

RUFINO CASIMIRO, COMPLAINANT, VS. JUDGE OCTAVIO FERNANDEZ AND CLERK OF COURT TERESITA ESTEBAN, RESPONDENTS.

A.M. NO. MTJ-04-1525. March 18, 2005

Ponente: CARPIO-MORALES, J.

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CARPIO-MORALES, J.:

Respondents Municipal Circuit Trial Court (MCTC) of Gen. Natividad and Llanera, Nueva Ecija Judge Octavio Fernandez and Clerk of Court Teresita Esteban were charged with grave misconduct and dishonesty in a sworn letter-complaint[1] dated August 2, 2000 filed by Rufino Casimiro (complainant).

During the pendency of the complaint or sometime in 2003,[2] respondent judge applied for optional retirement under Republic Act 910, as amended, effective December 15, 2003. He later requested, by letter[3] of November 10, 2003, for the change of the effective date of his retirement to January 2, 2004. The application was assigned Administrative Matter No. 11567-Ret.

On January 29, 2004, this Court promulgated a Decision[4] in the case at bar finding respondent Judge guilty of gross misconduct constituting a violation of the Code of Judicial Conduct and imposing upon him the penalty of **SUSPENSION** from office for three months without salary or benefits immediately from receipt of this Order and a **FINE** in the amount of P20,000.00, with **WARNING** that a repetition of the same or similar offenses would be dealt with more severely. The complaint against respondent Clerk of Court was dismissed.

Respecting Administrative Matter No. 11567-Ret. (the application for optional retirement of the Judge), the Office of the Court Administrator (OCA), by Report[5] dated June 16, 2004, recommended that:

- the application for Optional Retirement under RA 910, as amended by RA 5095 and PD 1438 of Hon. OCTAVIO A. FERNANDEZ (Presiding Judge, Municipal Circuit Trial Court, Gen. Natividad, Nueva Ecija) effective 2 January 2004 be **APPROVED**.
- payment of his retirement benefits be **HELD IN ABEYANCE** pending resolution of A.M. No. MTJ-03-1511;
- the Decision dated 29 January 2004 of the Honorable Court (3rd Division) in A.M. No. MTJ-04-1525 (formerly OCA IPI No. 00-927-MTJ) ordering the suspension of Judge Fernandez for three (3) months be **MODIFIED** and that he be ordered instead to pay a **FINE** equivalent to his three (3) months salary and other benefits, the same to be deducted from his retirement benefits; and
- the Fiscal Management Office, OCA be directed to deduct the amount of Thirty Thousand (P30,000.00) Pesos from his Terminal Leave pay, representing the aggregate amount of **FINE** imposed upon him in Administrative Matter Nos. MTJ-04-1525, MTJ-00-1312 and MTJ-01-1354, subject further to the availability of funds and the usual clearance requirements. (Emphasis and underscoring supplied)

By Resolution[6] of July 5, 2004, this Court approved the OCA recommendation to approve respondent's application for optional retirement effective January 2, 2004.

Courts have inherent power and discretion to amend, modify or reconsider a final judgment when, in view of supervening events, it becomes imperative, in the interest of justice, to direct its modification in order to harmonize the disposition with the prevailing circumstances, or whenever it is necessary to accomplish the administration of justice.[7]

Since the penalty of suspension imposed on respondent judge in the decision of January 29, 2004 is no longer feasible, his application for optional retirement effective January 2, 2004 having been approved on July 5, 2004, this Court approves above-quoted paragraph (c) of the OCA Recommendation that the penalty of suspension for three months imposed on respondent judge in this Court's decision of January 29, 2004 be modified such that in lieu thereof, a FINE in an amount equivalent to his three (3) months salary[8] be imposed.

With respect to paragraph (d) of the OCA Recommendation, this Court likewise approves the same in so far as it bears on the case at bar – Administrative Matter No. MTJ-04-1525.

WHEREFORE, in light of the subsequent grant on July 5, 2004 of the application for optional retirement of respondent Judge Octavio Fernandez effective January 2, 2004, the Decision of January 29, 2004 of this Court in the case at bar is hereby AMENDED such that, in addition to the therein imposed penalty of FINE in the amount of Twenty Thousand (P20,000.00) Pesos, he is FINED in an amount equivalent to his Three (3) Months salary.

The Fiscal Management Office, OCA is hereby directed to deduct, from his Terminal Leave Pay the amount of Twenty Thousand (P20,000.00) Pesos representing the FINE imposed upon the judge, and, from his retirement benefits, an amount equivalent to his Three (3) Months salary representing the additional fine.

SO ORDERED.

Sandoval-Gutierrez, (Acting Chairman), and Corona, JJ., concur.

[1] Rollo at 1.

[2] Application is undated, vide A.M. No. 11567 – Ret. Rollo at 36.

[3] A.M. No. 11567 – Ret. Rollo at 29.

[4] Rollo at 172-181.

[5] A.M. No. 11567 – Ret. Rollo at 1-4.

[6] Id. at 168.

[7] Teodoro v. Carague, 206 SCRA 429, 434 (1992) citing Galindez v. Rural Bank of Llanera, 175 SCRA 132 (1989).

[8] Arroyo v. Alcantara, 368 SCRA 567, 577 (2001).

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