

**[ ADMINISTRATIVE ORDER NO. 193, November 21, 1969 ]**

**REMOVING MR. JOSE P. SANTOS FROM OFFICE AS ASSISTANT PROVINCIAL FISCAL OR RIZAL**

This is an administrative case filed by Capt. Jesus Labuguen and Joaquin Javier against Assistant Provincial Fiscal Jose P. Santos of Rizal for dishonesty and grave misconduct in office.

Sometime in 1958 Capt. Jesus Labugen filed an estafa case against Joaquin Javier with the provincial fiscal's office of Rizal, docketed as I.S. No. 3348 and assigned to respondent Fiscal Santos for preliminary investigation. However, the parties agreed to an amicable settlement whereby Capt. Labuguen agreed to accept the return of P1,000 received by Javier as initial payment for the sale of a parcel of land which turned out to be claimed by other persons. Pursuant to the agreement, Javier deposited said sum with respondent in the presence of Tony Armaldo sometime in November 1958 for delivery to Capt. Labuguen. In view of the failure of respondent to turn over the amount in question to Capt. Labuguen despite several promises made by the former, the instant case was filed with the Department of Justice.

The department investigator, after giving respondent opportunity to explain his side, set the administrative hearing sometime in February 1962. But prior to the scheduled formal hearing, complaint and respondent with their counsel reached a settlement that respondent would turn over to complainant Labuguen the sum of P1,000 and pay the additional sum of P700 as liquidated damages for expenses incurred by said complainant in his efforts for years to collect said sum from respondent. Said agreement, signed by Jesus T. Labuguen with the conformity of respondent Jose P. Santos, is evidenced by a receipt (Exh. "A") dated February 27, 1962. Respondent paid only or turned over the sum of P1,000 but not the additional amount agreed upon, thus prompting complainant Labuguen to prosecute the administrative case against respondent.

Respondent did not dispute having received the sum of P1,000 from Joaquin Javier as deposit to be delivered to Capt. Labuguen in settlement of the estafa case under the preliminary investigation by the former. Neither did he dispute that from November 1958 complainant Labuguen had continuously made demands for the delivery of said sum of P1,000 and that it was only on February 27, 1962, that complainant received the amount.

From the foregoing, it is evident that respondent is guilty of grave misconduct in office bordering on dishonesty in withholding – and presumably misusing – the sum of P1,000 deposited with him for a period of four years, to the prejudice of complainant Labuguen for whom the amount was supposed to be delivered in settlement of a criminal case under preliminary investigation by respondent. As aptly stated by the Secretary of Justice, "considering that the position or