

A party to any proceeding who cannot speak or understand the Thai language
is responsible for obtaining an interpreter *

Supreme Administrative Court Judgment No. A. 389/2561, dated 18th April B.E. 2561 (2018)

Mr. F. (P)

v.

Board of the Dental Council (D)

According to Clause 9 paragraph four of the Rule of the General Assembly of Judges of the Supreme Administrative Court on Administrative Court Procedure, B.E. 2543 (2000), in the case where the party or person who is present in the Court is unable to understand the Thai language or is deaf or dumb and unable to read and write, the service of an interpreter will be provided by the party concerned. Therefore, the Plaintiff was responsible for obtaining an interpreter on the date of the first hearing. When the Plaintiff failed to do so, there was no reason for the Court to postpone the hearing as requested. It was also not a case where the Court deems it appropriate to hear a statement of any person and such case requires the service of an interpreter under Clause 52 of the said Rule. The Supreme Administrative Court affirmed the judgment of the Administrative Court of First Instance that dismissed the case.

Legal Principles: *Wrongful act, Negligence, Administrative Court Procedure*

Administrative Court Procedure: *Act on Establishment of Administrative Courts and Administrative Court Procedure, B.E. 2542 (1999): Section 9 paragraph one (3), Section 72 paragraph one (3)*

Rule of General Assembly of Judges of the Supreme Administrative Court on Administrative Court Procedure, B.E. 2543 (2000): Clause 9 paragraph four, Clause 52, Clause 62 paragraph three, Clause 84, Clause 85 paragraph three, Clause 112 paragraph one

Legal Provisions: *Practice of the Dentistry Act, B.E. 2537 (1994): Article 36, Article 37*

* Summarized by Patchanat Chainuwat, Bachelor of Laws (LL.B.), Thammasat University, Master of Laws (LL.M.) in International and Comparative Law, Chicago-Kent College of Law - IIT, USA, Master of Laws (LL.M.) in International Economic and Business Law, Kyushu University, Administrative Case Official Professional Level, Public Law Study Group 3, Bureau of Research and Legal Studies, the Office of the Administrative Courts.

Judgment (Summary)

The Plaintiff, an Italian nationality, filed a lawsuit against the Board of the Dental Council claiming that the Plaintiff had a root canal treatment with the dentist of the Ministry of Public Health; however, the dentist performed a poor treatment causing severe damage to the Plaintiff and misappropriation of the Plaintiff's dental bridge. The Plaintiff filed a complaint against the said dentist to the Defendant. Later, the Defendant dismissed the complaint. Therefore, the Plaintiff brought a case to the Administrative Court of First Instance requesting revocation of Defendant's decision and compensation from the dentist. The Administrative Court of First Instance dismissed the case. The Plaintiff appealed the judgment of the Administrative Court of First Instance to the Supreme Administrative Court stating that the Administrative Court of First Instance sent a Notice of the date of the first hearing to the Plaintiff. However, the Plaintiff did not appear at the first hearing because the Plaintiff had previously requested an Italian interpreter, which the Court official agreed to provide. Later, the Court official informed him over the phone on short notice that there was no law requiring the Court to provide an interpreter for the Plaintiff. Thus, the Plaintiff was not able to find an interpreter on time. In addition, the Plaintiff submitted a letter requesting the Court to postpone the hearing. But the Court carried on the proceeding resulting in the absence of the Plaintiff from the first hearing. The Plaintiff, therefore, asked the Supreme Administrative Court to dismiss the judgment of the Administrative Court of First Instance, conduct new proceedings and provide an interpreter for the Plaintiff.

The Supreme Administrative Court considered that according to Clause 9 paragraph four of the Rule of the General Assembly of Judges of the Supreme Administrative Court on Administrative Court Procedure, B.E. 2543 (2000), in the case where the party or person who is present in the Court is unable to understand the Thai language or is deaf or dumb and unable to read and write, the service of an interpreter will be provided by the party concerned. Clause 52 states that in a case where the Court deems it appropriate to hear a statement of any person and such case requires the service of an interpreter, the Court will provide an interpreter and, in this instance, the interpreter will be entitled to the same allowance as that payable for an expert's presence for giving statements. Clause 84 paragraph one states that on the date of the first hearing, the party who wishes to submit a written statement under Section 59 paragraph two, will submit it to the Court before the date of the hearing or, at the latest, during the hearing. Clause 84 paragraph four states that on the date of the hearing, the party may be absent therefrom, provided that this provision does not preclude the Court's power to issue an order summoning the party, an administrative agency, a State official, or a person concerned to give a statement or an opinion in writing or furnish any document or evidence to the Court.

From the said provisions, the Administrative Court of First Instance did not have a duty to provide the interpreter for the Plaintiff in accordance with Clause 9 paragraph four of the Rule of the General Assembly of Judges of the Supreme Administrative Court on Administrative Court Procedure, B.E. 2543 (2000). In addition, the Plaintiff had the opportunity to present facts and evidence to the Court until the date of facts inquiry termination. Moreover, at the date of the first hearing, the Plaintiff had the right to submit a statement and evidence to the Court by the attorney. It was also not a case where the Court deems it appropriate to hear a statement of any person and such case requires the service of an interpreter under Clause 52 of the same Rule. Therefore, the Plaintiff was responsible for obtaining an interpreter on the date of the first hearing. When the Plaintiff failed to do so, there was no reason for the Court to postpone the hearing as requested. This case is not the case where there appears noncompliance with the provisions of law or this Rule that the Supreme Administrative Court has the power to dismiss the judgment of the Administrative Court of First Instance and return the file of the case to the Administrative Court of First Instance for delivering a new judgment in accordance with Rule 112 paragraph one (1) of the said Rule.

The Supreme Administrative Court affirmed the judgment of the Administrative Court of First Instance that dismissed the case.
