Republic of the Philippines
NATIONAL PRIVACY COMMISSION

JGO,

Complainant,

-versus-

NPC 19-187
For: Violation of the Data Privacy Act

FYNAMICS LENDING, INC.,
(PONDO PESO)

Respondents.

x----------x

DECISION

***NAGA, D.P.C.*:**

This refers to the complaint filed by JGO (Complainant) against Fynamics Lending, Inc. operating PondoPeso lending application (Respondent), regarding the unlawful processing, access to and disclosure of personal information of the Complainant.

Facts

Complainant alleged in his complaint that he was unable to pay on time his loan with the Respondent due to a personal financial crisis. Complainant also alleged that three (3) days after he defaulted on his payment, the Respondent's agents informed the contacts in the Complainant's phonebook that he has an outstanding loan with the Respondent. Further, Respondent's agents also threatened one of his friends over his unpaid loan and insinuated that the Complainant appointed him to be his reference, even if such appointment was never been made.

On 21 May 2019, parties were ordered to appear for a summary hearing in view of the temporary ban sought by the Complainant. The Respondent asked for continuance of summary hearing due to lack of material time.

On 07 June 2019, the next summary hearing was conducted. Only the counsel for Respondent appeared. During the hearing, Respondent manifested that they were able to amicably settle the case with the Complainant. As such, they were ordered by the Complaints and Investigation Division (CID) to submit the necessary pleadings to recognize and verify the settlement between the parties.

On 10 June 2019, this Commission received the notice of appearance and omnibus motion of the Respondent with copy of waiver, quitclaim and release (Quitclaim) signed by the Complainant. However, no competent proof of identity of the Complainant was attached to the Quitclaim.

On 30 July 2019, the parties were ordered to appear to confirm the submission. Unfortunately, both parties failed to appear on the said date.

On 11 September 2019, the parties were ordered to appear to confer for discovery. Only the Complainant appeared, and he then attested to the investigating officer that he voluntarily and knowingly executed the subject Quitclaim.

On 03 March 2020, the CID submitted the case to the Commission for its resolution.

Discussion

This Commission finds that the submitted Quitclaim was sufficiently and diligently confirmed by the investigating officer. Complainant personally appeared before the investigating officer to confirm that he knowingly, voluntarily, and willingly signed the Quitclaim.

In addition, Complainant submitted to this Commission a video file[1] on 12 March 2020, which shows that the Complainant, accompanied by the counsel for the Respondent, is reading the

[1] NPC 19-187 JGO v Fynamics Lending Inc (PondoPeso) Annex A

Quitclaim and stating that he is fully aware of the terms and consequences of entering into the agreement.

Further, seeing that the Quitclaim has no badges of fraud and deception; and that it was done in consideration of a sufficient settlement consideration; and its provisions are not contrary to law, public order, public policy, morals or good customs, or prejudicial to a third person then the Quitclaim shall be treated as a voluntary agreement between the parties to settle the instant case.

As ruled by the Supreme Court in *Arlo Aluminum Inc., v. Vicente Pinon, et. al.*[2],"But where it is shown that the person making the waiver did so **voluntarily, with full understanding of what he was doing**, and the **consideration for the quitclaim is sufficient and reasonable**, the transaction must be recognized as a valid and binding undertaking." (Emphasis Supplied)

WHEREFORE, premises considered, this Commission resolves that the instant Complaint filed by JGO case be **DISMISSED.**

SO ORDERED.

Pasay City, Philippines;
18 June 2020.

Sgd.
JOHN HENRY D. NAGA
Deputy Privacy Commissioner

WE CONCUR:

Sgd.
RAYMUND ENRIQUEZ LIBORO
Privacy Commissioner

[2]G.R. No. 215874, 05 July 2017

Sgd.
LEANDRO ANGELO Y. AGUIRRE
Deputy Privacy Commissioner

COPY FURNISHED:

JGO
Complainant

GQLO
Counsel for Respondent

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