

DOMINGA VELASCO ORDONIO, PETITIONER, VS. ATTY. JOSEPHINE PALOGAN EDUARTE, RESPONDENT.*A.M. No. 3216. March 16, 1992*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-m-no-3216/>**PER CURIAM:**

This is a complaint for the disbarment of respondent Atty. Josephine Palogan-Eduarte originally filed with this Court on April 18, 1988. On August 10, 1989, the Commission on Bar Discipline of the Integrated Bar of the Philippines, to which the case was referred for investigation, submitted a report confirming in substance the charge of violation of Art. 1491 of the Civil Code and part of the Oath of Office of a lawyer and recommending the suspension of herein respondent.

The evidence discloses that on July 18, 1983, Antonia Ulibari filed with the RTC, Branch XXII, Cabagan, Isabela, Civil Case No. 391 for annulment of a document (known as Affidavit of Adjudication of the Estate of Felicisimo Velasco and Quitclaim Thereof) against her children. The case was handled by Atty. Henedino Eduarte, herein respondent's husband, until his appointment as RTC judge on October 26, 1984. His wife, Atty. Josephine Palogan-Eduarte, took over. On August 22, 1985, decision in Civil Case No. 391 was rendered in favor of Antonia Ulibari. Except for Dominga Velasco-Ordonio, one of the children of Antonia Ulibari and complainant in the instant case, the rest of the defendants did not appeal. On June 13, 1987, while Civil Case No. 391 was pending appeal in the Court of Appeals, Antonia Ulibari conveyed some parcels of her land to her children in the form of deeds of absolute sale, prepared and notarized by herein respondent. Significantly, on the same day, Antonia Ulibari also conveyed 20 hectares of land to herein respondent and her husband as their Attorney's fees for legal services rendered. All the titles of the lands subject of the deeds of absolute sale and the deed of conveyance however remained in the name of Antonia Ulibari.

On April 4, 1988, Dominga Velasco-Ordonio filed this complaint for disbarment against herein respondent on the basis of an affidavit executed by her mother Antonia Ulibari on March 2, 1988 stating that affiant never conveyed the subject parcel of land to respondent as her attorney's fees and that the deeds of absolute sale executed in favor of her children were not known to her (and that she received no consideration therefor).

On August 10, 1989, the Investigating Commissioner submitted a report finding the charges to be true and recommending a one-year suspension of the respondent from the practice of law.

The first issue to be resolved is whether Antonia Ulibari was defrauded into signing the Deed of Conveyance transferring to her lawyer (herein respondent) the subject parcel of land containing 298,420 square meters as the latter's attorney's fees. It is clear from Antonia Ulibari's affidavit and deposition that she never conveyed the said land to her lawyer as attorney's fees.

Even granting for the sake of argument that Antonia Ulibari knowingly and voluntarily conveyed the subject property in favor of the respondent and her husband, the respondent, in causing the execution of the Deed of Conveyance during the pendency of the appeal of the case involving the said property, has violated Art. 1491 of the Civil Code which prohibits lawyers from "acquiring by assignment property and rights which may be the

object of any litigation in which they may take part by virtue of their profession."

In the case at bar, the property (which includes the more than 20 hectares of land allegedly conveyed to the respondent) was already in actual litigation first in the lower court and then in the Court of Appeals. Whether the deed of conveyance was executed at the instance of the client driven by financial necessity or of the lawyer is of no moment (In re: Atty. Melchor E. Ruste, 70 Phil 243). "In either case, an attorney occupies a vantage position to press upon or dictate his terms to a harassed client, in breach of the rule so amply protective of the confidential relations, which must necessarily exist between attorney and client, and of the rights of both." The act constitutes malpractice, even if the lawyer had purchased the property in litigation. (Hernandez v. Villanueva, 40 Phil. 775; In re: Calderon, 7 Phil. 427). We agree with the Investigating Commissioner's opinion that the prohibition applies when the lawyer has not paid money for it and the property was merely assigned to him in consideration of legal services rendered at a time when the property is still the subject of a pending case.

For having improperly acquired the subject property, under the foregoing circumstances, respondent has violated not only Art. 1491 of the Civil Code but also Rule 10 of the Canons of Professional Ethics which provides that "the lawyer should not purchase any interest in the subject matter of the litigation which he is conducting."

The last issue to be resolved is whether respondent violated any law in preparing and notarizing the deeds of absolute sale in making it appear that there were considerations therefor, when in truth there were none so received by the seller. In her answer, respondent admitted that Antonia Ulibari did not actually sell the parcels of land to her children for the considerations stated in the deeds of sale and that she (respondent) "utilized the form of deed of sale as the most convenient and appropriate document to effect the transfer of the parcels of land to Antonia Ulibari's children in accordance with her wish that said parcels of land be given to them."

In so doing, respondent has manifestly violated that part of her oath as a lawyer that she shall not do any falsehood. Not only that. In preparing the documents which do not reflect the true transaction, respondent has likewise violated Rule 10.01 of the Code of Professional Responsibility which provides:

"Rule 10.01. A lawyer shall not do any falsehood, nor consent to the doing of any in court; nor shall he mislead, or allow the court to be misled by any artifice."

ACCORDINGLY, for having violated Article 1491 of the Civil Code, respondent is hereby ordered suspended from the practice of law for a period of six (6) months, and, for having stated falsehoods in the four (4) deeds of absolute sale she prepared and notarized, in violation of the lawyer's oath and Rule 10.01 of the Code of Professional Responsibility, respondent is also ordered suspended from the practice of law for a period of another six (6) months, resulting in a total period of one year, effective from the date this judgment becomes final.

SUSPENSION ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, Regalado, and Nocon, JJ., concur.

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