

RWANDA / JUDGMENT

UBUSHINJACYAHA v UWIZEYIMANA N'ABANDI

RS/INJUST/RP 00004/2024/SC

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UBUSHINJACYAHA v UWIZEYIMANA N'ABANDI

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Text

Page 1

UBUSHINJACYAHA v UWIZEYIMANA N'ABANDI [Rwanda URUKIKO RW'IKIRENGA - RS/INJUST/RP 00004/2024/SC (Cyanzayire, P.J, Muhumuza na Kazungu J.) 30 Mutarama 2026] Amategeko agenga imanza nshinjabyaha – Icyaha cy'inyandiko mpimbano – Icyaha cy'inyandiko mpimbano giteganywa mu ngingo ya 276, igika cya 2, Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange, kibaho iyo nyiri ukugikora yanditse cyangwa yandikishije ibinyuranye n'ukuri, yavuze (déclaration) ibitari ukuri mu nyandiko, akabikora agamije konona, kugira icyo yiha cyangwa aha undi muntu, mu buryo butemewe. Amategeko agenga imanza nshinjabyaha – Icyaha cya ruswa – Ruswa igira uyitanga n'uyakira, binyuze mu buryo ubwo ari bwo bwose. Uyisaba undi cyangwa uyakira ayihawe n'undi, abikora yifashishije inshingano ze, umwanya arimo, ibyo bigatuma akora ahawe ikiguzi kidakwiye cyangwa ntakore ibyari muri izo nshingano (akica inshingano ze). Incamake y'ikibazo: Uru rubanza rwaburanishijwe hasubirishwamo ku mpamvu z'akarengane, urubanza rwaciye n'Urukiko Rukuru RPA 01719/2019/HC/KIG - RPA 01831/2019/HC /KIG ku busabe bw'Ubushinjacyaha bwakurikiranaga abaregwa

(Uwimana, Rukundo Rwigemera na Muhire) ku byaha binyuranye birimo kwandika cyangwa gukoresha inyandiko irimo ibinyoma, kuba icyitso mu cyaha cyo kwandika cyangwa gukoresha inyandiko irimo ibinyoma n'icyaha cyo kwaka, kwakira no gutanga indonke. Ibi byaha byakurikiranywe nyuma yuko uwitwa Uwizeyimana asabye GT BANK Ltd inguzanyo ya 300.000.000 Frw, ayiha ingwate igizwe n'imitungo itimukanwa 2. Ananiwe kwishyura uyu mwenda, Banki ishatse kugurisha ingwate, yasabye umugenagaciro kuyisura no kugena agaciro kazashingirwaho muri cyamunara; uyu ageze yasanze ingwate zidafite agaciro kagaragara muri dosiye ahubwo gatandukanye cyane n'agaciro nyakuri. Rukundo Rwigemera akaba ariwe wari waremeje ko uhabwa inguzanyo yujuje ibisabwa kugira ngo abone inguzanyo, kandi nyamara azi neza ko atari ukuri naho umugenagaciro (Muhire) akora igenagaciro ritavugisha ukuri, kuko izo ngwate yazihaye agaciro kari hejuru cyane. Ku rwego rw'Urukiko Rwisumbuye Uwizeyimana yahamijwe icyaha cyo gusaba, kwakira cyangwa gutanga indonke, Urukiko rumuhanisha igihano cy'igifungo cy'imyaka 3 n'ihazabu ya 30.000.000 Frw, rwahamije kandi Rukundo Rwigemera icyaha cyo gusaba, kwakira cyangwa gutanga indonke n'icyaha cyo kuba icyitso mu cyaha cyo guhimba, guhindura inyandiko cyangwa gukoresha inyandiko mpimbano; rumuhanisha ku byaha byombi byamuhamye igihano cy'igifungo cy'imyaka 5 n'amezi 3 n'ihazabu ya 30.000.000 Frw naho Muhire ahamwa n'icyaha cyo guhimba, guhindura inyandiko cyangwa gukoresha inyandiko mpimbano, rumuhanisha igihano cy'igifungo cy'imyaka 5 n'ihazabu ya 3.000.000 Frw. Banategeswe kandi guha GT BANK Ltd indishyi zinyuranye. Abaregwa bose ntibishimiye imikirize y'urubanza bajuririra mu Rukiko Rukuru, nuko urwo Rukiko ruza guca urubanza rwemeza ko abaregwa badahamwa n'ibyaha uretse Uwizeyimana wakomeje guhamwa n'icyaha akanagumishirizwaho ibihano yahawe ku rwego rwa mbere. Ibyo byatumye Ubushinjacyaha busaba ko urwo rusuburwamo ku mpamvu z'akarengane nuko urubanza ruburanishwa n'Urukiko rw'Ikirenga. Ubushinjacyaha bukaba bwaravugaga ko ko Urukiko Rukuru rwirengagije ibimenyetso bihamya ibyaha abaregwa, birimo ubuhamya n'inyandiko z'igenagaciro naho abaregwa bavuga ko nta bimenyetso bihagije Ubushinjacyaha

Page 2

bwigeze bugaragaza bibahamya ibyaha bakurikiranweho, ko ibigize icyaha bituzuye, kuko habura ubushake n'uburiganya. Muri urwo rubanza Urukiko rwasuzumye niba hari ibimenyetso bihamya Muhire, icyaha cyo kwandika cyangwa gukoresha inyandiko yahinduwe cyangwa irimo ibinyoma naho kuri Rukundo Rwigemera hasuzumwe niba hari ibimenyetso byo kuba icyitso muri icyo cyaha, kuri we kandi hanasuzumwe niba hari ibimenyetso bimuhamya icyaha cyo gusaba, kwakira no gutanga impano cyangwa indonke kugira ngo hakorwe ikinyuranyije n'amategako cyangwa ntihakorwe icyagombye gukorwa. Incamake y'icyemezo: 1. Icyaha cy'inyandiko mpimbano giteganywa mu ngingo ya 276, igika cya 2, Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange, kibaho iyo nyiri ukugikora yanditse cyangwa yandikishije ibinyuranye n'ukuri, yavuze (déclaration) ibitari ukuri mu nyandiko, akabikora agamije konona, kugira icyo yiha cyangwa aha undi muntu, mu buryo butemewe. Kuba Muhire yarakoze akanasinya raporo z'igenagaciro zirimo ibintu bidahuye n'ukuri, iryo genagaciro rikaba ari ryo ryatumye Uwizeyimana abona inguzanyo atayikwiye bigateza Banki igihombo, ahamwa

n'icyaha cyo kwandika cyangwa gukoresha inyandiko irimo ibinyoma. Kuba kandi inyandiko yo ku wa 09/12/2013, yiswe WRITE UP, yateguwe na Rukundo Rwigemera ivuga ko mu bibanza by'Uwizeyimana harimo amazu atandukanye bidahuye n'ukuri kuko ibibanza bivugwa nta mazu yari yubatsemo, kandi Rukundo Rwigemera yari abizi bigaragaza uruhare bityo

2. Ruswa igira uyitanga n'uyakira, binyuze mu buryo ubwo ari bwo bwose. Uyisaba undi cyangwa uyakira ayihawe n'undi, abikora yifashishije inshingano ze, umwanya arimo, ibyo bigatuma akora ahawe ikiguzi kidakwiye cyangwa ntakore ibyari muri izo nshingano (akica inshingano ze). Ikirego cy'Ubushinjacyaha cyo gusubirishamo urubanza ku mpamvu z'akarengane gifite ishingiro. Amategeko yashingiweho: Ingingo ya 2 y' Itegeko N° 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. Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, Ingingo ya 48. Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, ingingo ya 2,20, 61,62,276 n'ya 334. Itegeko N° 54/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya ruswa, ingingo ya 4. Itegeko Ngenga N° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho igitabo cy'amategeko ahana, ingingo ya 614. Imanza zifashishijwe: Ubushinjacyaha vs Ntaganira, RS/INJUST/RP 00006/2024/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 11/07/2025. Inyandiko z'abahanga: Robert Kint, Droit pénal spécial, Manuels de droit Rwandais 2, UNR, 1993, p.20).

