

RWANDA / JUDGMENT

UBUSHINJACYAHA v KWIZERA

RPAA 00154/2023/CA

COURT

Court of Appeal

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UBUSHINJACYAHA v KWIZERA

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Text

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UBUSHINJACYAHA v KWIZERA [Rwanda URUKIKO RW'UBUJURIRE - RPAA 00154/2023/CA (Rutazana, P.J.) 29 Mutarama 2025] Amategeko agenga imanza z'inshinjabyaha – Ibyaha n'ibihano – Ukwemera icyaha - Ukwemera icyaha kugira agaciro gashobora gutuma uregwa agabanyirizwa igihano ni ugukozwe byibura mbere y'uko iburanisha ku rwego rwa mbere ripfundikirwa. Amategeko agenga imanza z'inshinjabyaha – Ibyaha n'ibihano – Igabanyagihano - Iyo uregwa nta kindi anenga urubanza yajuririye, uretse kuvuga gusa ko atagabanyirijwe igihano bihagije, buri mucamanza ku rwego urwo arirwo rwose, yemerewe gutanga igihano mu bushishozi bwe kijyanye n'uburemere bw'icyaha n'ingaruka zacyo amaze kugaragaza ko Urukiko rwabanje rwaba rwarakoresheje nabi Itegeko cyangwa ubushishozi bwarwo mu gutanga igihano. Incamake y'ikibazo: Mu ijoro ryo ku wa 25/10/2021, Twambazimana yasanze ku nkengero za Nyabarongo yakubiswe ari intere atabasha kugenda, abahamusanze baramusindagiza bamugeza mu rugo bukeye ajya kwa muganga aho yagiye yoherezwa ku mavuriro atandukanye bigeze ku wa 29/10/2021 apfira mu bitaro bya CHUK. Abakekwa ku mukubita aribo Kwizera bita Pate, Uwijuru na Habumugisha barafashwe kuko aribo bari bambukanye mu bwato ku mugoroba yakubisweho, bashyikirizwa ubutabera. Ubushinjacyaha bwabareze mu Rukiko Rwisumbuye rwa Musanze

icyaha cyo gukubita cyangwa gukomeretsa byateye urupfu, busaba Urukiko kukibahamya kandi bakagihanirwa. Abaregwa baburanye bahakana icyaha. Urukiko rushingiye ku mvugo z'abaregwa no ku batangabuhamya, rwemeje ko Kwizera na Uwijuru bahamwa n'icyaha baregwa, Ruhanisha Kwizera igifungo cy'imyaka 16 n'ihazabu ya 5.000.000 Frw naho Uwijuru rumuhanisha igifungo cy'imyaka 8 n'ihazabu ya 2.500.000 Frw. Habumugisha we yabaye umwere. Kwizera na Uwijuru bajuririye icyo cyemezo mu Rukiko Rukuru bajurira bahakana icyaha ariko mu iburanisha baza kucyemera basaba kugabanirizwa igihano. Urukiko rwasanze ubujurire bwabo nta shingiro bufite rutegeka ko igihano bahawe kigumaho. Kwizera yajuririye icyo cyemezo mu Rukiko rw'Ubujurire asaba kugabanyirizwa igihano kuko yemera icyaha. Urukiko rwasuzumye ikibazo cyo Kumenya niba Kwizera ashobora kugabanyirizwa igihano hashingiwe ku mpamvu nyoroshyacyaha z'uko yemeye icyaha, kuba yaragikoze akiri muto no kuba yari asanzwe yitwara neza. Uregwa wajuriye, avuga ko nubwo yabanje kuburana ahakana icyaha, ubu akemera mu buryo budashidikanywaho akanagisabira imbabazi bityo akaba yagabanyirizwa igihano dore ko akiri na muto kuko yakoze icyo cyaha afite imyaka 20. Ubushinjacyaha busobanura ko ukwemera kwe nta gaciro kwahabwa kuko yemeye icyaha ku rwego rw'ubujurire, mbere akaba yaraburanaga ahakana. Incamake y'icyemezo: 1. Ukwemera icyaha kugira agaciro gashobora gutuma uregwa agabanyirizwa igihano ni ugukozwe byibura mbere y'uko iburanisha ku rwego rwa mbere ripfundikirwa.

