

RWANDA / JUDGMENT

UBUSHINJACYAHA v. NTEGEREJIMANA

RPAA 00795/2024/CA

COURT

Court of Appeal

DECIDED

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UBUSHINJACYAHA v. NTEGEREJIMANA

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Text

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UBUSHINJACYAHA v. NTEGEREJIMANA [Rwanda URUKIKO RW'UBUJURIRE – RPAA 00795/2024/CA (Rutazana, P.J.) 29 Mata 2025] Amategeko agenga imanza z'inshinjabyaha – Inyito y'icyaha – Guhindura inyito y'icyaha – Guhindura inyito y'icyaha ni uburenganzira n'inshingano umucamanza afite mu gihe cyose asanga ibikorwa uregwa akurikiranyweho bidahuye n'inyito byahawe n'Inkiko zabanje, hakurikijwe ihame ry'uko umucamanza aregerwa ibikorwa bigize icyaha ataregerwa inyito yacyo. Incamake y'ikibazo: Ubushinjacyaha bwakurikiranyeho Ntegerejimana icyaha cyo gukubita no gukomeretsa byateye urupfu yakoreye Ngirira Mathieu ise umubyara ubwo bashyamiranaga Ntegerejimana akamukubita hasi akanamukandagira mu nda; bwamuregeye Urukiko Rwisumbuye rwa Ngoma busaba ko ahamwa n'icyaha agahanishwa igifungo cy'imyaka 20. Urukiko Rwimbuye rwa Ngoma rwaciye urubanza rwemeza ko ahamwa n'icyaha, rumuhanisha igihano cy'igifungo cy'imyaka 15 n'ihazabu ingana na 5.000.000 FRW. Ntegerejimana yajuririye mu Rukiko Rukuru, Urugereko rwa Rwamagana asaba kugabanyirizwa igihano ngo kuko icyaha ashinjwa yagikoze atabigambiriye ahubwo yabitewe n'ubusinzi. Urwo Rukiko rwemeza ko igihano kidakwiriye kugabanywa kuko gikwiranye n'uburemere bw'icyaha yakoze. Ntegerejimana yajuririye mu Rukiko rw'Ubujurire avuga ko nubwo yemera icyaha inyito

y'icyaha kimuhama ikwiriye guhinduka agahamwa n'icyaha cyo gukubita cyangwa gukomeretsa ku bushake, kuko Raporo ya muganga wasuzumye nyakwigendera igaragaza ko yishwe na bagiteri z'igituntu. Ubushinjacyaha buvuga ko hashingiwe kuri raporo ya Muganga wasuzumye nyakwigendera igaragaza ko urupfu rwe rwatewe na bagiteri z'igituntu, Ntegerejimana akwiriye guhamwa n'icyaha cyo gukubita cyangwa gukomeretsa ku bushake. Incamake y'icyemezo: Guhindura inyito y'icyaha ni uburenganzira n'inshingano umucamanza afite mu gihe cyose asanga ibikorwa uregwa akurikiranyweho bidahuye n'inyito byahawe n'Inkiko zabanje, hakurikijwe ihame ry'uko umucamanza aregerwa ibikorwa bigize icyaha ataregerwa inyito yacyo. Ubujurire bufite ishingiye. Urubanza rwaciye n'Urukiko Rukuru, Urugereko rwa Rwamagana ruhindutse ku bijyanye n'inyito y'icyaha n'igihano. Amategeko yashingiweho: Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura kandi ryuzuzwa Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyaye ibyaha n'ibihano muri rusange, Ingingo ya 11. Imanza zifashishijwe:

