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remedy of appeal in the ordinary course of law. But it should be up to a judicial body to determine the party criminally responsible for the vehicular accident after evaluating the evidence presented during trial on the merits.

In fine, even without ruling on the question of propriety of the judgment on the pleadings, it is clear that the trial Court had committed grave abuse of discretion in enjoining permanently the prosecution of Criminal Case No. *1396*. In doing so it had blocked the smooth and efficient functioning of the machinery of justice.

ACCORDINGLY, the judgment appealed from is hereby REVERSED and SET ASIDE; the Writ of Preliminary Injunction issued by the lower Court hereby dissolved; and Criminal Case No. 1396 hereby ordered reinstated and heard on the merits together with Criminal Case No. 1397 if still pending. No costs.

SO ORDERED.

Plana, Relova, Gutierrez, Jr., De la Fuente, and *Patajo, JJ.*, concur.

Teehankee (Chairman), J., took no part.

EN BANC

[Adm. Case No. 2439. January 16, 1986]

JOSE DIAZ, *complainant, vs.* **ATTY. MANUEL S. GERONG,** *respondents.*

SYLLABUS

1. LEGAL ETHICS; DISBARMENT; MAY BE FILED IN CASE A LAWYER VIOLATED HIS LAWYER'S OATH.— The Lawyer's Oath obliges the attorney to swear that he will do no

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falsehood nor delay any man's cause for money or malice. And, pursuant to Section 27, Rule 138 of the Revised Rules of Court, a lawyer may be disbarred for any deceit, malpractice or other gross misconduct in his office as attorney or for any violation of the lawyer's oath.

2. **ID.; ID.; PURPOSE.**— In a number of cases We have repeatedly ruled that the purpose of disbarment is to protect the courts and the public from the misconduct of the officers of the court and to ensure the administration of justice by requiring that those who exercise this important function shall be competent, honorable and trustworthy men in whom courts and clients may repose confidence. In *Daroy vs. Legaspi*, 65 SCRA 304, We held that the objectives of disbarment are to compel the lawyer to deal fairly and honestly with his client and to remove from the profession a person whose misconduct has proven him unfit for the duties and responsibilities belonging to the office of an attorney.

APPEARANCES OF COUNSEL

Quasha Asperilla Ancheta Valmonte Peña & Marcos Law Office for complainant.

RESOLUTION

RELOVA, *J.* :

This administrative case was initially filed by Jose Diaz against Atty. Manuel S. Gerong for malpractice. After investigation by the Office of the Solicitor General, the latter joined the complainant and both pray for the disbarment of the respondent.

Records show that sometime in January 1974 private complainant and his son, Daniel Diaz, engaged the services of the respondent to prosecute a damage suit against Malabuti Manufacturing Industries, Inc. (Malabuti for short) and Ceferino Bautista. Respondent agreed to handle the case for ₱1,500.00 retainer's fee, plus twenty (20%) per cent of the sum that may be collected from the defendants.

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On March 28, 1974, upon agreement of respondent and the private complainant, the latter delivered to the former the sum of ₱900.00 for filing fee and for other expenses in connection with the filing of the case. Thereafter, respondent informed complainant Diaz and his son that he had already filed Civil Case No. 1148-0, entitled: "*Daniel Diaz vs. Malabuti Manufacturing Industries, Inc., et al.*" before the then Court of First Instance of Zambales and Olongapo City, Branch III, Olongapo City. Thenceforth, they exchanged letters and telegrams concerning the status of the case. In all these communications, respondent made it appear that a case had already been filed in court and that a negotiation had been undertaken to settle the case amicably. In his letter of October 30, 1976, respondent attached a supposed order, dated October 28, 1976, of the court (Exhibit I-1) granting his motion for postponement of the pre-trial hearing. The truth, however, is, no such case had been filed, much less was there any negotiation taken or an order issued by the court. It was only on December 7, 1976 when complainant found that respondent had not filed the case against the defendants and that the adverted Civil Case No. 1148-0 pertains to a case for writ of preliminary injunction and/or prohibition entitled: "*Juanito Garcia, et al. vs. Cesar Villanueva, et al.* (Exhibit P-1). Upon confrontation, respondent admitted the non-filing of the complaint and asked for forgiveness and, finally, on December 10, 1976, he filed the case against Malabuti and Bautista. On June 8, 1981 a judgment was rendered ordering Malabuti to pay Daniel Diaz damages in the total amount of ₱105,000.00 which, however, could not be satisfied as by then Malabuti had become insolvent and its properties already transferred and/or disposed of to another corporation formed in 1977 after the filing of the case.