2. Iyo uregwa nta kindi anenga urubanza yajuririye, uretse kuvuga gusa ko atagabanyirijwe igihano bihagije, buri mucamanza ku rwego urwo arirwo rwose, yemerewe gutanga igihano mu bushishozi

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bwe kijyanye n'uburemere bw'icyaha n'ingaruka zacyo amaze kugaragaza ko Urukiko rwabanje rwaba rwarakoresheje nabi Itegeko cyangwa ubushishozi bwarwo mu gutanga igihano. Ubujurire bufite ishingiro kuri bimwe. Amategeko yashingiweho: Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyira ibyaha n'ibihano muri rusange, ingingo ya 2, 11. Imanza zifashishijwe:

RPA 00060/2021/CA, Ubushinjacyaha na Nsabimana Callixte Alias Sankara n'abandi, rwaciwe n'Urukiko rw'Ubujurire ku wa 04/04/2022; RPAA 00464/2023/CA, Ubushinjacyaha buburana na Zikamabahari Sylvain n'abandi, rwaciwe n'Urukiko rw'Ubujurire ku wa 29/11/2024, RPAA 00114/2024/CA, Ubushinjacyaha na Niyomugabo Cedrick, rwaciwe n'Urukiko rw'Ubujurire ku wa 19/12/2024. Urubanza I. IMITERERE Y'URUBANZA [1] Mu ijoro ryo ku wa 25/10/2021 uwitwa Twambazimana Masudi yasanze ku nkombe z'umugezi wa Nyabarongo mu Kagari Rwesero, Umurenge wa Ruli mu Karere ka Gakenke yakubiswe kandi ameze nabi ku buryo atabashaga kugenda, abahamusanze barimo nyirarume witwa Gatarira Serverien baramuterura bamugeza ku muhanda hanyuma arasindagira agera mu rugo; bukeye ku wa 26/10/2021 ayanwaga kwa muganga ku bitaro bya Ruli nabyo bimwohereza ku bitaro bya Centre Hospitalier Universitaire de Kigali (CHUK), aho yaje kwitaba Imana ku wa 29/10/2021. [2] Nyuma y'urupfu rwe haketswe ko rwatewe n'uko yakubiswe n'abitwa Kwizera Paterné alias Pate, Uwijuru Peter alias Gapende na

Habumugisha Alexis ubwo bari kumwe mu bwato batashye, bavuye mu Karere ka Kamonyi, Umurenge wa Kayenzi, Akagari ka Kirwa, mu Mudugudu wa Gisizi nyuma yo gutongana bapfuye ibikoresho bakoresha mu birombe, maze Kwizera Paterne alias Pate, Uwijuru Peter alias Gapende na Habumugisha Alexis barafatwa barafungwa. [3] Iperereza rirangiye Ubushinjacyaha bwareze Kwizera Paterne alias Pate, Uwijuru Peter alias Gapende na Habumugisha Alexis mu Rukiko Rwisumbuye rwa Musanze bakurikiranyweho icyaha cyo gukubita cyangwa gukomeretsa byateye urupfu, busaba Urukiko kukibahamya kandi bakagihanirwa. Abaregwa baburanye bahakana icyaha. [4] Mu rubanza N° RP/Min00177/2021/TGI/MUS rwaciwe n'Urukiko Rwisumbuye rwa Musanze kuwa 26/05/2022, rushingiye ku mvugo z'abaregwa n'iz'abatangabuhamya babashinja, rwemeje ko Kwizera Paterne alias Pate na Uwijuru Pierre alias Gapende bahamwa n'icyaha cyo