Page 3

Jean Pradel et Michel Danti-Juan, Droit pénal spécial, Paris, 2010, éditions CUJAS, 5è édition, p.686. Alphonse Marie Nkubito, Droit penal special, Editions R.C.N., 1995, p.12.

Urubanza I. IMITERERE Y'URUBANZA [1] Mu mwaka wa 2013, UWIZEYIMANA Marcelline yasabye GT BANK Ltd inguzanyo ya 300.000.000 Frw,1 ayiha ingwate igizwe n'imitungo itimukanwa 2, iherereye mu Karere ka Musanze mu Ntara y'Amajyaruguru, yanditswe kuri UPI: 4/03/10/05/688 na UPI: 4/03/10/05/689. [2] Ananiwe kwishyura uyu mwenda, Banki ishatse kugurisha ingwate, yasabye umugenagaciro NZAKAMWITA Jean Marie Vianney, kuyisura no kugena agaciro kazashingirwaho muri cyamunara; uyu ageze yasanze ingwate zidafite agaciro kagaragara muri dosiye. Yasanze umutungo wanditse kuri UPI: 4/03/10/05/688, ugaragara mu bitabo bya Banki ko ufite agaciro ka 120.561.000 Frw, agaciro nyako ari 1.172.000 Frw. Naho uwanditse kuri UPI: 4/03/10/05/689, yasanze ugaragara mu bitabo bya Banki ko ufite agaciro ka 81.436.500 Frw, mu gihe agaciro nyako ari 928.000 Frw. Aha niho uru rubanza rukomoka kuko Banki yatanze ikirego muri CID, urwego rwari rushinzwe Ubugenzacyaha icyo gihe, dosiye irakorwa ishyikirizwa Ubushinjacyaha nabwo buyiregera Urukiko. [3] Urubanza rwatangiriye mu Rukiko Rwisumbuye rwa Nyarugenge, ikirego cyandikwa kuri N° RP 00670/2018/TGI/NYGE, rucibwa ku wa 20/09/2019, mu buryo bukurikira :

- Rwemeje ko UWIZEYIMANA Marcelline na RUKUNDO RWIGEMERA Prosper bahamwa n'icyaha cyo gusaba, kwakira cyangwa gutanga indonke, ruhanisha UWIZEYIMANA Marcelline igifungo cy'imyaka 3 n'ihazabu ya 30.000.000 Frw;

- Rwemeje kandi ko RUKUNDO RWIGEMERA Prosper ahamwa n'icyaha cyo kuba icyitso mu cyaha cyo guhimba, guhindura inyandiko cyangwa gukoresha inyandiko mpimbano; rumuhanisha ku byaha byombi byamuhanye igifungo cy'imyaka 5 n'amezi 3 n'ihazabu ya 30.000.000 Frw;
- Rwemeje ko MUHIRE Jean Claude ahamwa n'icyaha cyo guhimba, guhindura inyandiko cyangwa gukoresha inyandiko mpimbano, rumuhanisha igihano cy'igifungo cy'imyaka 5 n'ihazabu ya 3.000.000 Frw;
- Rwategetse UWIZEYIMANA Marcelline, RUKUNDO RWIGEMERA Prosper na MUHIRE Jean Claude gufatanya kwishyura GT Bank Rwanda Ltd, indishyi zingana na 5.000.000 Frw, igihembo cya Avoka kingana na 700.000 Frw na 20.000 Frw yatanzeho ingwate y'amagarama iregera indishyi. [4] Mu gufata iki cyemezo, Urukiko rwashingiye ku buhamya bwa UWIZEYIMANA Marcelline waburanye yemera icyaha cya ruswa, ya 15.000.000 Frw yahaye RUKUNDO

1 Ibazwa rye muri RIB ryo ku wa 05/01/2018, p.2 na 3.

Page 4

RWIGEMERA Prosper; ku buhamya bwa MUKANSANGA Yvette wemeye ko hari sheki ya 5.000.000 Frw yahawe na RUKUNDO RWIGEMERA Prosper bari muri GT BANK, amusaba kuyibikuzwa arabikora arangije ahita amuha ayo mafaranga; rwashingiye kandi ku igenagaciro ry'ingwate ryakozwe na MUHIRE Jean Claude ritavugisha ukuri. [5] Abaregwa bose ntibishimiye imikurizwe y'urubanza bajuririra mu Rukiko Rukuru, ikirego cyandikwa kuri No RPA 01719/2019/HC/KIG - No RPA 01831/2019/HC /KIG. [6] UWIZEYIMANA Marcelline yavuze ko impamvu yatumye ajurira ari ugusaba kongera kugabanyirizwa ibihano no kubisubikirwa. [7] RUKUNDO RWIGEMERA Prosper we yasobanuye ko impamvu zatumye ajurira ari uko yahamijwe icyaha cyo kwakira indonke n'icyo kwandika cyangwa gukoresha inyandiko mpimbano kandi nta bimenyetso; ko yasabye gusuzuma imikono iri kuri sheki yabikujwe na MUKANSANGA Yvette ntibikorwe. [8] MUHIRE Jean Claude yasobanuye ko impamvu zatumye ajurira ari uko yahamijwe icyaha kandi ibikigize bituzuye; ko ubuhamya bwa UWIZEYIMANA Marcelline bwashingiweho buvuguruzanya; ko kandi igenagaciro ryakozwe na NZAKAMWITA Jean Marie Vianney ryakoreshejwe mu buryo bunyuranyije n'amategeko. [9] Ku wa 26/06/2023, Urukiko Rukuru rwaciye urubanza rwemeza ko RUKUNDO RWIGEMERA Prosper na MUHIRE Jean Claude ari abere; ko ubujurire bwa UWIZEYIMANA Marcelline nta shingiro bufite, rugumishaho igihano yahawe mu rwego rwa mbere ni ukuvuga igihano cy'igifungo cy'imyaka 3 n'ihazabu ya 30.000.000 Frw. [10] Kuri RUKUNDO RWIGEMERA Prosper, ku cyaha cya ruswa, Urukiko rwasobanuye ko habuze ibimenyetso bishyigikira ubuhamya bwatanzwe na UWIZEYIMANA Marcelline na MUKANSANGA Yvette, ko kandi umwimerere (original) wa sheki yabikujwe na MUKANSANGA Yvette wabuze, bigatuma imikono iyiraho idapimwa. Urukiko rwasobanuye kandi ko rwatumije MATABARO Jean Marie Vianney kugira ngo abazwe ku mafaranga ya ruswa yahaye RUKUNDO RWIGEMERA Prosper, ntiyaboneka. Ku cyaha cyo kuba icyitso mu cyaha cy'inyandiko mpimbano, Urukiko rwasobanuye ko bitari byoroshye kuri RUKUNDO RWIGEMERA Prosper

kumenya inenge zivugwa ku ngwate, zitabonywe na bagenzi be bagiye kuzisura; ko kuri iki cyaha na none ubuhamya bwa UWIZEYIMANA Marcelline budahagije, bugomba gushyigikirwa n'ibindi bimenyetso bitabonetse. [11] Kuri MUHIRE Jean Claude, Urukiko rwasobanuye ko bikomeye kumwemeza icyaha cyo kwandika inyandiko itavugisha ukuri, kuko rutashingira gusa ku buhamya bwa UWIZEYIMANA Marcelline umushinja. [12] Ubushinjacyaha bwandikiye Perezida w'Urukiko rw'Ubujurire busaba ko urwo rubanza rwasubirwamo ku mpamvu z'akarengane. Amaze gusuzuma ubwo busabe, yasabye Perezida w'Urukiko rw'Ikirenga ko rwasubirwamo ku mpamvu z'akarengane, uyu amaze gusuzuma raporo yarukorewe, ku wa 24/10/2024 afata icyemezo N° 181/CJ/2024 ko rwongera kuburanishwa, rwandikwa kuri N° RS/INJUST/RP 00004/2024/SC.