In Our Resolution of September 29, 1982, We required respondent to comment on the complaint for disbarment but, despite the lapse of his requested period, respondent failed to file his comment. Thus, in the Resolution of August 24, 1983, We referred the case to the Office of the Solicitor General for investigation, report and recommendation.

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The Solicitor General reports that during his investigation, respondent, who is remorseful for the deceit and misrepresentation he had committed on complainant, pleaded for compassion but, having found that the actuations of respondent constitute malpractice and misconduct, he recommends disbarment of respondent Atty. Manuel S. Gerong and the striking out of the latter's name from the Rolls of Attorney. Annexed to his Report and Recommendation is a complaint filed, pursuant to Section 5, Rule 139 of the Rules of Court, against respondent lawyer, for deceit, malpractice and gross misconduct in office and for violation of the lawyer's oath.

Considering the complaint of the Solicitor General for the disbarment of Atty. Manuel S. Gerong, We required again the respondent to file his Answer thereto within ten (10) days from notice. On September 20, 1985, respondent filed an Urgent Petition for Extension of Time, dated September 4, 1985, asking for ten (10) days from September 5, 1985 within which to file his Answer to the complaint of the Solicitor General. Again, on October 1, 1985, respondent filed another Urgent Petition for Addition Extension of five (5) days from September 16, 1985; notwithstanding the grant of the extension of time respondent failed to file his Answer. Hence, We considered his failure as a waiver of his right to file a responsive pleading and the case was deemed submitted for resolution.

Analyzing the actuations of respondent lawyer We find the same not in accordance with his oath of office, which reads:

"I x x x do solemnly swear that x x x; *I will do no falsehood nor consent to its commission*; I will not wittingly or willingly promote or sue any groundless, false or unlawful suit nor give aid nor consent to the same; *I will not delay any man's cause for money or malice and will conduct myself as a lawyer according to the best of my knowledge and discretion with all good fidelity as well to the courts as to my clients* and I impose upon myself this obligation voluntarily, without any mental reservation or purpose of evasion x x x" (Italics supplied)

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The aforecited oath obliges the attorney to swear that he will do no falsehood nor delay any man's cause for money or malice. And, pursuant to Section 27, Rule 138 of the Revised Rules of Court, a lawyer may be disbarred for any deceit, malpractice or other gross misconduct in his office as attorney or for any violation of the lawyer's oath.

In a number of cases We have repeatedly ruled that the purpose of disbarment is to protect the courts and the public from the misconduct of the officers of the court and to ensure the administration of justice by requiring that those who exercise this important function shall be competent, honorable and trustworthy men in whom courts and clients may repose confidence. In *Daroy vs. Legaspi*, 65 SCRA 304, We held that the objectives of disbarment are to compel the lawyer to deal fairly and honestly with his client and to remove from the profession a person whose misconduct has proven him unfit for the duties and responsibilities belonging to the office of an attorney.

As aptly stated by the Solicitor General "respondent has not exercised honesty and truthworthiness and has failed to live up to the high standards of the law profession (p. 14, Report and Recommendation of the Solicitor General)." Respondent's actuations, being unworthy of membership in the bar, should be met with appropriate penalty.

We find the recommendation of the Solicitor General justifiable and hereby order the disbarment of respondent Atty MANUEL S. GERONG and the striking out by the Bar Confidant of his name from the Rolls of Attorney.

Teehankee, Concepcion Jr., Abad Santos, Melencio-Herrera Plana, Escolin, Gutierrez, Jr., De la Fuente, Cuevas, Alampay, and *Patajo, JJ.*, concur.

Aquino, C.J., took no part.