

[ADMINISTRATIVE ORDER NO. 34, September 21, 1987]

SUSPENDING MR. JOSUE C. GASPAR FROM OFFICE AS ASSISTANT PROVINCIAL FISCAL OF NUEVA ECIJA.

This refers to the administrative complaint filed by Mrs. Juana Rimando de Calix against Nueva Ecija Assistant Provincial Fiscal Josue C. Gaspar for grave misconduct, ignorance of the law and inefficiency.

Sometime in 1975, complainant bought an irrigation pump set under a financing arrangement with the Development Bank of the Philippines. On May 24, 1976, she entered into an agreement with one Eduardo Viernes whereby the latter undertook to apply with the bank for the transfer of her rights and to assume all her loan accountabilities. Without filing the agreed application and without complainant's knowledge and consent, Viernes took the irrigation pump set and sold it. With the assistance of the Integrated National Police, complainant was able to trace and find the irrigation engine in the possession of Francisco Pascual and, with Pascual's consent, recovered possession of the engine.

On April 27, 1977, she filed a criminal complaint for estafa (I.S. No. 19-G-77) against Viernes and Santiago Manangkil with the Provincial Fiscal's Branch Office at Guimba, Nueva Ecija. In the course of the preliminary investigation, respondent, as the investigating fiscal, ordered complainant to bring the engine to the fiscal's office, which she did on October 4, 1977. On November 7, 1977, respondent released the engine to Pascual upon the latter's request, prompting complainant to charge respondent with grave misconduct, ignorance of the law and inefficiency for (a) his failure to resolve her complaint for estafa as of the date of her administrative complaint and within the period prescribed under Presidential Decree No. 911, and (b) releasing the engine to Pascual even during the pendency of the preliminary investigation.

Respondent denied the charges and claimed that he had resolved the criminal complaint "as of November 3, 1978", and recommended the filing of the corresponding information. Respondent further averred that he ordered the release of the engine to Pascual out of compassion to save the latter's standing crop and prevent the destruction of the engine by disuse.

After due investigation, or on October 22, 1980, the then Ministry (now Department) of Justice found respondent guilty of the charges and recommended that he be suspended from office for one (1) month without pay. The then Deputy Minister (now Undersecretary) of Justice reiterated the foregoing recommendation in his letter of December 6, 1986.

After a review of the case, we concur in the findings and recommendation of the Justice Department. There is no question that the complaint for estafa was filed on