

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. FRANCISCO HILVANO, DEFENDANT AND APPELLANT.

G.R. No. L-8583. July 31, 1956

Ponente: BENGZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/2ce3b180b582/>

BENGZON, J.:

When Mayor Fidencio Latorre of Villareal, Samar, departed for Manila on official business early in the morning of September 22, 1952, he designated the herein defendant Francisco Hilvano, councilor, to discharge the duties of his office. Later, during office hours on that same day, Vice-Mayor Juan Latorre went to the municipal building; and having found Hilvano acting in the place of the Mayor, he served written notices to the corresponding municipal officers, including Hilvano, that he (Juan Latorre) as Vice-Mayor was assuming the duties of the absent mayor. However, Hilvano refused to yield, arguing that he had been designated by the Mayor. Whereupon the Vice-Mayor sent a telegram to the Executive Secretary informing the latter of the controversy. And the said Secretary replied by letter, that under sec. 2195 of the Revised Administrative Code it was the Vice-Mayor who should discharge the duties of the Mayor during the latter's temporary absence. Shown this official pronouncement, Hilvano still refused to surrender the position. Again the Vice-Mayor sought the opinion of the Provincial Fiscal, who by letter (Exhibit D), replied that the Vice-Mayor had the right to the office. Notwithstanding such opinion which was exhibited to him—Hilvano declined to vacate the post, which he held for about a month, appointing some policemen, solemnizing marriages and collecting the corresponding salary for mayor.

Wherefore Francisco Hilvano was prosecuted—and—after trial—was convicted of usurpation of public authority under Republic Act No. 10. He appealed in due time. The Solicitor-General and appellant's counsel agree that the penal provision applicable to the case is Republic Act No. 379 which amended Art. 177 of the Revised Penal Code to read as follows:

"Usurpation of authority or official functions.—Any person who shall knowingly and falsely represent himself to be an officer, agent or representative of any department or agency of the Philippine Government or of any foreign government, or who, under pretense of official position, shall perform any act pertaining to any person in authority or public officer of the Philippine Government or of any foreign government, or any agency thereof, without being lawfully entitled to do so, shall suffer the penalty of prision correctional in its minimum and medium periods."

It is contended however for the appellant that he committed no usurpation of authority because he was a councilor, an official of the Government, and that such crime may only be committed by private individuals. He cited a decision of the Supreme Court of Spain of 1880 interpreting the corresponding article of the Spanish Penal Code, which is the origin of our own Penal Code/ But it appears that in subsequent decisions the same court convicted of the offense of usurpation certain officials who without proper authority discharged the functions of other officials, e.g., a municipal judge (Jan. 22, 1890) and a vice-mayor (teniente de alcalde) who discharged the functions of the alcalde. (Oct. 15, 1891). See Viada 5th Ed. Vol. IV pp. 227-230. [1]

There is actually no reason to restrict the operation of Article 177 to private individuals. For one thing it applies to "any person"; and where the law does not distinguish, we should not distinguish. Furthermore, contrary to appellant's assumption that Articles 238-241 of the Revised Penal Code penalize all kinds of usurpation of official functions by public officers, said articles merely punish interference by officers of one of the three departments of government (legislative, executive and judicial) with the functions of officials of another department. Said articles do not cover usurpation of one officer or employee of a given department of the powers of another officer in the same department. For instance, the exercise by a bureau employee of the powers of his director.

There is no excuse for defendant-appellant. In the beginning he might have pleaded good faith, invoking the designation by the Mayor; but after he had been shown the letter of the Executive Secretary and the opinion of the provincial fiscal, he had no right thereafter stubbornly to stick to the position. He was rightfully convicted. But the penalty imposed on him should be modified, in accordance with the recommendation of the Solicitor General. He is sentenced to an indeterminate term of 4 months of *arresto mayor* to two years of *prision correctional*. So modified, the appealed judgment is affirmed with costs against appellant.

Paras, C. J., Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Reyes, J. B. L., Endencia and Felix, JJ., concur.

[1] See also decision of Feb. 23, 1893, Cuello Calon, *Derecho Penal*, 6th Ed. Vol. II page 243, note.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.