

The De Facto Officer in Philippine Law

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The Article examines the concept of an officer de facto in Philippine Law. Firstly, it is defined as one who has the reputation of being the officer he assumes to be and yet is not a good officer in point of law. It is then distinguished from the concepts of a de jure officer – one who is in all respects legally appointed and qualified to exercise office, and a mere usurper or intruder. Ergo, while a de fact officer has only color of an appointment or election to office, a de jure officer is in all respects legally appointed or elected and qualifies to exercise the office, and has a complete legal title to the office as against the whole world. As to a usurper, he is said to have no color of right or title to the office, and that his assumption of office is not acquiesced in, all in contrast to the attributes of a de facto officer. The De Facto Doctrine is also herein discussed, which essentially posits that it would be unreasonable to require the public to inquire on all occasions into the title of an officer, or compel him to show title, especially since the public has neither the time nor the opportunity to investigate the title of the incumbent. Said doctrine originates from policy and necessity. One is said to be a de facto officer when the following conditions concur: (1) there must be an office de jure; (2) there must be color of right or general acquiescence by the public, and; (3) this must be actual physical possession of the office in good faith. The Author points out at the latter part of the work that adherence to the orthodox view that there cannot be a de facto officer if there is no de jure office would amount to requiring the public to inquire into the constitutionality of the act creating the office. This, he argues, practically defeats the purpose of the De Facto Doctrine, which is to protect the interests of the public and third persons. However, he qualifies that he is not espousing an absolute abandonment of such orthodox view, he merely asserts that the requirement of a de jure office should be discarded where the interest of the public and third persons will be benefited in so doing.