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RS/INJUST/Pen00004/2017/CS; Ubushinjacyaha vs Mukaruyange Athanasie rwaciye n'Urukiko rw'Ikirenga ku wa 23/02/2018; RPAA 01297/2024/CA; Ubushinjacyaha vs Niyoyita Fabien rwaciye n'Urukiko rw'Ubujurire ku wa 25/02/2025, RPAA 00507/2024/CA; Ubushinjacyaha vs Ntaganda Jonathan rwaciye n'Urukiko rw'Ubujurire ku wa 21/02/2025 Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 27/09/2021 hamenyekanye urupfu rw'uwitwa Ngirira Mathieu, hakekwa ko rwatewe no kuba ku wa 24/09/2021 yarashyamiyanye n'umuhungu we witwa Ntegerejimana Emmanuel uyu akamufata mu ijosi n'amaguru akamukubita hasi akanamukandagira mu nda. Ntegerejimana Emmanuel yahise afatwa arafungwa, atangira gukurikiranwa. [2] Nyuma y'iperereza Ubushinjacyaha bwareze Ntegerejimana Emmanuel mu Rukiko Rwisumbuye rwa Ngoma bumukurikiranyeho icyaha cyo gukubita cyangwa gukomeretsa byateye urupfu, busaba ko kimuhama agahanishwa igifungo cy'imyaka 20. Ntegerejimana Emmanuel yaburanye avuga ko icyaha ashinjwa atacyemera kuko atigeze akubita umubyeyi we ahubwo yamwambuye inkoni yashakaga kumukubitisha, asaba kugirwa umwere. [3] Mu rubanza RP 01428/2021/TGI/ NGOMA rwaciye n'Urukiko Rwisumbuye rwa Ngoma ku wa 28/10/2021 rwemeje ko Ntegerejimana Emmanuel ahamwa n'icyaha ashinjwa rushingiye ku mvugo ze mu Bugenzacyaha aho yemeye icyaha (n'ubwo yageze mu Rukiko akagihakana), ubuhamya bwa nyina Nyirampabagaya Rachel umushinja ko yakubise umubyeyi we nyuma y'iminsi itatu agapfa, ubuhamya bwa Gatare Jean Damascène nawe umushinja, akaba atabasha kuvuguriza izo mvugo z'abatangabuhamya; maze rutegeka ko ahanishwa igifungo cy'imyaka cy'imyaka 15 n'ihazabu ingana na 5.000.000 FRW. [4] Ntegerejimana Emmanuel yajuriye mu Rukiko Rukuru, Urugereko rwa Rwamagana asaba kugabanyirizwa igihano ngo kuko icyaha ashinjwa yagikoze atabigambiriye ahubwo yabitewe n'ubusinzi. [5] Uhagarariye Ubushinjacyaha yaburanye avuga ko igihano Ntegerejimana Emmanuel yahanishijwe gikwiranye n'uburemere bw'icyaha yakoze cyo gukubita cyangwa gukomeretsa byateye urupfu rw'umubyeyi we, bityo kikaba kidakwiriye kugabanywa. [6] Mu rubanza RPA 01631/2021/HC/RWG rwaciye n'Urukiko Rukuru, Urugereko rwa Rwamagana ku wa 30/07/2024, rwasanze impamvu y'ubusinzi Ntegerejimana Emmanuel ashingiraho asaba kugabanyirizwa igihano ntagaciro yahabwa, rwemeza ko n'ubwo Itegeko rishya No 059/2023 ryo

ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange ryaje rigabanya ibihano ku cyaha cyo gukubita cyangwa gukomeretsa byateye urupfu mu gihe hari impamvu nyoroshyacyaha, ku bireba Ntegerejimana Emmanuel igihano yahanishijwe kidakwiriye kugabanywa kuko gikwiranye n'uburemere bw'icyaha yakoze.

