proof to show that the recipients were indeed unauthorized or that the means chosen by [the HOA] was unlawful.

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<sup>62</sup> *Id.* at 8.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.* at 24.

<sup>65</sup> Complaints-Assisted Form, 22 September 2021, Appendix 2, *in* AFV v. FRA, NPC 21-251 (NPC 2021).

As to FRA's email sent to delinquent unit owners informing them of the ongoing amnesty program of [the HOA], the email shows that the notification was sent to a limited number of recipients, which included AFV. The purpose for informing the unit owners was to allow [the HOA] to pursue the collection of unpaid dues from delinquent unit owners.<sup>66</sup> As pointed out by FRA, [the HOA] sent the email after it considered other legal actions available for it to collect unpaid dues.

Therefore, the means used by FRA to fulfill his legitimate interest were necessary and lawful.

**C. FRA's interest is legitimate and lawful, and it does not override fundamental rights and freedoms of data subjects.**

The third requisite provides that the interest is legitimate and lawful and it does not override fundamental rights and freedoms of data subjects.

In this case, FRA was copied as a recipient of the email because he was the Treasurer of [the HOA] at that time. As earlier discussed, it was necessary for FRA to be included as a recipient because the email also involved the collection of unpaid dues from AFV. As explained by FRA, matters of collection of dues fall under his responsibilities under the Section 1 (d) of [the HOA's] By-Laws.<sup>67</sup> Since the email was sent only to necessary parties, AFV's rights were not negatively affected.

With regard to the email sent to delinquent unit owners, the email was sent out to inform delinquent unit owners of the existing amnesty program. The unit numbers and names of the delinquent unit owners were not posted publicly but instead, circulated through an email to encourage delinquent unit owners to settle their respective dues.<sup>68</sup> The email was sent to the delinquent unit owners and not to all [the Condominium] unit owners. Considering the limited audience of the email and that the email merely provided information on the existence of the amnesty program, the third requisite is present.

FRA complied with all three requisites for processing based on legitimate interest. FRA's involvement in the processing of AFV's personal information is within his responsibilities as the Treasurer and

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<sup>66</sup> Comment, 22 February 2022, at 22, in AFV v. FRA, NPC 21-251 (NPC 2022).

<sup>67</sup> *Id.* at 8.

<sup>68</sup> *Id.* at 22.

later President of [the HOA]. Nevertheless, FRA sufficiently established his legitimate interest in receiving the email from KSY and in the sending of the mass email informing delinquent unit owners of the amnesty program.

Given the foregoing, the processing of AFV's personal information finds lawful basis under Section 12 (f) of the DPA.

## **II. AFV failed to establish that FRA violated Sections 28, 31, and 32 of the DPA.**

In any case, the complaint should be dismissed for lack of substantial evidence to prove AFV's claims. AFV failed to prove by substantial evidence that FRA participated in the acts alleged in her complaint.

AFV, as Complainant, had the burden of proof to present substantial evidence in support of her claim that FRA violated the DPA.

Section 1 of Rule 131 of the 2019 Amendments to the Revised Rules on Evidence provides:

Section 1. *Burden of proof and burden of evidence.* **Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his or her claim** or defense by the amount of evidence required by law. Burden of proof never shifts.

Burden of evidence is the duty of a party to present evidence sufficient to establish or rebut a fact in issue to establish a prima facie case. Burden of evidence may shift from one party to the other in the course of the proceedings, depending on the exigencies of the case.<sup>69</sup>

Section 6 of Rule 133 of the 2019 Amendments to the Revised Rules on Evidence provides:

Section 6. *Substantial Evidence.* In cases filed before administrative or quasi-judicial bodies, a fact may be deemed established if it is supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.<sup>70</sup>

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<sup>69</sup> 2019 AMENDMENTS TO THE 1989 REVISED RULES ON EVIDENCE, Rule 131, § 1. Emphasis supplied.

<sup>70</sup> *Id.* Rule 133, § 6.

In *BSA Tower Condominium v. Reyes II*, the Supreme Court held:

In administrative proceedings, the quantum of proof necessary for a finding of guilt is substantial evidence, which is that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion. Further, the complainant has the burden of proving by substantial evidence the allegations in his complaint. The basic rule is that mere allegation is not evidence and is not equivalent to proof.<sup>71</sup>

Thus, it is the party who alleges a fact that has the burden of proving it with substantial evidence. Allegations alone do not constitute evidence since “self-serving assertion[s] cannot be given credence.”<sup>72</sup>

In this case, the email attached by AFV to her complaint showed that she informed [the HOA] of the incident involving the opening and destruction of her mailbox.<sup>73</sup> The email, however, does not show that FRA was involved in the opening and destruction of her mailbox. In fact, AFV alleged that FRA was only elected president of [the HOA] in November 2019.<sup>74</sup> AFV, however, sent the email to [the HOA] regarding the incident on 13 February 2019. Hence, AFV failed to prove that FRA caused the destruction of her mailbox.

