



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

MEC

Complainant,

-versus-

NPC 19-501

(Formerly CID Case No. 19-G-501)

For: Violation of the Data Privacy

Act of 2012

ROBOCASH FINANCE CORPORATION,

Respondent,

X-----X

DECISION

NAGA, D.P.C.:

This is a complaint filed by MEC (Complainant) against Robocash Finance Corporation (Respondent) for violation of her rights under the Data Privacy Act (DPA).

The Facts

On 02 April 2019, Complainant obtained a loan from Respondent in the amount of Php5,500.00. When Complainant failed to follow through on her payment, she found out that the Respondent had been calling and sending text messages to her phone contact list. Complainant also avers that the Respondent threatened to file a case in small claims court against her. Lastly, Complainant said that the acts of Respondent made her feel anxious, embarrassed, and depressed causing her to file the instant complaint before the Commission.

On 20 August 2019, the parties and their respective counsels were ordered to appear for a Discovery Conference. During the conduct of the Conference, the parties agreed to apply for a mediated settlement.

On 17 September 2019, Complainant failed to appear on the scheduled mediation conference without justifiable reason. Thus, the parties were ordered to appear for another mediation conference.

On 24 October 2019, the investigating officer ordered the resumption of the complaint proceedings considering that the Complainant again failed to appear in the mediation conference. Thus, the mediation officer issued a Notice of Non-Settlement of Dispute.

On 19 November 2019, the parties were then ordered to appear for the resumption of the complaint proceedings. However, only the Respondent appeared. Thereafter, Respondent was ordered to submit its responsive comment within ten (10) days.

On 28 November 2019, Respondent submitted its responsive comment. They prayed for the dismissal of the instant complaint alleging that Complainant failed to appear for two (2) consecutive mediation conferences and discovery conference, without justifiable reason.

Respondent also averred that Complainant failed to exhaust available remedies and did not notify them of their alleged violation of her data privacy rights prior to the filing of the instant complaint.

Finally, the Respondent emphasized that the Complainant's bare allegations, which were unsubstantiated by any evidence, were insufficient to constitute proof that the Respondent violated the data privacy rights of the Complainant.

Discussion

Before going to the main issue of the case, this Commission deems it proper to discuss a procedural matter that was raised in the Respondent's responsive comment, specifically on the requirement to

exhaust administrative remedies as provided in Section 4 (a) of NPC Circular 16-04.¹

The Respondent argued that the Complainant failed to exhaust remedies by going straight to this Commission without notifying the Respondent on the alleged data privacy violation committed by them against her. Such action they argued prevented the Respondent to take appropriate measures to address the concerns of the Complainant. The Respondent then concluded that this should cause the outright dismissal of the Complaint.

While the intention of the abovementioned provision is to promote settlement of data privacy disputes between Personal Information Controller (PIC) or the concerned entity and the data subject before going through the formal procedures in this Commission, the Respondent herein must be reminded that the Commission may waive any and all of the requirements of Section 4 at its discretion, upon good cause shown, or if the complaint involves a serious violation or breach of the Data Privacy Act.² Thus, this Commission deems it proper to adjudicate on the substantial issues of this case.

Now, on the main issue on whether the Respondent violated the data privacy rights of the Complainant.

This Commission finds that the Complainant failed to provide sufficient information to substantiate the allegations made in her complaint.

Section 10 of NPC Circular No. 16-04 (Rules of Procedure) provides: “The **complaint shall include a brief narration of the material facts and supporting documentary and testimonial evidence**, all of which show: (a) the violation of the Data Privacy Act of related issuance; or (b) the acts or omissions allegedly committed

¹Section 4. **Exhaustion of remedies.** a. The complainant has informed, in writing, the personal information controller or concerned entity of the privacy violation or personal data breach to allow for appropriate action on the same;

²Paragraph 3, Id.,

by the respondent amounting to a privacy violation or personal data breach..." (Emphasis Supplied)

Furthermore, Section 22 of the NPC Circular No. 16-04 provides that, "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 the grounds for the dismissal of complaint."

In the case at hand, Complainant solely relied on the averments contained in her complaints-assisted form without procuring evidence to support the allegations made. Further, the Complainant failed to cite a single provision in the Data Privacy Act which was violated by the Respondent. This Commission then finds that the Complainant failed to satisfy the requisite quantum of proof in an administrative case.

In *Primo vs. Mendoza, et. al.*, the Supreme Court defined the required burden of proof in administrative cases as follows,

"Substantial evidence is defined as such amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion. It is more than a mere scintilla of evidence. The standard of substantial evidence is satisfied when there is reasonable ground to believe, based on the evidence submitted, that the respondent is responsible for the misconduct complained of. It need not be overwhelming or preponderant, as is required in an ordinary civil case, or evidence beyond reasonable doubt, as is required in criminal cases, but the evidence must be enough for a reasonable mind to support a conclusion."³

Pursuant to the above-cited reasons, the insufficiency of the information substantiating Complainant's allegations warrants the dismissal of the instant complaint.

³G.R. Nos. 172532 172544-45, 20 November 2013

WHEREFORE, premises considered, this Commission resolves to **DISMISS** the instant complaint filed by MEC against Robocash Finance Corporation, on the ground that Complainant failed to provide sufficient information to substantiate the allegations in her complaint.

SO ORDERED.

Pasay City, Philippines;
02 July 2020.

Sgd.
JOHN HENRY D. NAGA
Deputy Privacy Commission

WE CONCUR:

Sgd.
RAYMUND ENRIQUEZ LIBORO
Privacy Commission

Sgd.
LEANDRO ANGELO Y. AGUIRRE
Deputy Privacy Commissioner

COPY FURNISHED:

MEC
Complainant

ROBOCASH FINANCE CORP.

DATA PROTECTION OFFICER
Robocash Finance Corporation

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