

## SPECIAL THIRD DIVISION

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

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

### R E S O L U T I O N

#### **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<sup>[1]</sup> dated August 2, 2000 filed by Rufino Casimiro (complainant).

During the pendency of the complaint or sometime in 2003,<sup>[2]</sup> respondent judge applied for optional retirement under Republic Act 910, as amended, effective December 15, 2003. He later requested, by letter<sup>[3]</sup> 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<sup>[4]</sup> 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<sup>[5]</sup> dated June 16, 2004, recommended that:

- a. 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.**
- b. payment of his retirement benefits be HELD IN ABEYANCE pending resolution of A.M. No. MTJ-03-1511;
- c. **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).**