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[7] Ntegerejimana Emmanuel yongeye kujurira mu Rukiko rw'Ubujurire, urubanza rwandikwa kuri RPAA 00795/2024/CA, ruburanishwa mu ruhamwe ku wa 22/04/2025 Ntegerejimana Emmanuel yunganiwe na Me Uwimabera Béata naho Ubushinjacyaha buhagarariwe na Butera Oscar, Umushinjacyaha ku rwego rw'igihugu. [8] Mu mwanzuro we wo kujurira Ntegerejimana Emmanuel yasabaga kugabanyirizwa igihano kuko yakoze icyaha kubera ubusembure yakorewe n'umubyeyi we amusaba 2.000 FRW yo kunywa inzoga; naho mu mwanzuro w'inyongera wakozwe na Me Uwimabera Béata umwunganira we avuga ko n'ubwo Ntegerejimana Emmanuel yemera icyaha, inyito y'icyaha kimuhama ikwiriye guhinduka agahamwa n'icyaha cyo gukubita cyangwa gukomeretsa ku bushake, kuko Raporo ya muganga wasuzumye nyakwigendera igaragaza ko yishwe na bagiteri z'igituntu. Mu iburanisha kandi Ntegerejimana Emmanuel n'umwunganira babwiye Urukiko ko impamvu y'ubusembure batakiyiburanisha. [9] Uhagarariye Ubushinjacyaha nawe avuga ko hashingiwe kuri Raporo ya muganga wasuzumye nyakwigendera igaragaza ko urupfu rwe rwatewe na bagiteri z'igituntu, Ntegerejimana Emmanuel akwiriye guhamwa n'icyaha cyo gukubita cyangwa gukomeretsa ku bushake. [10] Urukiko rurasuzuma ikibazo cyo kumenya niba inyito y'icyaha Ntegerejimana Emmanuel ashinjwa ikwiriye guhinduka agahamwa n'icyaha cyo gukubita cyangwa gukomeretsa ku bushake, n'igihano akwiriye guhanishwa mu gihe inyito y'icyaha yaba ihindutse. II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA Kumenya niba inyito y'icyaha Ntegerejimana Emmanuel yahamijwe ikwiriye guhinduka agahamwa n'icyaha cyo gukubita cyangwa gukomeretsa ku bushake. [11] Ntegerejimana Emmanuel na Me Uwimabera Béata umwunganira basaba Urukiko guhindura inyito y'icyaha Ntegerejimana Emmanuel ashinjwa agahamwa n'icyaha cyo gukubita cyangwa gukomeretsa umubyeyi we Ngirira Mathieu ku bushake aho kuba icyaha cyo gukubita cyangwa gukomeretsa byateye urupfu, kuko Raporo ya muganga wasuzumye nyakwigendera NGIRIRA Mathieu igaragaza ko yishwe na bagiteri z'igituntu. [12] Uhagarariye Ubushinjacyaha nawe avuga ko ashingiye kuri Raporo ya muganga wasuzumye umurambo wa nyakwigendera Ngirira Mathieu igaragaza ko yishwe na bagiteri z'igituntu, inyito y'icyaha Ntegerejimana Emmanuel ashinjwa ikwiriye guhinduka agahamwa n'icyaha cyo gukubita cyangwa gukomeretsa ku bushake. UKO URUKIKO RUBIBONA [13] Impaka kuri iyi ngingo zishingiye ku kumenya niba inyito y'icyaha Ntegerejimana Emmanuel ashinjwa ikwiriye guhinduka agahamwa n'icyaha cyo gukubita cyangwa gukomeretsa ku bushake aho kuba gukubita cyangwa gukomeretsa byateye urupfu. [14] Ingingo ya 11, igika cya 1, y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura kandi ryuzuzwa Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange

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iteganya ko “Umuntu, abishaka, ukomeretsa undi, umukubita cyangwa umusagarira ku buryo bwa kiboko bubabaje aba akoze icyaha.....”; naho mu gika cya 2 cy’iyo ngingo igateganya ko iyo icyo cyaha cyakorewe umubyeyi, uwagikoze ahanishwa igifungo kitari munsu y’umwaka 1 ariko kitarenze inyaka 3 n’ihazabu itari munsu ya 300.000 FRW ariko itarenze 500.000 FRW.” [15] Nk’uko byasobanuwe mu rubanza RS/INJUST/Pen00004/2017/CS rwaciwe n’Urukiko rw’Ikirenga ku wa 23/02/2018 haburana Ubushinjacyaha na Mukaruyange Athanasie, “Guhindura inyito y’icyaha ni uburenganzira n’inshingano umucamanza afite mu gihe cyose asanga ibikorwa uregwa akurikiranyeho bidahuye n’inyito byahawe n’Inkiko zabanje, hakurikijwe ihame ry’uko umucamanza aregerwa ibikorwa bigize icyaha ataregerwa inyito yacyo”; uyu murongo ukaba warakomeje gukurikizwa mu manza zaciwe n’Urukiko rw’Ubujurire, mu ziheruka gucibwa twavugaga nk’urubanza RPAA 01297/2024/CA rwaciwe ku wa 25/02/2025 haburana Ubushinjacyaha na Niyoyita Fabien (igika cya 15) n’urubanza RPAA 00507/2024/CA rwaciwe ku wa 21/02/2025 haburana Ubushinjacyaha na Ntaganda Jonathan (igika cya 15). [16] Urukiko rw’Ubujurire rurasanga hashingiwe ku murongo umaze kuvugwa haruguru, kuri uru rwego rw’ubujurire bwa kabiri nta kibanza Urukiko gusuzuma niba inyito y’icyaha Ntegerejimana Emmanuel yahamijwe ihuye n’ibikorwa byakozwe, bikaba ari byo bigiye gusuzumwa mu bika bikurikira. [17] Dosiye y’uru rubanza igaragaza ko Ubushinjacyaha bwareze Ntegerejimana Emmanuel bumukurikiranyeho icyaha cyo gukubita cyangwa gukomeretsa byateye urupfu ry’umubyeyi we, Urukiko Rwisumbuye rwa Ngoma rurakimuhamba akatirwa igifungo cy’imyaka 15 n’ihazabu ingana na 5.000.000 FRW, ajurira mu Rukiko Rukuru, Urugereko rwa Rwamagana, avugaga ko yemera icyaha ariko agasaba kugabanyirizwa igihano, ariko urwo Rukiko rwemeza ko igihano yahanishijwe kidakwiye kugabanywa; yongera kujurira mu Rukiko rw’Ubujurire, kuri uru rwego akaba asaba ko inyito y’icyaha yahamijwe ihinduka kikaba icyaha cyo gukubita cyangwa gukomeretsa ku bushake, ashingiye kuri Raporo ya Muganga wasuzumye umurambo w’umubyeyi we igaragaza ko urupfu rwe rwatewe na bagiteri z’igituntu. [18] Urukiko rw’Ubujurire rurasanga koko nk’uko n’uhagarariye Ubushinjacyaha abyemera, Raporo yamuganga yarushyikirije ku wa 04/09/2025 igaragaza ko urupfu rwa Ngirira Mathieu (umubyeyi wa Ntegerejimana Emmanuel) rwatewe na bagiteri z’igituntu, hakaba rero nta cyagaragajwe cyashingirwaho hemezwa ko urupfu rwe rwaturutse ku kuba yarakubiswe na Ntegerejimana Emmanuel. [19] Urukiko rw’Ubujurire rurasanga kandi mu bujurire bwe Ntegerejimana Emmanuel adahakana ko yakubise umubyeyi we, bikaba kandi ari nako byemejwe mu rubanza rwaciwe n’Urukiko Rwisumbuye rwa Ngoma hashingiwe ku mvugo ze mu Bugenzacyaha no ku mvugo z’abatangabuhamba bamushinja ko yamukubise, mu bujurire bwe mu Rukiko Rukuru, Urugereko rwa Rwamagana ntiyabihakana ahubwo asaba gusa kugabanyirizwa igihano, no kuri uru rwego Urukiko akaba nta kimenyetso yatanze kibivuguruzwa; ahubwo umwunganira akaba yarashimangiye ko ku nzego zabanje yemeye ibikorwa bigize icyaha cyo gukubita cyangwa gukomeretsa ku bushake anabishingiraho asaba ko agabanyirizwa igihano. [20] Urukiko rw’Ubujurire rushingiye kuri ibyo bisobanuro, rurasanga Ntegerejimana Emmanuel ahamwaga n’icyaha cyo gukubita cyangwa gukomeretsa umubyeyi we ku bushake,

