

# Philippines: Outrage over delay of Ampatuan trial

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MANILA, Philippines—Relatives of the 57 victims in the infamous Maguindanao massacre wept in disgust as the long-awaited trial was postponed anew Wednesday.

Quezon City Judge Jocelyn Solis Reyes announced at the end of the hour-long hearing that she was “partially” granting the defense motion to postpone the trial of Andal Ampatuan Jr. and 195 co-accused and resetting the hearing to Sept. 8.

Catherine Nuñez, whose son Victor Nuñez of UNTV was among the civilians and media workers killed on Nov. 23, 2009, in Ampatuan, Maguindanao, had flown all the way from Misamis Oriental to listen to the testimony of the prosecution’s first witness.

“Why does the judge favor motions of the defense that delay the trial? It looks like justice favors those who have money,” Nuñez, 48, said in Filipino, her voice breaking and her eyes welling with tears. “This isn’t right anymore. We have been waiting for nine months already.”

Justice Secretary Leila de Lima was present at the hearing held in a heavily guarded compound at Camp Bagong Diwa in Taguig City.

Delays in the court proceedings have continuously hampered the progress of the celebrated case involving the Ampatuans, a powerful clan in Maguindanao allied with then President Gloria Macapagal-Arroyo, that even De Lima admitted she was considering a recourse “outside the Quezon City court” to speed up the trial.

“I asked the panel to study any possibility of asking the Supreme Court to intervene on this matter,” De Lima told reporters as she boarded her vehicle.

“[The defense lawyers] are obviously delaying the proceedings. It must not continue,” she said.

## **‘They die a little’**

The prosecution vehemently opposed the motion for postponement, pointing out that all the parties involved in the case agreed during the previous hearing to begin the trial Wednesday.

“The motion is dilatory. It’s unfair. There is no reason why we cannot proceed with the trial,” Senior Deputy State Prosecutor Richard Fadullon told the court.

“Every day that passes, the victims’ families die a little until the day this case moves forward,” he said.

The defense had sought the postponement not just of Wednesday’s hearing but also of the hearings scheduled on Sept. 8 and 15.

But Reyes only partially granted the motion and said she would not grant any more delays.

"I will not allow that... The trial will proceed on Sept. 8 even if the comments have not been filed," she said. "We are suspending ... only the [trial hearing Wednesday]."

At least three of the defendants have yet to file their comments to Reyes' pre-trial order on Aug. 27.

During the hearing that began at 9:30 a.m., Ampatuan Jr., clad in a yellow prison shirt, was surrounded by four guards from the Bureau of Jail Management and Penology.

He was seen yawning and occasionally closing his eyes.

His lawyer Sigfrid Fortun tangled with Harry Roque, a private counsel of the victims, who insisted that the defense should reimburse the relatives' expenses in coming to Manila because it was the defense that delayed the trial.

"I think Attorney Roque is out of his mind [and] is speaking [off] the top of his head. He should be brought out of this court," Fortun responded. He added that there were no rules requiring the defense to pay for the relatives' expenses.

Roque also complained that Fortun and company were not providing the victims' private counsels copies of the defense petitions and motions.

### **'We live in fear'**

Relatives of the victims, numbering more than 20 and coming all the way from Mindanao, blamed the defense lawyers for the delay.

"It's painful. They're the ones who are always listened to," Nuñez said, adding:

"We still live in fear. Our opponents are politicians and they're rich and powerful. We have nothing. We only rely on God, but we're afraid of what they'll do to us."

Editha Tiamzon singled out Fortun for purportedly delaying the case. "He is only after the money of the Ampatuans," she said indignantly before TV cameras.

Fortun declined to comment.

Nena Santos, a private lawyer of the victims, said the prosecution would petition the Supreme Court within the next two weeks to have the trial expedited.

Santos said the prosecutors would rather have a postponement instead of losing the case "on a technicality" in the high court if the accused were convicted by Reyes.