Page 5

[13] Urubanza rwahamagawe ku wa 10/06/2025, ababuranyi bose baritaba, ariko ntirwaburanishwa kubera ko nta myanzuro y'Ubushinjacyaha irebana n'ibyaha abaregwa bakurikiranyweho n'ibimenyetso bushingiraho bubarega, yari muri dosiye, rwimurirwa ku wa 06/10/2025. Ubushinjacyaha kwasabwe kuba bwayishyize muri dosiye bitarenze ku wa 27/06/2025, abandi baburanyi bakazayireguraho bitarenze ku wa 18/07/2025. [14] Ku wa 06/10/2025, ababuranyi baritabye Ubushinjacyaha buhagarariwe na PN MUKUNZI Faustin; UWIZEYIMANA Marcelline yunganiwe na Me NZAYISENGA Francis, MUHIRE Jean Claude yunganiwe na Me NDAYISABYE Alexis na Me BAGABO Faustin, RUKUNDO RWIGEMERA Prosper yunganiwe na Me NYIRIHIRWE Hilaire, naho GT Bank Ltd iregera indishyi ihagarariwe na Me UWANYIRIGIRA Delphine. [15] Mu myanzuro hamwe no mu miburanire ye, uhagarariye Ubushinjacyaha avuga ko Urukiko Rukuru rwirengagije ibimenyetso bihamya ibyaha abaregwa, birimo ubuhamya n'inyandiko z'igenagaciro. Abaregwa bavuga ko nta bimenyetso bihagije Ubushinjacyaha bwigeze bugaragaza bibahamya ibyaha bakurikiranweho, ko ibigize icyaha bituzuye, kuko habura ubushake n'uburiganya. [16] Muri uru rubanza, ibibazo byasuzumwe ni ibi bikurikira :

- a) Kumenya niba hari ibimenyetso bihamya MUHIRE Jean Claude, icyaha cyo kwandika cyangwa gukoresha inyandiko yahinduwe cyangwa irimo ibinyoma;
- b) Kumenya niba hari ibimenyetso bihamya RUKUNDO RWIGEMERA Prosper kuba icyitso mu cyaha cyo kwandika cyangwa gukoresha inyandiko yahinduwe cyangwa irimo ibinyoma;
- c) Kumenya niba hari ibimenyetso bihamya RUKUNDO RWIGEMERA Prosper na UWIZEYIMANA Marcelline icyaha cyo gusaba, kwakira no gutanga impano cyangwa indonke kugira ngo hakorwe ikinyuranyije n'amategeko cyangwa ntihakorwe icyagombye gukorwa;
- d) Mu gihe ibyaha byahamye RUKUNDO RWIGEMERA Prosper, UWIZEYIMANA Marcelline na MUHIRE Jean Claude, kumenya ibihano bahabwa;

- e) Kumenya niba hari indishyi GT Bank ikwiye kugenerwa. II. ISESENGURWA RY'IBIBAZO BIGIZE URUBANZA
- 1) Kumenya niba hari ibimenyetso bihamya MUHIRE Jean Claude, icyaha cyo kwandika cyangwa gukoresha inyandiko yahinduwe cyangwa irimo ibinyoma. [17] Ubushinjacyaha buvuga ko Urukiko rwirengagije ibimenyetso bigizwe n'igenagaciro ry'ibibanza 2 byavuzwe haruguru ryakozwe na MUHIRE Jean Claude ritavugisha ukuri, kuko izo ngwate yazihaye agaciro kari hejuru cyane. Rwirengagije kandi igenagaciro ryakozwe na NZAKAMWITA Jean Marie Vianney. [18] Bukomeza buvuga ko Urukiko rwirengagije ubuhamya bwa UWIZEYIMANA Marcelline wasobanuye ko RUKUNDO RWIGEMERA Prosper yamubwiye ko umugenagaciro w'ibyo

Page 6

bibanza bitubatse azashakwa na Banki, ko we icyo yakoze ari ugutanga ibyangombwa. Bwongeraho ko Urukiko rwirengagije kandi ubuhamya bwa TUYISENGE Egide, wasobanuye ko ntawe ushobora gukora igenagaciro adafite icyangombwa cy'umutungo kuko gifatwa nka ID yawo. [19] MUHIRE Jean Claude yiregura avuga ko ibigize icyaha kuri we bituzuye, kuko habura ubushake n'uburiganya. Akomeza avuga ko kutemeranya n'Urukiko ku mpamvu rwashingiyeho ruca urubanza bitaba impamvu y'akarengane, ahubwo yaba impamvu y'ubujurire busanzwe. [20] Mu iburanisha ryo ku wa 06/10/2025, yavuze ko atemeranya n'igenagaciro ryakozwe na NZAKAMWITA Jean Marie Vianney, kuko aho uyu yakoreye igenagaciro nta mazu yarimo, mu gihe we aho yakoreye igenagaciro harimo amazu. UKO URUKIKO RUBIBONA [21] Ibyaha MUHIRE Jean Claude na bagenzi be bakurikiranweho byakozwe mu 2013, bikaba byarateganywaga kandi bigahanishwa n'Itegeko Ngenga N° 01/2012/OL ryo ku wa 02/05/2012 rishyiraho igitabo cy'amategeko ahana. By'umwihariko icyaha cyo kwandika cyangwa gukoresha inyandiko yahinduwe cyangwa irimo ibinyoma MUHIRE Jean Claude akurikiranweho, cyateganywaga n'ingingo ya 614, kigahanishwa igifungo kirenze imyaka itanu

- (5) kugeza ku myaka irindwi (7) n'ihazabu y'amafaranga y'u Rwanda kuva ku bihumbi magana atanu (500.000 Frw) kugeza kuri miliyoni ebyiri (2.000.000 Frw). [22] Mu gihe urubanza kuri ibyo byaha rwari rwaratangiye kuburanishwa, hatangajwe Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, rihana icyo cyaha mu ngingo ya 276, rikagihanisha igifungo kitari munsu y'imyaka itanu (5) ariko kitarenze imyaka irindwi (7) n'ihazabu y'amafaranga y'u Rwanda atari munsu ya miliyoni eshatu (3.000.000 Frw) ariko atarenga miliyoni eshanu (5.000.000 Frw) cyangwa kimwe gusa muri ibyo bihano. [23] Iri tegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibihano byoroheje ku cyaha MUHIRE Jean Claude akurikiranweho, kuko igihano cy'igifungo cyo hasi (minimum) ari imyaka itanu, mu gihe mu Itegeko Ngenga N° 01/2012/OL ryo ku wa 02/05/2012 igihano c'igifungo cyo hasi ari imyaka itandatu (kirenze imyaka 5). Ikindi kigaragaza ko Itegeko N° 68/2018 ryo ku wa 30/08/2018 ari ryo riteganya ibihano byoroheje, ni uko uwahamwe n'icyaha ashobora guhanishwa igifungo cyonyine cyangwa ihazabu yonyine, mu gihe Itegeko Ngenga N° 01/2012/OL ryo ku wa 02/05/2012 ribangikanya ibihano byombi. [24] Ingingo ya 334 y' Itegeko

N° 68/2018 ryo ku wa 30/08/2018, iteganya ko ingingo zose z'amategako aribanziriza zinyuranye naryo zivanyweho, ariko ikongeraho ko icyaha cyakozwe mbere y'uko ritangazwa mu Igazeti ya Leta ya Repubulika y'u Rwanda, gihanwa hakurikijwe itegeko ryakigengaga, keretse mu gihe iri tegeko riteganya ibihano byoroheje. Hashingiwe ku biteganywa n'iyi ngingo, Itegeko rigomba gukurikizwa ku byaha MUHIRE Jean Claude aregwa ni Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe, kuko ari ryo riteganya ibihano byoroheje nk'uko byasobanuwe haruguru. Ibi ni nako bimeze kandi ku byaha bagenzi be baregwa.

