

**ROALES BROTHERS AND COUSINS, PETITIONERS AND APPELLANTS,
VS. THE DIRECTOR OF LANDS, OPPONENT AND APPELLANT.***G.R. No. 27818. December 24, 1927*

Ponente: AVANCEÑA, C.J.

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This is an application for the registration of various parcels of land which comprise nearly all of Bonga Island, situated about 25 kilometers from the coast of Cotabato, almost in front of the mouth of the large river by that name.

The applicants' right to the registration of these parcels dates back to about ten years before American occupation, when Tomas Eoales entered into possession and commenced to cultivate this island, later, between 1893 and 1895, obtaining a grant of the same from the Military Political Commander of Illana Bay and then organizing the anonymous association known as Fortuna among several persons whose names are mentioned in the grant. The Fortuna having failed to pay the land tax on this island, it was sold at public auction to Francisco Diaz, from whom the appellants acquired the parcels, the registration of which is now sought.

As regards parcels 4, 6, 7 and 8, the court reached the conclusion that they had been occupied and cultivated by the applicants and their predecessors ten years before American occupation and ordered the registration of the same in their names. As regards parcel 2, the court found that only a portion of it had been occupied and ordered the applicants to present an amended plan thereof, using as a basis the sketch Exhibit X of the oppositor, on which the part occupied is indicated by red lines, for the purpose of resolving, in due time, its final adjudication. In regard to the other portion of lot 2 and all of lot 3, the court denied the registration in the name of the applicants.

The appeal refers only to the portion of lot 2 and all of lot 3, the registration of which has been denied.

The only ground of the lower court for the denial of the registration of this tract is that neither the applicants nor their predecessors have had actual possession of it. But, following the decision of this court in the case of *Ramos vs. Director of Lands* (39 Phil., 175), the judgment appealed from should be reversed. In that case it was held that "the possession and cultivation of a portion of a tract of land, under claim of ownership of all, is a constructive possession of all, if the remainder is not in the adverse possession of another. * * * Possession in the eyes of the law does not mean that a man has to have his feet on every square meter of ground before it can be said that he is in possession. * * * peaceable, and notorious possession of a portion of the property, sufficient to apprise the community and the world that the land was for his enjoyment."

Taking into consideration that the applicants and their predecessors, as admitted in the judgment appealed from, have cultivated and have been in actual possession of a large tract of this island which, according to the evidence, comprises more than two-thirds of the same, this possession includes, within the meaning of the law, the remaining portion although the same has not yet been reached by the physical action of the applicants. The actual acts of possession of the greater part of the island are acts of constructive possession of all of it, as evidenced by the fact that application was made and a grant obtained by the predecessors of the applicants for all of the island.

For the same reason that the registration of parcels 4, 6, 7 and 8 and part of 2 was granted in favor of the applicants, must the registration of the remainder, which consists of a portion of lot 2 and all of lot 3, be granted. Moreover, there is evidence that this tract has been in actual possession, having been used for the pasture of some cows, and within which trees have been cut for the construction of boats.

In view of the foregoing, the judgment appealed from is modified and it is ordered that lots 2 and 3 be registered in their entirety, without any special pronouncement as to costs. So ordered.

Johnson, Street, Malcolm, Villamor, Ostrand, Johns, and Villa-Real, JJ, concur.

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