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giteganywa kandi kigahanwa mu ngingo ya 11, igika cya 1 n'icya 2, y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura kandi ryuzuza Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange, ryagaragajwe mu gika cya 14 cy'uru rubanza. [21] Hashingiwe kuri ibyo bisobanuro, ubujurire bwe ku bijyanye no guhindura inyito y'icyaha ashinjwa bukaba bufite ishingiro.

Kumenya igihano Ntegerejimana Emmanuel akwiriye guhanishwa [22] Me Uwimabera Béata avuga ko Ntegerejimana Emmanuel yemeye icyaha kuko yemeye ibikorwa bikigize, bityo akaba akwiriye kugabanyirizwa igihano hashingiwe kuri uko kwemera icyaha no kuba ari ubwa mbere akurikiranyweho icyaha mu buryo buzwi, agahanishwa igifungo cy'amezi atandatu (6) n'ihazabu ingana na 150.000 FRW hakurikijwe ibiteganywa mu ngingo ya 2 y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange. [23] Uhagarariye Ubushinjacyaha avuga ko Ntegerejimana Emmanuel yatangiye kuburana ahakana icyaha ndetse n'ubu akaba atemera ko yakubise umubyeyi we kuko avuga ko barwanye, akaba rero ataremeye icyaha mu buryo budashidikanywaho; bityo akaba akwiriye guhanishwa igifungo cy'inyaka 2 n'ihazabu ingana na 300.0000 FRW. UKO URUKIKO RUBIBONA [24] Impaka kuri iyi ngingo zishingiye ku kumenya igihano Ntegerejimana Emmanuel akwiriye guhanishwa, no kumenya niba mu kukigena hakwitabwa ku mpamvu nyoroshyacyaha aburanisha z'uko yemera icyaha kandi akaba ari ubwa mbere akurikiranyweho icyaha mu buryo buzwi. [25] Mu rubanza RPA 00060/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 04/04/2022 haburana Ubushinjacyaha na Nsabimana Callixte Alias Sankara n'abandi, Urukiko rwasobanuye ko "ukwemera icyaha kugira agaciro gashobora gutuma uregwa agabanyirizwa igihano iyo gukozwe byibura mbere y'uko iburanisha ku rwego rwa mbere ripfundikirwa, kudashidikanywaho, kuba uwemera agaragaza ko yumva uburemere bw'ibikorwa yemera n'ingaruka zabyo,...."1. Uyu murongo kandi waje ushimangira ibyari byaremejwe n'Urukiko rw'Ikirenga mu rubanza RPA 0343/10/CS2 rwaciwe ku wa 27/02/2015 haburana Ubushinjacyaha na Mpiranya Boniface (igika cya 13). Wanakomeje gushingirwaho mu manza zaciwe n'Urukiko rw'Ubujurire, mu ziheruka gucibwa harimo nk'urubanza RPAA 00234/2024/CA rwaciwe ku wa 20/01/2025 haburana Ubushinjacyaha na Hatungimana Jean Claude & Rucogoza Donath (ibika bya 26-27), n'urubanza RPAA 00312/2023/CA rwaciwe ku wa 18/03/2025 haburana Ubushinjacyaha na Biziyaremye Faustin (igika cya 22).