Page 7

[25] Ingingo ya 276, igika cya 2, y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe, iteganya ko umuntu wese, ku bw'uburiganya, wandika, wandikisha ibintu bidahuye n'ukuri cyangwa ukora imenyekanisha ritari ryo afatwa nk'uwakoze icyaha cyo gukora ibihimbano². [26] Umuhanga mu mategeko Robert KINT mu gitabo Droit pénal spécial, asobanura ko icyo amagambo "ku bw'uburiganya" ashatse kuvuga, ari uko icyakozwe kiba kigamije konona cyangwa kugira icyo wiha cyangwa uha undi, mu buryo butemewe³. [27] Umuhanga mu mategeko Alphonse Marie NKUBITO mu gitabo Droit pénal spécial⁴ avuga ko mu bigize icyaha cy'inyandiko mpimbano harimo uguhindura ukuri bikozwe mu nyandiko⁵. [28] Abandi bahanga mu mategeko Jean PRADEL na Michel DANTI-JUAN mu gitabo Droit pénal spécial bibutsa ingingo ya 441-1 y'igitabo cy'amategako ahana ibyaha mu Bufaransa iteganya ko⁶ ibihimbano ari uguhindura ukuri mu nyandiko cyangwa ubundi buryo bukubiyemo igitekerezo wifashishije icyo ari cyo cyose, hagamijwe kubona ikimenyetso cy'uburenganzira cyangwa cy'igikorwa gifite ingaruka mu rwego rw'amategako. [29] Hifashishijwe ibisobanuro bitangwa n'abahanga mu mategeko, icyaha cy'inyandiko mpimbano giteganywa mu ngingo ya 276, igika cya 2, y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 ryavuzwe haruguru, kibaho iyo nyiri ukugikora yanditse cyangwa yandikishije ibinyuranye n'ukuri, yavuze (déclaration) ibitari ukuri mu nyandiko, akabikora agamije konona, kugira icyo yiha cyangwa aha undi muntu, mu buryo butemewe. [30] Ku bijyanye n'uru rubanza, Urukiko rurasuzuma niba hari ibimenyetso bigaragaza ko MUHIRE Jean Claude yakozwe icyaha giteganywa mu gika cya 2 cy'ingingo ya 276 imaze kuvugwa. Ubushinjacyaha buvuga ko ibimenyetso bushingiraho bumurega icyo cyaha, ari imvugo z'abatangabuhamya n'inyandiko zakozwe n'abagenagaciro. [31] Ingingo ya 48 y'Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, iteganya ko umuntu wese wagize uruhare mu ikorwa ry'icyaha cyangwa uwakorewe icyaha ashobora kumvwa nk'umutangabuhamya. [32] Mu nyandiko zigize dosiye harimo ubuhamya bwa UWIZEYIMANA Marcelline wasobanuye neza uko ibintu byagenze, akavuga ko ibibanza yatanzeho ingwate bitarimo inzu, akabibwira RUKUNDO RWIGEMERA Prosper, uyu akamusubiza ko umugenagaciro

2 Mu rurimi rw'Igifaransa iyi ngingo yanditse itya : « Toute personne qui frauduleusement fait des énonciations écrites contraires à la vérité ou fait une déclaration fausse est réputée commettre l'infraction de faux ». 3 Le faux doit être commis dans une intention frauduleuse, c'est-

à-dire dans le but de nuire ou procurer à soi-même ou à autrui un profit ou avantage illégitime » (Robert KINT, Droit pénal spécial, Manuels de droit Rwandais 2, UNR, 1993, p.20). 4 Jean PRADEL et Michel DANTI-JUAN, Droit pénal spécial, Paris, 2010, éditions CUJAS, 5^e édition, p.686. 5 Alphonse Marie NKUBITO, Droit penal special, Editions R.C.N., 1995, p.12 6 Art 441-1 Code pénal : Constitue un faux « toute altération frauduleuse de la vérité, de nature à causer un préjudice et accomplie par quelque moyen que ce soit, dans un écrit ou tout autre support d'expression de la pensée qui a pour objet ou qui peut avoir pour effet d'établir la preuve d'un droit ou d'un fait ayant des conséquences juridiques ».

Page 8

uzashyirwaho na Banki azabimufashamo⁷. Yasobanuye kandi ko RUKUNDO RWIGEMERA Prosper yamubwiye ko bishoboka ko inzu runaka yahuzwa n'ikibanza kitari cyo, akabyemera kuko yari akeneye amafaranga. Hashingiwe ku biteganywa n'ingingo ya 48 y'Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryavuzwe haruguru, ubu buhamya bugomba gushingirwaho kuko ari ikimenyetso cyemewe. [33] Muri dosiye harimo kandi raporo z'igenagaciro ryakozwe na MUHIRE Jean Claude ku kibanza bibiri UWIZEYIMANA Marcelline yatanzeho ingwate, ari byo ikibanza gifite UPI : 4/03/10/05/688, n'igifite UPI : 4/03/10/05/689. Ku birebana n'ikibanza UPI: 4/03/10/05/688, MUHIRE Jean Claude yagaragaje ko kirimo inzu, agiha agaciro ka 120.561.000 Frw, mu gihe ubundi nta nzu yubatswe muri icyo kibanza. Umugenagaciro NZAKAMWITA Jean Marie Vianney we yagaragaje ko icyo kibanza gifite agaciro ka 1.172.000 Frw. [34] Ku birebana n'ikibanza UPI: 4/03/10/05/689, MUHIRE Jean Claude yagihaye agaciro ka 81.436.500 Frw, ashyiramo n'inzu bigaragara ku ifoto ko ari inzu nini; mu gihe umugenagaciro NZAKAMWITA Jean Marie Vianney yagaragaje ko iki kibanza gifite agaciro ka 928.000 Frw kitarimo inzu. Mu iburanisha ryo ku wa 12/07/2019 mu Rukiko Rwisumbuye rwa Nyarugenge, uwitwa GAFURAMA Jean Marie Vianney wari umukozi wa Banki nawe waregwaga, yavuze ko yasuye ahatanze ingwate, agasanga ikibanza gifite UPI: 4/03/10/05/689 cyarashyizweho inzu ifite ubuso bungana na 371 m2, kandi ikibanza ubwacyo gifite 232 m2. [35] Urukiko rusanga MUHIRE Jean Claude yarakoze akanasinya raporo z'igenagaciro zirimo ibintu bidahuye n'ukuri, iryo genagaciro rikaba ari ryo ryatumye UWIZEYIMANA Marcelline abona inguzanyo atayikwiye, (reba WRITE UP8) bigateza Banki igihombo, nawe akabihemberwa 7.618.000 Frw. [36] Hashingiwe ku bisobanuro byose bimaze gutangwa no ku ngingo z'amategeko zagaragajwe, Urukiko rurasanga hari ibimenyetso bihamya MUHIRE Jean Claude icyaha cyo kwandika cyangwa gukoresha inyandiko irimo ibinyoma.