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gukubita cyangwa gukomeretsa ku bushake byateye urupfu, naho Habumugisha Alexis rwemeza ko ari umwere; ruhanisha Kwizera Paterne alias Pate igihano cy'igifungo cy'imyaka cumi n'itandatu (16) n'ihazabu ingana n'amafaranga y'u Rwanda miriyoni eshanu (5.000.000 FRW), naho Uwijuru Peter alias Gapende ahanishwa igihano cy'igifungo cy'imyaka umunani (8) n'ihazabu ingana n'amafaranga y'u Rwanda miriyoni ebyiri n'ibihumbi magana atanu (2.500.000 FRW). [5] Kwizera Paterne alias Pate na Uwijuru Peter alias Gapende bajuririyeye urwo rubanza mu Rukiko Rukuru, Urugereko rwa Musanze mu myanzuro yabo babanza guhakana icyaha ariko bageze mu iburanisha bavuga ko bacyemera kandi ko bicuza ibyo bakoze bakanabisabira imbabazi, banasaba kugabanyirizwa igihano kugeza munsu y'igihano gito giteganywa n'itegeko kandi kigasubikwa. [6] Uhagarariye Ubushinjacyaha yaburanye avuga ko hashingiye ku buremere bw'icyaha abaregwa bakoze n'uburyo bagikozemo, ibyo basaba mu bujurire bwabo badakwiriye kubihabwa; ko ariko Urukiko rubibonye ukundi bakagabanyirizwa igihano, kitasubikwa kubera ubugome bakoranye icyaha. [7] Mu rubanza N° RPA/MIN 00061/2022/HC/MUS rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze kuwa 09/03/2023, rwemeje ko ubujurire bwa Kwizera Paterne alias Pate n'ubwa Uwijuru Peter alias Gapende nta shingiro bufite maze rutegeka ko igihano bahanishijwe n'Urukiko Rwisumbuye rwa Musanze kigumaho. Ibyo Urukiko rwabishingiye ku kuba rutarahaye agaciro ukwemera icyaha kwabo kuko ku rwego rwa mbere baburanye bagihakana ndetse no ku rwego rw'ubujurire bakaba baracyemeye mu iburanisha ariko mu myanzuro yabo y'ubujurire baragihakanaga, kuba nta kwicuza kugaragara mu mvugo zabo, no ku bugome bakoranye icyaha. [8] Kwizera Paterne alias Pate yongeye kujuririra Urukiko rw'Ubujurire, urubanza ruhabwa N° RPAA 00154/2023/CA, ruburanishwa mu ruhame ku itariki ya 15/01/2025 yunganiwe na Me Uhoraningoga Alexis naho Ubushinjacyaha buhagarariye na Habineza Jean Damascène, Umushinjacyaha ku rwego rw'Igihugu. [9] Mu myanzuro ye Kwizera Paterne alias Pate avuga ko mu Rukiko Rukuru, Urugereko rwa Musanze yaburanye ahakana icyaha, noneho akaba ajuriye agamije kucyemera mu buryo budashidikanywaho no gusaba kugabanyirizwa igihano kuko yasobanukiwe n'ububi bw'icyaha kandi akaba yari asanzwe yitwara neza. Me Uhoraningoga Alexis umwunganira we asaba uru Rukiko kugabanyiriza Kwizera Paterne alias Pate igihano kuko mu Rukiko Rukuru, Urugereko

rwa Musanze yacyemeye ariko ntibihabwe agaciro kandi n'ubu akaba akomeje kucyemera no gusaba imbabazi, kandi akaba yarakoze icyaha akiri muto. [10] Uhagarariye Ubushinjacyaha avuga ko ubujurire bwa Kwizera Paterne alias Pate nta shingiro bufite kuko kwemera icyaha ku rwego rw'ubujurire bitashingirwaho agabanyirizwa igihano mu gihe ku rwego rwa mbere yaburanye agihakana, kuko byaba binyuranye n'ibiteganywa n'amategeko. [11] Urukiko rurasuzuma ikibazo cyo kumenya niba Kwizera Paterne alias Pate ashobora kugabanyirizwa igihano hashingiwe ku mpamvu nyoroshyacyaha z'uko yemeye icyaha, kuba yaragikoze akiri muto no kuba yari asanzwe yitwara neza.