1 Reba igika cya 136 cy'urubanza N° RPA 00060/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 04/04/2022 haburana Ubushinjacyaha na NSABIMANA Callixte alias Sankara n'abandi. 2 Muri urwo rubanza Urukiko rw'Ikirenga rwasobanuye ko ukwemera icyaha gushobora kugirira inyungu uwagukoze ku buryo ashobora kugabanyirizwa igihano yari guhabwa, ari ugukozwe ku buryo budashidikanywaho, ntacyo ashaka gukinga Urukiko cyangwa ngo agire icyo agoreka ku bwende.

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[26] Ku bireba Ntegerejimana Emmanuel, dosiye igaragaza ko mu Rukiko Rwisumbuye rwa Ngoma yaburanye avuga ko icyaha ashinjwa atacyemera kuko atigeze akubita umubyeyi we, akaba rero ataremeye icyaha nibura mbere y'uko iburanisha ku rwego rwa mbere ripfundikirwa; hashingiwe ku murongo wagaragajwe mu gika kibanziriza iki, kuba yaba yaremeye icyaha nyuma bikaba bitashingirwaho agabanyirizwa igihano; bityo imiburanire ye y'uko akwiriye kugabanyirizwa igihano hashingiwe ku mpamvu y'uko yemeye icyaha ikaba nta shingiro ifite. [27] Urukiko rw'Ubujurire rurasanga harebwe icyaha Ntegerejimana Emmanuel yakoze n'uburyo yagikozemo ubwo ku bushake yubahukaga umubyeyi we wari unakuze dore ko yari afite imyaka 66, akamufata mu ijoso n'amaguru akamutura hasi akanamukandagira mu nda, kuba ari ubwa mbere akurikiranyweho icyaha mu buryo buzwi bitamubera impamvu nyoroshyacyaha; hashingiwe ku biteganywa mu ngingo ya 11, igika cya 2, y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura kandi ryuzuza Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyira ibyaha n'ibihano muri rusange yagaragajwe haruguru (mu gika cya 14 cy'uru rubanza), NTEGEREJIMANA Emmanuel akaba akwiriye guhanishwa igifungo cy'imyaka 3 n'ihazabu ingana na 300.000 FRW. [28] Hashingiwe ku bisobanuro byose byatanzwe haruguru, urubanza RPA 01631/2021/HC/RWG rwaciwe n'Urukiko Rukuru, Urugereko rwa Rwamagana ku wa 30/07/2024 rukaba ruhinduwe ku birebana n'inyito y'icyaha gihama Ntegerejimana Emmanuel n'igihano ahanishijwe. III. ICYEMEZO CY'URUKIKO [29] Rwemeje ko ubujurire bwa Ntegerejimana Emmanuel bufite ishingiro. [30] Rwemeje ko urubanza RPA 01631/2021 /HC/RWG rwaciwe n'Urukiko Rukuru, Urugereko rwa Rwamagana ku wa 30/07/2024 ruhindutse gusa ku bijyanye n'inyito y'icyaha gihama Ntegerejimana Emmanuel n'igihano ahanishijwe. [31] Rwemeje ko Ntegerejimana Emmanuel ahamwe n'icyaha cyo gukubita cyangwa gukomeretsa ku bushake yakoreye umubyeyi we. [32] Ruhanishije Ntegerejimana Emmanuel igifungo cy'imyaka itatu (3) n'ihazabu ingana n'amafaranga y'u Rwanda ibihumbi magana atatu (300.000 FRW). [33] Rutegetse ko Ntegerejimana Emmanuel ahita arekurwa uru rubanza rukimara gusomwa kuko igihano cy'igifungo ahanishijwe kiri munsu y'igihe amaze afunze. [34] Rutegetse ko Ntegerejimana Emmanuel asonewe amagarama y'urubanza kuko yaburanye afunze.

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