- 2) Kumenya niba hari ibimenyetso bihamya RUKUNDO RWIGEMERA Prosper kuba icyitso mu cyaha cyo kwandika cyangwa gukoresha inyandiko yahinduwe cyangwa irimo ibinyoma. [37] Ubushinjacyaha buvuga ko kuri RUKUNDO RWIGEMERA Prosper hirengagijwe imvugo ya UWIZEYIMANA Marcelline wasobanuye ko yamubwiye ko Umugenagaciro azamufasha kugena agaciro k'ingwate yatanze, ko ndetse ari we (RUKUNDO RWIGEMERA Prosper) wajyanye MUHIRE Jean Claude kuzireba, ko ubwe yabonye ko zahawe agaciro zidafite. [38] Bukomeza busobanura ko mu bimenyetso byirengagijwe harimo : raporo y'igenagaciro ry'umutungo wanditse kuri UPI : 4/03/10/05/689 yo ku wa 24/08/2013, raporo y'igenagaciro

7 Reba inyandikomvugo imenyeshya y'inyongera y'ubugenzacyaha yo ku wa 17/04/2018, p.2. Reba na none mu bugenzacyaha ya Muhire Jean Claude, aho asobanura ko banki ariyo itanga numero ya telefone y'umugenagaciro. Biraboneka ko yanga kuvuga ko umugenagaciro ashwirwaho na banki, agera guhanga ko yashyizweho na Rukundo Rwigemera Prosper, bityo nibyo yakoze bakaba baribabyumvikanyeho. Ku bisobanuro birambuye reba umwanzuro w'ubushinjacyaha mu Rukiko Rwisumbuye rwa Nyarugenge, p.3. 8 WRITE UP, p.7.

Page 9

y'umutungo wanditse kuri UPI : 4/03/10/05/688 nayo yo ku wa 24/08/2013, contre-expertise yakozwe na NZAKAMWITA Jean Marie Vianney, ubuhamya bwatanzwe na TUYISENGE Egide, wavugiyemo mu Rukiko ko bidashoboka ko umugenagaciro akora igenagaciro adafite icyangombwa cy'umutungo kuko gifatwa nk'indangamuntu y'umutungo. Ibi bubivuga bushaka kunyomoza imvugo y'undi muhanga BUNANI Jean Luc wavuze ko icyo umugenagaciro asabwa ari agaciro k'ibyo yeretswe n'ukeneye iyo serivisi, ko adakeneye kumenya niba aho bamweretse ari naho handitse ku cyangombwa cy'ubutaka. [39] RUKUNDO RWIGEMERA Prosper yiregura avuga ko ataziranye na TUYISENGE Egide wafashe ibipimo by'ingwate, ko nta nyungu yari afite kugira ngo iyo mitungo izamurirwe agaciro ndetse ko atari kumenya ko raporo y'igenagaciro ari impimbano mu gihe bitabonywe n'abantu batanu bagiye gusura ingwate⁹, kandi akaba nta bumenyi afite yaba mu igenagaciro ry'imitungo yaba mu ipimwa ry'ubutaka. [40] Mu iburanisha ryo ku wa 06/10/2025, yavuze ko umukiriya ari we wandika asaba inguzanyo, akerekana uko azishyura n'aho ubwishyu buzaturuka; akaba ntaho we ahurira no gutanga inguzanyo. Yavuze kandi ko kuri Write up handitseho n'abandi bantu batandukanye bagiye gusura ingwate, akaba atumva impamvu bo batakurikiranwe, kandi bari muri team imwe. UKO URUKIKO RUBIBONA [41] Ingingo ya 276, igika cya 2, y'Itegeko No 68/2018 yavuzwe haruguru, iteganya ko umuntu wese, ku bw'uburiganya, wandika, wandikisha ibintu bidahuye n'ukuri cyangwa ukora imenyekanisha ritari ryo afatwa nk'uwakoze icyaha cyo gukora ibihimbano. Igika cya 4 cy'iyi ingingo giteganya ibi bikurikira : “Umuntu wese uzi ko inyandiko ari impimbano, akayikoresha ku buryo ubwo ari bwo bwose, aba akoze icyaha. Iyo agihamijwe n'Urukiko, ahanishwa ibihano biteganyijwe mu gika cya 3 cy'iyi ingingo”. [42] Ingingo ya 20 y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, nk'uko ryahinduwe, iteganya ko icyaha kiryoziwaga uwagikoze ubwe, uwafatanyije na we kugikora cyangwa icyitso cye. [43] Ingingo ya 2 agace ka 5o y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe, iteganya ko icyitso (ari) “umuntu wafashije uwakoze icyaha mu byagiteguye bigaragarira muri kimwe mu bikorwa bikurikira: a) utuma hakorwa icyaha akoresheje igihembo, isezerano ry'igihembo, iterabwoba, agakabyo k'ubutegetsi cyangwa k'ububasha cyangwa amabwiriza agamije gukoresha icyaha; b) ufasha uwakoze icyaha mu byagiteguye, mu byoroheje imikorere yacyo cyangwa mu byakinonosoye kandi yarabikoze abizi, cyangwa uwashishikajwe uwakoze icyaha; c) utuma undi akora icyaha akoresheje imbwirwaruhame, urusaku rushishikaza cyangwa iterabwoba, bibereye ahantu hateraniye abantu barenze babiri, inyandiko, ibitabo cyangwa ibindi byanditswe n'icapiro, biguzwe cyangwa bitangiwe ubuntu cyangwa byatangarijwe ahantu hateraniye abantu benshi, amatangazo amanitse cyangwa yeretswe rubanda; d) uwahishe uwakoze icyaha,

umufatanyacyaha cyangwa uwahishe icyitso kugira ngo ataboneka cyangwa adafatwa, umufasha kwihisha cyangwa gucika cyangwa umuha aho kwihisha cyangwa uwamufashije guhisha ibintu byakoreshejwe cyangwa byagenewe gukoreshwa icyaha;

9 Aha aravuga bagenze be bakoranaga muri Banki icyo gihe, bagiye kuri terrain gusura ingwate

Page 10

- e) uwahishe abizi ikintu cyangwa ibikoresho byakoreshejwe cyangwa byagenewe gukoresha icyaha; f) uwiba, uhisha cyangwa wonona nkana ku buryo ubwo aribwo bwose ibintu byagombye gufasha kugenza icyaha, gutahura ibimenyetso cyangwa guhana abakoze icyaha". [44] Mu rubanza No RS/INJUST/RP 00006/2024/SC rwaciwe 11/07/2025, uru Rukiko rwemeje ko kuba icyitso bisaba ibintu bitatu ari byo ko haba habayeho (i) igikorwa cyo kuba icyitso (ii) igikorwa kigize icyaha gihanwa n'amategeko kandi (iii) bigakorwa bigambiriwe hagamiywe kwifatanya n'uwakoze icyaha. Rwavuze kandi ko igikorwa cyo kuba icyitso (L'acte matériel de complicité) kibaho hatangwa ubufasha (aide ou assistance) cyangwa mu gushishikaza ukora icyaha cyangwa kumuha amabwiriza (provocation ou fourniture d'instruction).¹⁰ [45] Ku birebana n'uru rubanza nk'uko byagaragajwe haruguru, UWIZEYIMANA Marcelline yasobanuye mu buhamya bwe ko yamenyesheje RUKUNDO RWIGEMERA Prosper ko ku nguzanyo yifuzaga adafite ingwate ihagije yaha Banki, ariko ko afite ibibanza bitubatse, akamusubiza ko umugenagaciro uzashyirwaho na Banki azabimufashamo. Uwo mugenagaciro yaje kuba MUHIRE Jean Claude wahaye ibyo bibanza agaciro katavugisha ukuri nk'uko nabwo byasobanuwe haruguru, bigatuma UWIZEYIMANA Marcelline ahabwa inguzanyo adakwiye, bigatera na Banki igihombo. [46] Dosiye irimo kandi inyandiko yo ku wa 09/12/2013, yiswe WRITE UP, yateguwe na RUKUNDO RWIGEMERA Prosper ivuga ko mu kibanza UPI : 4/03/10/05/688 harimo amazu atandukanye, ndetse igice kimwe (others small doors) gishobora gukodeshwa. Muri iyo nyandiko, RUKUNDO RWIGEMERA Prosper akomeza avuga ko mu kibanza UPI : 4/03/10/05/689 harimo inzu nini yaturwamo ikodeshwa (ikaba yinjiza umusaruro buri kwezi). Ibi kandi nk'uko byasobanuwe, ntabwo byari bihuye n'ukuri kuko ibibanza bivugwa nta mazu yari yubatsemo, kandi RUKUNDO RWIGEMERA Prosper yari abizi kuko yari yabimenyeshejwe na UWIZEYIMANA Marcelline. [47] Urukiko rusanga ibimaze gusobanurwa bigaragaza uruhare rwa RUKUNDO RWIGEMERA Prosper mu ikorwa ry'icyaha cyo kwandika cyangwa gukoresha inyandiko irimo ibinyoma, bityo akaba ahamwe no kuba icyitso muri icyo cyaha. [48] Hashingiwe ku bisobanuro bimaze gutangwa, Urukiko rusanga hari ibimenyetso bihamya RUKUNDO RWIGEMERA Prosper kuba icyitso mu cyaha cyo kwandika cyangwa gukoresha inyandiko irimo ibinyoma.
- 3) Kumenya niba hari ibimenyetso bihamya RUKUNDO RWIGEMERA Prosper na UWIZEYIMANA Marcelline icyaha cyo gusaba, kwakira no gutanga impano cyangwa indonke kugira ngo hakorwe ikinyuranyije n'amategeko cyangwa ntihakorwe icyagombye gukorwa [49] Ubushinjacyaha buvuga ko RUKUNDO RWIGEMERA Prosper yasabye kandi yakira indonke ya 15.000.000 Frw, ko busanga Urukiko Rukuru rwarirengagije ingingo ya 48

