



Republic of the Philippines
Department of Finance
INSURANCE COMMISSION
1071 United Nations Avenue
Manila



Legal Opinion No.:	2019-12
Date:	22 November 2019

ATTY. MA. VICTORIA G. GERONA
PUBLIC ATTORNEY'S OFFICE
Iloilo City District Office I
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Bonifacio Drive, Iloilo City

SUBJECT: Request for Legal Opinion

Dear Atty. Gerona:

This pertains to your letter dated 3 April 2019 requesting for legal opinion as regards the meaning of the terms "*Flood*" and "*Written Notice*" in the insurance policy issued by the Charter Ping-an Insurance Corporation to Mr. Dominador Ortiz.

The antecedent facts are as follows:

Mr. Ortiz applied for and was issued a fire insurance policy by Charter Ping An Insurance Corporation ("Charter Ping An") in March 2018 for his residential building located at #19 1st Street, Juntado Subdivision, Calumpang, Molo, Iloilo City. Said policy covered the insured property from special perils, specifically Robbery and Burglary and Flood with allied peril (copies of Mr. Ortiz' Insurance Policy No. FI-PHS-SP-18-0000738-00, Statement of Account and Policy Schedule are collectively attached herewith as Annex 'A').

Due to torrential rain brought about by the southwest monsoon on July 1, 2018, Mr. Ortiz' insured property was inundated resulting in substantial damage to his belongings and that of his lessee, Mr. Joachim M. Triebel. They reported the said flooding incident to the Iloilo Branch of Charter Ping An. After reporting the incident, Mr. Triebel, also sent an electronic mail to Charter Ping An and went to its Iloilo branch several times to make follow-ups on the claim. However, Mr. Triebel claimed that Charter Ping An's representative displayed indifference and the insurance claim was simply dismissed verbally on the ground that he had no insurable interest over the property. Mr. Triebel later sought assistance with the Insurance Commission Office in Manila. However, in a letter dated 14 November 2018, the Commission advised him to avail of other remedies as it upheld that he had no insurable interest over the subject property (copies of the e-mails sent by Mr. Triebel to Charter Ping An and the Insurance Commission are attached as Annexes 'B' and 'C' while the copy of the letter from the Insurance Commission is attached herewith as Annex 'D').

Thus, this Commission's legal opinion is sought as regards the following matters: (1) If Mr. Ortiz was able to execute a *Special Power of Attorney* authorizing Mr. Triebel to process his insurance claim as his attorney-in-fact, after the lapse of the 60-day period stated in the insurance policy (page 3, No. 13 of Annex 'A') when the insured is required to file a proof of loss, can Charter Ping An still be compelled to process his claim? (2) Are the electronic mails sent by Mr. Triebel to Charter Ping An fall within the definition of 'written notice' stated in the insurance policy, informing about the flooding incident? (3) Is Mr. Ortiz entitled to claim for the damage caused by inundation brought about by the southwest monsoon? Did the flooding brought about by the southwest monsoon fall within the definition of 'Flood' as defined in the insurance policy (page 6 of Annex 'E')?

After due consideration of the facts that you presented relative to your request, this Commission is constrained to deny your request for legal opinion.

This Commission's Circular Letter No. 2017-13 on "*Guidelines in the Processing of Requests for Legal Opinion*" provides that:

"Section 4. The Commission, in its discretion, may refrain from rendering opinion on the following:

X XX

3. Matters which involve the substantive and contractual rights of private parties who would, in all probability, contest the same in court if the opinion turns out to be adverse to their interest;"

The instant request involve the substantive and contractual rights of Mr. Ortiz and/or Mr. Triebel under the policy issued by Charter Ping An. This Commission foresees that if it renders any opinion on the subject matter, the aggrieved party, whether the same will be Mr. Ortiz and/or Mr. Triebel, on the one hand, or Charter Ping An, on the other hand, would, in all probability, contest the same before this Commission or the regular courts since said opinion will necessarily be adverse to said aggrieved party's interest.

For your information and guidance.

DENNIS B. FUNA
Insurance Commissioner