"We don't want to lose the case on a technicality, especially if they appeal [a conviction] at the high court," Santos said.

"And in a trial, if you don't have a defense, your offense is to delay. That is basic in criminal law. You try to wear out the witnesses until they are tired of it all, or are dead," she said.

### **Atomic bomb**

Santos told reporters that there were attempts by the camp of the accused to bribe government witnesses in the case.

"For as low as P5 million to as high as P50 million," she said. "Let us just wait for the next hearing..."

If [the forthcoming testimony] were a bomb, it would be atomic.”

A source in the prosecution camp, who asked not to be named for lack of authority to speak with reporters on the matter, also said as much.

The source said bribes had been offered in particular to members of the Sangki clan, which was once allied with the Ampatuans.

Two members of the Sangki clan who were involved in the massacre are turning state witnesses in the case.

Vice Mayor Rasul Sangki of Ampatuan town had claimed to have witnessed the massacre and heard former Maguindanao Gov. Andal Ampatuan Sr. order his son and namesake on the phone to do it.

On the other hand, Mohamad Sangki, a militiaman, allegedly saw money being given to other militiamen involved in the massacre.

Said the source: “Before Rasul testified during the bail hearing, there was an offer of P25 million. On the day of his testimony, Ampatuan Sr. himself called Zacaria (patriarch of the Sangki clan) and offered P50 million for them to keep quiet.”

The source said that after the Sangkis refused, their farm was burned down and a family member, Mohamadisa, was murdered.

“He was stabbed and then shot dead ... one of those unresolved cases until now. Even two days ago, there were mortar attacks in the towns of Ampatuan and Datu Abdullah Sangki,” the source said.

Sukarno Dicap, the former police chief of Shariff Aguak, Maguindanao, who is being considered as a state witness, also hinted after the hearing that he knew about the alleged bribery attempts.

“The Ampatuans are rich. They will not offer P1... But many people were killed. How can you match a person’s life?” Dicap said.

## **Help from SC**

In an earlier interview, law dean Amado Valdez of the University of the East explained that government prosecutors could seek assistance from the Supreme Court because the defense seemed to be exhausting every possible ploy allowed by the rules.

Aside from deferments and reset hearing dates, the Ampatuan lawyers have incessantly sought Judge Reyes’ removal from the case—six times in the course of the preliminaries—on grounds of “bias.”

She has thrown out five of the defense’s motions for her inhibition.

“The Supreme Court has to come up with remedial rules ... rules of trial that could cover this [kind] of case,” Valdez told the Inquirer in an interview on Tuesday, when asked to comment on how the prosecution could remedy such a situation.

He said the high court had “a prerogative to make rules and suspend those” causing delays in the case.

Valdez viewed the case as “abnormal,” saying the Philippine judicial system was not constructed for one that involved nearly 200 accused and over 500 witnesses.

Should the high court enforce rules to curb what observers deem as “dilatory tactics,” this action must not be seen as a move “to facilitate a conviction” but, rather, “to ensure a speedy trial,” Valdez said.

“After all, the accused is entitled to a speedy disposition of the case against him, [like] the victims,” he said.

### **Prosecution meeting**

“We will be meeting to discuss that,” Senior Deputy State Prosecutor Fadullon said of the possibility of the prosecution asking for help from the high court.

Assistant State Prosecutor Juan Navera pointed out that the defense had agreed to the trial dates set by the court two weeks ago after consultation with the contending camps.

But he acknowledged that the Ampatuan lawyers’ motion for postponement was provided for by the rules of procedure.

Defense lawyers had asked that they be given five days to comment on the pre-trial order that they received on Aug. 27, which Reyes granted.

Navera could not say whether or not there was need for the prosecution to seek help from the high court.

“On our part, we will continue to oppose these [delaying] motions,” he said.

But that was not how Justice Secretary De Lima saw it.

“If we counter all their motions, we will only contribute to the delay,” she said, visibly irritated by the setback. “We cannot allow that.”

**By Philip Tubeza, Miko Morelos**

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