y'Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, iteganya ko umuntu wese wagize uruhare mu ikorwa ry'icyaha cyangwa uwagikorewe ashobora

10 Urubanza No RS/INJUST/RP 00006/2024/SC rwaciwe 11/07/2025 haburana Ubushinjacyaha na NTAGANIRA Samuel, igika cya 35.

Page 11

kumvwa nk'umutangabuhamya, kuko rutahaye ishingiro ubuhamya bwa UWIZEYIMANA Marcelline n'ubwa MUKANSANGA Yvette, basobanuye uko ibintu byagenze, uko ruswa yatanzwe. Ubushinjacyaha bukomeza buvuga ko Urukiko rwirengagije kopi ya sheki yabikujwe na MUKANSANGA Yvette, historique bancaire ya konti ya UWIZEYIMANA Marcelline na write up yakozwe na RUKUNDO RWIGEMERA Prosper. [50] RUKUNDO RWIGEMERA Prosper aburana ahakana ibyaha byose aregwa. Asobanura ko nta karengane kari mu rubanza rwaregwe. Avuga ko atigeze yanga ko amafaranga y'umwenda ajya kuri konti ya UWIZEYIMANA Marcelline kandi nta kimenyetso gihari kibigaragaza. [51] Akomoza kw'ivuguruzanya abona mu mvugo za UWIZEYIMANA Marcelline n'iza MUKANSANGA Yvette aho uwa mbere avuga ko yatanze sheki zujuje naho uwa 2 akavuga ko RUKUNDO RWIGEMERA Prosper ariwe wujuje sheki yamuhaye akanabikuza; asoza avuga ko yibaza impamvu iyi sheki itabonetse ngo ipimwe. [52] UWIZEYIMANA Marcelline avuga ko nyuma y'urupfu rw'umugabo we KAREMERA Alphonse (15/10/2012), aribwo yatangiye gushaka kwinjira mu bucuruzi bw'umugabo we, amenyerezwa na MATABARO Jean Marie Vianney wari usanzwe akorana n'umugabo we, kugira ngo imishinga bari baratangiye isozwe ndetse n'ibibazo byarimo bikemurwe. [53] Akomeza asobanura ko kubera ubumenyi buke bwe mu bucuruzi no kutamenyana n'abantu ba ngombwa yaguye mu mutego wo gukora ibyaha akurikiranweho, ko uwakoraga imirimo yose (actif) ari nawe wari uzwi, wajyaga kumvikana (négocié) inguzanyo mu mabanki ndetse no mu bindi bigo bakoranaga nabyo ari MATABARO Jean Marie Vianney. Ko ari uko bagiye basaba inguzanyo zitandukanye zirimo n'inguzanyo basabye muri Banki ya Kigali ndetse n'iyi muri GT Banki. Ko kandi uretse kuba konti zakoreshwaga zari zanditswe kuri we, atigeze aganira n'abakozi ba banki, ko ahubwo MATABARO Jean Marie Vianney ariwe wabyirukansemo kugeza aho inguzanyo yabonekeye. Akomeza avuga ko nyuma y'uko bananiwe kwishyura n'ibibazo bikavuka, ari bwo byagaragaye ko n'inyandiko zimwe zakoreshejwe ari impimbano ndetse n'amabanga y'uko hatanzwe ruswa ajya hanze. [54] Mu iburanisha ryo ku wa 06/10/2025, yavuze ko umukiriya ariwe wandika asaba inguzanyo, akerekana uko azishyura n'aho ubwishyu buzaturuka; akaba we ntaho ahurira no gutanga inguzanyo ko kandi kuri WRITE UP handitseho abandi bantu bagiye gusura ingwate; akaba atumva impamvu ariwe bakurikirana wenyine kandi bose bari muri team imwe. URUKIKO UKO RUBIBONA [55] Ingingo ya 4, y'Itegeko N° 54/2018 ryo ku wa 13/08/2018, ryerekeye kurwanya ruswa, iteganya ko umuntu wese usaba, utanga cyangwa wakira, mu buryo ubwo ari bwo bwose indonke iyo ari yo yose, kuri we cyangwa ku wundi muntu, cyangwa wemera amasezerano yabyo kugira ngo akore cyangwa adakora ikiri mu nshingano ze, cyangwa yifashishije imirimo ye kugira ngo gikorwe cyangwa kidakorwa, aba akoze icyaha. [56] Iyi ngingo yumvikanisha ko ruswa igira uytanga n'uyakira, binyuze mu buryo ubwo ari bwo bwose. Yumvikanisha ko kandi uyisaba

(undi) cyangwa uyakira ayihawe (n'undi), abikora

Page 12

yifashishije inshingano ze, umwanya arimo, ibyo bigatuma akora (ahawe ikiguzi kidakwiye) cyangwa ntakore ibyari muri izo nshingano (akica inshingano ze). [57] Dosiye y'urubanza irimo ubuhamya bwa UWIZEYIMANA Marcelline aho avuga ko yahaye RUKUNDO RWIGEMERA Prosper, ruswa ya 15.000.000 Frw, kugira ngo amufashe kubona inguzanyo yasabye Banki; ubuhamya bwe bukaba ari ikimenyetso cyemewe nk'uko byasobanuwe haruguru.