As to the email sent by KSY where FRA was included as a recipient, the email does not show that FRA participated in the alleged disclosure.<sup>75</sup> As FRA pointed out, the reason that he was included as a recipient of the email was because he was [ ].<sup>76</sup> According to him, it was part of his responsibilities as Treasurer under Section 1 (d) of the [the HOA’s] By-Laws to be informed of matters relating to delinquent accounts.<sup>77</sup> Hence, AFV failed to prove that FRA did not have authority to receive the email from KSY.

As to the screenshots of the Viber group messages, these show that FRA suggested posting the delinquent unit owners’ unit numbers and

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<sup>71</sup> *BSA Tower Condominium Corporation v. Atty. Alberto Celestino B. Reyes II*, A.C. No. 11944 (2018).

<sup>72</sup> *Tze Sun Wong v. Kenny Wong*, G.R. No. 180364 (2014).

<sup>73</sup> Complaints-Assisted Form, 22 September 2021, Appendix 1, in *AFV v. FRA*, NPC 21-251 (NPC 2021).

<sup>74</sup> *Id.* at 3.

<sup>75</sup> *Id.* Appendix 2.

<sup>76</sup> Comment, 22 February 2022, at 7, in *AFV v. FRA*, NPC 21-251 (NPC 2022).

<sup>77</sup> *Id.* at 8.

respective outstanding balance.<sup>78</sup> AFV, however, never proved that the publication of the delinquent unit owners' information actually occurred. FRA admitted to making the suggestion but pointed out that, however, this had never actually been done.<sup>79</sup> Hence, AFV failed to prove that FRA had participated in mocking the delinquent unit owners or that he published their personal information.

AFV presented as evidence her email informing [the HOA] that her mail from BPI had been opened and that she received mail addressed to another unit owner.<sup>80</sup> The email, however, fails to show that AFV's mail had actually been opened or that FRA participated in opening her mail. Hence, AFV failed to show that FRA opened her personal mail.

Additionally, AFV presented as evidence an email that she received from [the HOA] regarding the ongoing amnesty program for qualified unit owners.<sup>81</sup> AFV's evidence failed to show FRA's participation in the alleged violation of the DPA. In fact, the email shows that it was neither sent nor signed by FRA. Hence, AFV failed to show that FRA sent the email regarding the amnesty program for delinquent unit owners.

AFV argued that FRA violated the DPA by informing the security guards and housing/maintenance staff of [the Condominium] of the identities of unit owners with delinquent accounts.<sup>82</sup> AFV alleged that this led to an incident where she was unable to receive her water delivery because [the Condominium's] security guards did not allow the delivery personnel to bring the water to her unit. AFV further alleged that the security guards informed her that it was FRA who gave the instruction not to allow the entry of the delivery personnel.<sup>83</sup> AFV, however, failed to offer any proof other than her bare allegations. FRA explained in his Comment that the security guards did not allow the entry of the water delivery personnel because they were enforcing [the HOA's] circular regarding ECQ Guidelines and Building Protocols.<sup>84</sup> AFV failed to prove that the security guards and housing/maintenance staff of [the HOA] were indeed informed of the identities of the unit owners with delinquent accounts. Hence, AFV

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<sup>78</sup> Complaints-Assisted Form, 22 September 2021, Appendix 3, *in* AFV v. FRA, NPC 21-251 (NPC 2021).

<sup>79</sup> Comment, 22 February 2022, at 11, *in* AFV v. FRA, NPC 21-251 (NPC 2022).

<sup>80</sup> Complaints-Assisted Form, 22 September 2021, Appendix 4, *in* AFV v. FRA, NPC 21-251 (NPC 2021).

<sup>81</sup> *Id.* Appendix 5.

<sup>82</sup> *Id.* at 4.

<sup>83</sup> *Id.*

<sup>84</sup> Comment, 22 February 2022, at 5, *in* AFV v. FRA, NPC 21-251 (NPC 2022).

failed to show that FRA disclosed her personal information to the security guards and housing/maintenance staff of [the HOA].

Thus, AFV failed to establish that FRA violated the DPA. She failed to provide substantial evidence that demonstrates FRA's participation in the acts alleged in her complaint.

Given the foregoing, the Commission cannot find FRA liable for violating Sections 28, 31, and 32 of the DPA.

**WHEREFORE**, premises considered, this Commission resolves that the Complaint filed by AFV against FRA is hereby **DISMISSED** for lack of merit.

This is without prejudice to the filing of appropriate civil, criminal or administrative cases against the Respondent FRA before any other forum or tribunal, if any.

**SO ORDERED.**

City of Pasay, Philippines.  
01 August 2024.

**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:

**AFV**  
*Complainant*

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**COMPLAINTS AND INVESTIGATION DIVISION**  
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