



## Administrative Agency's Duty on Disaster Prevention and Mitigation \*

The six Plaintiffs lived in Moo 5, Samoeng Nuea Subdistrict, Samoeng District, Chiang Mai. Since March B.E. 2548, North Samoeng Subdistrict Administrative Organization (North Samoeng SAO, the Defendant) had constructed Huai Kong Jop levee to regulate water levels in order to resolve the drought by making a construction contract with Mor. Limited Partnership. Afterwards, in September B.E. 2549, there were heavy rains in many areas of Chiang Mai causing a large amount of water flowing into the levee; consequently, such levee was seriously damaged. Thus, North Samoeng SAO informed Mor. Limited Partnership to repair the levee; meanwhile, North Samoeng SAO also hired a backhoe truck to rectify the drainage ditch of such levee. Moreover, on September 30<sup>th</sup>, B.E. 2549, the Chief Executive of Samoeng Nuea Subdistrict and his subordinates dug the drainage ditch so as to drain water out from such levee, resulting in reducing the amount of water therein and preventing the levee from collapsing. However, around 4.30 p.m. on the same day, the levee collapsed causing the stored water to spill over the houses, properties, and farmlands and leading to the six Plaintiffs' damages. Therefore, the six plaintiffs brought the case to the Administrative Court requesting the Court to make a judgment to compensate them with interests.

The Supreme Administrative Court held that North Samoeng SAO informed Mor. Limited Partnership, the contractor, to repair the damaged part of the levee. As well, North Samoeng SAO improved drainage of the levee by hiring a backhoe truck to dig the drainage ditch so as to drain water out from the levee which resulted in reducing the amount of water therein and preventing the levee from collapsing. It could be seen that those aforementioned acts of North Samoeng SAO were the operation in consistent with power and duties required by the law. Moreover, when the levee was seriously damaged and there was a large amount of water in such levee, it might cause the levee to be irresistible the water force. If North Samoeng SAO waited Mor. Limited Partnership repairing or adjusting the levee completely, it would be unable to solve the problem in time and would cause such levee collapsing. Although North Samoeng SAO proceeded to dig the drainage ditch in order to be the preliminary rectification by expecting that the water in the levee would gradually be drained out, such levee had still collapsed. Thus, it was not the result from willful or negligent act

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\* Summarized by Tian-ngern Uttarachai, Bachelor of Laws (LL.B., 2<sup>nd</sup> Class Honour), Chulalongkorn University, Master of Laws (LL.M.) in Public Law, Chulalongkorn University, Master of Laws (LL.M), University of Melbourne, Australia, Administrative Case Official Practitioner Level, Public Law Study Group 3, Bureau of Research and Legal Studies, the Office of the Administrative Courts



done against another person in violation of law causing the injury against his or her property, which would be a tort pursuant to Section 420 of Civil and Commercial Code. Nonetheless, such performances of North Samoeng SAO resulted in the damages to the six Plaintiffs; it was considered as the case of other liability that required North Samoeng SAO to be liable for the compensation for such.

(Supreme Administrative Court Judgment No. A.183-188/2560)