UWIZEYIMANA Marcelline yasobanuye ko yahawe inguzanyo mu byiciro bitatu, RUKUNDO RWIGEMERA Prosper akaba yaremeraga kurekura buri cyiciro ari uko ahawe 5.000.000 Frw. Ibivugwa na UWIZEYIMANA Marcelline bihuza n'uko kuri historique ya konti ye, bigaragara ko yahawe icyiciro cya mbere cy'inguzanyo ku wa 19/12/2013, kuri iyo tariki kuri konti hakavaho 5.000.000 Frw zikuweho na MUKANSANGA Yvette. Muri dosiye harimo ubuhamya bw'uyu MUKANSANGA Yvette, usobanura ko hari sheki ya 5.000.000 Frw RUKUNDO RWIGEMERA Prosper, yamuhaye ngo abikuze, bombi bari muri Banki, akabikora nyuma akamuha ayo mafaranga. [58] Ibyavuzwe n'abatangabubhamya, ndetse n'ibigaragazwa na historique bancaire, bishimangirwa n'inyandiko yitwa Write up yavuzwe haruguru, aho RUKUNDO RWIGEMERA Prosper yemeza ko UWIZEYIMANA Marcelline yujuje ibisabwa kugira ngo abone inguzanyo, kandi nyamara azi neza ko atari ukuri. Urukiko rusanga, hashingiwe ku ngingo z'amategako n'ibisobanuro byatanze, hari ibimenyetso bihamya RUKUNDO RWIGEMERA Prosper na UWIZEYIMANA Marcelline icyaha cyo gusaba, kwakira no gutanga impano cyangwa indonke kugira ngo hakorwe ikinyuranyije n'amategako cyangwa ntihakorwe icyagombye gukorwa

- 4) Kumenya ibihano byahabwa abaregwa [59] Ubushinjacyaha busobanura ko igihe ibyaha byakorwaga itegeko ryakurikizwaga ari Itegeko Ngenga N°01/2012 ryo ku wa 02/05/2012 rishyiraho igitabo cy'amategako ahana ibyaha mu Rwanda; ko ariko igihe cy'iburanisha ry'urubanza no gusaba ibihano, hari hagiyeho Itegeko rishya N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange n'Itegeko rishya ryihariye N° 54/2018 ryo ku wa 13/08/2018 rihana ruswa. [60] Bukomeza buvuga ko ugereranyije Itegeko rya 2012 n'aya mategeko mashya yombi yo muri 2018, busanga aya nyuma ari yo yakurikizwa kuko ateganya ibihano byoroheje. [61] Bwasabiye RUKUNDO RWIGEMERA Prosper ku byaha byombi akurikiranyweho, igihano cyo gufungwa imyaka 7 n'ihazabu ya 45.000.000 Frw. Naho UWIZEYIMANA Marcelline bwamusabiye igihano cyo gufungwa imyaka ibiri n'igice (2,6) n'ihazabu ya 11.500.000 Frw. Naho MUHIRE Jean Claude bwamusabiye igihano cy'igifungo cy'imyaka 5 n'ihazabu ya 3.000.000 Frw.

11 Icyaha ko kwandika cyangwa gukoresha inyandiko irimo ibinyoma, cyateganywaga kandi kigahanishwa ingingo ya 614 y'Itegeko N°01/2012 naho mu Itegeko N°68/2018, giteganywaga kandi kigahanishwa ingingo 276. Ku cyaha cyo kwaka, kwakira no gutanga indonke, ingingo ya 635 y'Itegeko N°01/2012, niyo yateganyaga kandi igaha icyo cyaha, mu gihe mu itegeko N°54/2018, ingingo ya 4 ariyo iteganyaga kandi igahana icyo cyaha.

Page 13

UKO URUKIKO RUBIBONA Kuri MUHIRE Jean Claude [62] Urukiko rusanga nk'uko rwabigaragaje mu isesengura ry'ibibazo, MUHIRE Jean Claude ahamwa n'icyaha cyo kwandika cyangwa gukoresha inyandiko yahinduwe cyangwa irimo ibinyoma. Icyo cyaha giteganywa kandi kigahanishwa n'ingingo ya 276, igika cya 2 n'icya 3, y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange nk'uko ryahinduwe. Igika cya 3 giteganywa ko iyo umuntu ahamijwe icyaha kivugwa mu gika cya 2, ahanishwa igifungo kitari muni y'inyaka itanu (5) ariko kitarenze imyaka irindwi (7) n'ihazabu y'amafaranga y'u Rwanda atari muni ya miliyoni eshatu (3.000.000 Frw) ariko atarenga miliyoni eshanu (5.000.000 Frw) cyangwa kimwe gusa muri ibyo bihano. Urukiko rusanga, mu bushishozi bwawo, MUHIRE Jean Claude yahanishwa igifungo cy'inyaka 5 n'ihazabu ya 3.000.000 Frw. Kuri UWIZEYIMANA Marcelline na RUKUNDO RWIGEMERA Prosper [63] Urukiko rusanga nk'uko rwabigaragaje mu gice cy'isesengura ry'ibibazo, UWIZEYIMANA Marcelline na RUKUNDO RWIGEMERA Prosper bahamwa n'icyaha cyo gusaba, kwakira no gutanga impano cyangwa indonke kugira ngo hakorwe ikinyuranyije n'amategeko cyangwa ntihakorwe icyagombye gukorwa. Icyo cyaha giteganywa kandi kigahanishwa n'ingingo ya 4, igika cya 1 n'icya 2, y'Itegeko N° 54/2018 ryo ku wa 13/08/2018 ryerekeye kurwanya ruswa aho iteganywa ko umuntu wese usaba, utanga cyangwa wakira, mu buryo ubwo ari bwo bwose indonke iyo ari yo yose, kuri we cyangwa ku wundi muntu, cyangwa wemera amasezerano yabyo kugira ngo akore cyangwa adakora ikiri mu nshingano ze, cyangwa yifashishije imirimo ye kugira ngo gikorwe cyangwa kidakorwa, aba akoze icyaha. Iyo abihamijwe n'Urukiko, ahanishwa igifungo kirenze imyaka itanu (5) ariko kitarenze imyaka irindwi (7) n'ihazabu y'amafaranga y'u Rwanda yikubye inshuro kuva kuri eshatu (3) kugeza kuri eshanu (5) z'agaciro k'indonke yatse cyangwa yakiriye. [64] Urukiko rusanga RUKUNDO RWIGEMERA Prosper we anahamwa n'icyaha cyo kuba icyitso mu cyaha cyo kwandika cyangwa gukoresha inyandiko yahinduwe cyangwa irimo ibinyoma. [65] Urukiko rusanga, hashingiwe ku ngingo za 59,3 na 60, z'Itegeko N° 68/2018 ryo ku wa 30/08/2018 ryavuzwe haruguru, UWIZEYIMANA Marcelline yagombaga guhanishwa igifungo cy'inyaka itanu n'umunsi umwe n'ihazabu ya 45.000.000 Frw Frw ku cyaha cyo gutanga indonke, kuko kuva urubanza rwatangira kuburanishwa ataruhije inzego z'ubutabera, ahubwo akaba yarazifashije cyane avuga uko ibyaha byakozwe. [66] Urukiko rurasanga ariko, iyo ngingo ya 60 y'Itegeko rivuzwe haruguru yarahinduwe n'ingingo ya 2 y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku

12 Ziteganywa ko Umucamanza ashobora kugabanya ibihano nk'iyi mu ntangiriro z'iburanisha ku rwego rwa mbere, ushinjwa yireze akemera icyaha mu buryo budashidikanywa; Iyo hari impamvu zigabanya ububi bw'icyaha, ibihano bishobora kugabanywa ku buryo bukurikira: 1° haseguriwe ibiteganywa mu ngingo ya 107 igihano cyo gufungwa burundu gishobora kugabanywa ariko ntikijye muni y'inyaka makumyabiri n'itanu (25); 2° igihano cy'igifungo kimara igihe kizwi cyangwa ihazabu bishobora kugabanywa ariko ntibijye muni y'igihano gito ntarengwa giteganyirijwe icyaha cyakozwe.

Page 14

wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, iteganya ibihano byoroheje. Iyo ngingo iteganya ko (b) igihano cy'igifungo kiva ku mezi atandatu kuzamura gishobora kugabanywa, ariko ntikijye muni ya kimwe cya kabiri cy'igihano gito giteganyirijwe icyaha cyakozwe; (d) igihano cy'ihazabu gishobora kugabanywa kugeza kuri kimwe cya kane cy'igihano cy'ihazabu gito giteganyirijwe icyaha cyakozwe. Bityo UWIZEYIMANA Marcelline akaba ahanishijwe igifungo cy'imyaka 2 n'amezi 6 n'ihazabu ya 11.250.000 Frw. [67] Urukiko rusanga ku birebana na RUKUNDO RWIGEMERA Prosper uhamwa n'ibyaha bibiri, ibyo byaha bigize impurirane y'imbonezamugambi kuko ibyo aregwa ari ibikorwa bigize ibyaha bitandukanye, ariko bihujwe n'uko bigamije umugambi w'icyaha kimwe cyo gusaba no kwakira indonke kugira ngo hakorwe ikinyuranyije n'amategeko. [68] Hashingiwe ku ngingo za 61, igika cya 3, 2°13; 62, igika cya 214; na 276 igika cya 2 n'icya 3, z'Itegeko N° 68/2018 ryo ku wa 30/08/2018 ryavuzwe haruguru, ndetse no ku ngingo ya 4, igika 1 n'icya 2, y'Itegeko No 54/2018 ryo ku wa 13/08/2018 ryavuzwe haruguru, RUKUNDO RWIGEMERA Prosper agomba guhanishwa igihano ntarengwa cyo hejuru giteganyijwe ku cyaha kirusha ibindi gukomera, kandi nta nyoroshyacyaha akwiye guhabwa kuko ari we nyirabayazana w'iyi dosiye, akaba kandi yaraburanye ahakana ibyaha byose; bityo akaba ahawe igihano cy'igifungo cy'imyaka 7 n'ihazabu ya 75.000.000 Frw.

- 5) Kumenya niba hari indishyi GT Bank yahabwa [69] Ubushinjacyaha buvuga ko urubanza No RPA 01719/2019/HC/KIG-01831/2019/HC/KIG rudashobora kurangizwa kuko ntacyo rwavuze ku bufatanye bwo kwishyura indishyi zategetswe mu rwego rwa mbere. [70] Uhagarariye GT BANK avuga ko mu rubanza No RP 00670/2018/TGI/NYGE, yagenewe indishyi zingana na 5.000.000 Frw, 700.000 Frw y'igihembo cya Avoka na 20.000 Frw y'igarama. Akomeza asobanura ko urubanza No RPA 01719/2019/HC/KIG - RPA 01831/2019/HC/KIG ntacyo rwavuze kuri aya mafaranga, akibaza niba aya mafaranga yaravuyeho, bitaba ari byo, bakaba bashaka kumenya ugomba kuyishyura. [71] Mu iburanisha ryo ku wa 06/10/2025, Me UWANYIRIGIRA Delphine wari uhagarariye GT BANK yavuze ko nubwo batatanze ikirego cy'akarengane, basaba Urukiko kuzategeka abazahamwa n'ibyaha kwishyura indishyi. [72] RUKUNDO RWIGEMERA Prosper avuga ko indishyi zisabwa zitatangwa kuko nta kirego cy'akarengane Banki yatanze. Asobanura ko kuba mu bujurire yaragizwe umwere, iby'indishyi bitamureba.

13 Impurirane mbonezamugambi ibaho iyo: 1 ° [...]; 2 ° ibikorwa bitandukanye bigize ubwabyo ibyaha bitandukanye, bihujwe n'uko bigamije umugambi w'icyaha kimwe". 14 Mu gihe cy'impurirane mbonezamugambi ivugwa mu gace ka 2° k'igika cya 3 cy'ingingo ya 61 y'iri tegeko, umucamanza atanga igihano ntarengwa cyo hejuru giteganyirijwe icyaha kirusha ibindi gukomera".

Page 15

- [73] MUHIRE Jean Claude nawe avuga ko asanga izi ndishyi zitatangwa kuko Banki itatanze ikirego cy'akarengane, ko kandi Ubushinjacyaha ntacyo bufite kuvuga kuri izi ndishyi kuko ari ikibazo kitabureba. [74] UWIZEYIMANA Marcelline we avuga ko nta ndishyi yacibwa

kuko afite indi myenda yo kwishyura. UKO URUKIKO RUBIBONA [75] Ikibazo kiri muri uru rubanza ni ukumenya niba abaregwa bari bahamijwe icyaha ku rwego rwa mbere bagategukwa kwishyura indishyi, mu rwego rw'ubujurire bakagirwa abere, nyuma ku busabe bw'Ubushinjacyaha urubanza rugasubirwamo ku mpamvu z'akarengane, Urukiko rugasanga bahamwa n'icyaha, bategukwa kwishyura indishyi bari baciwe ku rwego rwa mbere, mu gihe atari uregera indishyi wasabye ko urubanza rusubirwamo ku mpamvu z'akarengane. [76] Mu rubanza No RP 00670/2018/TGI/NYGE, Urukiko Rwisumbuye rwa Nyarugenge rwemeje ko UWIZEYIMANA Marcelline, RUKUNDO RWIGEMERA Prosper na MUHIRE Jean Claude, bafatanyaga guha GT BANK indishyi zingana na 5.000.000 Frw, n'igihembo cya Avoka kingana na 700.000 Frw na 20.000 Frw y'igarama. Naho mu rubanza No RPA 01719/2019/HC/KIG - RPA 01831/2019/HC/KIG, Urukiko Rukuru rwemeza ko urubanza No RP 00670/2018/TGI/NYGE ruhindutse kuri bimwe, ko RUKUNDO RWIGEMERA Prosper na MUHIRE Jean Claude ari abere, rugumishaho igihano cy'igifungo cy'imyaka 3 n'ihazabu ya 3.000.000 Frw UWIZEYIMANA Marcelline yahanishijwe, bikumvikana ka ari nawe wagombaga kwishyura indishyi. [77] Urukiko rusanga kuba Urukiko Rukuru rutarategutse RUKUNDO RWIGEMERA Prosper na MUHIRE Jean Claude kwishyura indishyi, ari uko bari bagizwe abere. Kuba muri uru rubanza rw'akarengane, hemejwe ko abaregwa bose bahamwa n'ibyaha bakurikiranyweho, Urukiko rusanga bagomba gufatanyaga kwishyura indishyi zikomoka kuri ibyo byaha, nk'ingaruka z'uko byabahamye hatitawe ku kuba atari GT BANK yasabye ko urubanza rusubirwamo; hagakosorwa amakosa yakozwe ku rwego rw'ubujurire. Urukiko rurasanga rero abaregwa bose bagomba gufatanyaga guha GT BANK indishyi zingana na 5.000.000 Frw, igihembo cya Avoka kingana na 700.000 Frw, na 20.000 Frw y'ingwate y'amagarama, nk'uko bazitegetswe n'Urukiko Rwisumbuye rwa Nyarugenge.

III. ICYEMEZO CY'URUKIKO [78] Rwemeje ko ikirego cyatanze n'Ubushinjacyaha gisaba gusubirishamo ku mpamvu z'akarengane, urubanza No RPA 01719/2019/HC/KIG - No RPA 01831/2019/HC/KIG, rwaciwe n'Urukiko Rukuru, ku wa 26/06/2023, gifite ishingiro; [79] Rwemeje ko imikirize y'urubanza No RPA 01719/2019/HC/KIG - No RPA 01831/2019/HC/KIG, rwaciwe n'Urukiko Rukuru, ku wa 26/06/2023, ihindutse kuri byose; [80] Rwemeje ko MUHIRE Jean Claude, ahamwa n'icyaha cyo kwandika cyangwa gukoresha inyandiko yahinduwe cyangwa irimo ibinyoma;

Page 16

- [81] Rwemeje ko RUKUNDO RWIGEMERA Prosper ahamwa no kuba icyitso mu cyaha cyo kwandika cyangwa gukoresha inyandiko yahinduwe cyangwa irimo ibinyoma n'icyaha cyo gusaba no kwakira indonke kugira ngo hakorwe ikinyuranyije n'amategako; [82] Rwemeje ko UWIZEYIMANA Marcelline ahamwa n'icyaha cyo gutanga indonke kugira ngo hakorwe ikinyuranyije n'amategako.

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