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II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA Kumenya niba Kwizera Paterne alias Pate ashobora kugabanyirizwa igihano hashingiwe ku mpamvu nyoroshyacyaha z'uko yemeye icyaha, kuba yaragikoze akiri muto no kuba yari asanzwe yitwara neza [12] Mu myanzuro ye Kwizera Paterne alias Pate avuga ko mu Rukiko Rukuru, Urugereko rwa Musanze yaburanye ahakana icyaha, akaba yarajuririye uru Rukiko agamije noneho kucyemera mu buryo budashidikanywaho. Avuga ko uburyo Ubushinjacyaha n'abatangabuhamya basobanura ko icyaha cyakozwemo ariko byagenze koko, ko yagiye mu gakungu ko kuywa inzoga agasinda hanyuma nyakwigendera nawe wari wasinze amubwiye nabi bararwana, ariko ko nta mugambi yari afite wo kumugirira nabi kuko nta n'icyo bari basanzwe bapfa, akaba yicuza icyaha yakoze kandi akagisabira imbabazi kuko yamaze gusobanukirwa n'ububi bwacyo. Asaba kugabanyirizwa igihano hashingiwe ku ngingo ya 49 y'Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha kuko yari asanzwe yitwara neza, kandi kuba yemeye icyaha atinze ntibimubere impamvu ituma atagabanyirizwa igihano kuko acyemera mu buryo budashidikanywaho, hashingiwe ku byemejwe mu rubanza N° RPAA 00282/08/CS rwaciwe n'Urukiko rw'Ikirenga kuwa 12/03/2010 (igika cya 16). [13] Me Uhoraningoga Alexis umwunganira we avuga ko Urukiko Rukuru, Urugereko rwa Musanze rwahannye Kwizera Paterne alias Pate rwihanukiriye rwirengagije ukwemera icyaha no gusaba imbabazi yarugaragariye rushingiye ku mpamvu y'uko ngo abaregwa bavuguruzanya hagati yabo ku bikorwa bakoreye nyakwigendera, nyamara Urukiko narwo ubwarwo rwaremeje ko imvugo z'abatangabuhamya ari ukuri, kandi muri abo batangabuhamya uwitwa Nsabimana Innocent ari we wabonye ibyabaye akanabwira uwitwa Hakizimana Olivier ko nyakwigendera yakubiswe na Uwijuru Peter alias Gapende ingumi mu musaya agahita agwa hasi mu bwato agaramye, naho Kwizera Paterne alias Pate akamukbita umugeri mu nda aho yari aryamye, akamukandagira mu nda akanamusukaho amazi. [14] Me Uhoraningoga Alexis akomeza asobanura ko Urukiko Rukuru, Urugereko rwa Musanze rwagombaga kubona ko kuvuguruzanya abaregwa babitewe n'ubwoba bw'ibihano kubera ibyo bari bamaze gukora bagasa n'abasubiranyemo, ko ariko ibikorwa buri wese yakoze babyemeye bakanabisabira imbabazi. Avuga kandi ko ubwo bwoba ari nabwo bwatumye abaregwa batagira ubwenge bwo guterura nyakwigendera ngo bamujyanye kwa muganga; agasozza asaba uru Rukiko kugabanyiriza Kwizera Paterne alias Pate igihano rushingiye kuri uko kwemera icyaha no kuba yarakoze icyaha akiri muto kuko yari mu kigero cy'imyaka 20 gusa. [15] Uhagarariye Ubushinjacyaha avuga ko ubujurire bwa Kwizera Paterne alias Pate nta shingiro bufite kuko

kwemera icyaha ku rwego rw'ubujurire mu gihe ku rwego rubanza yaburanye agihakana bitashingirwaho agabanyirizwa igihano kuko binyuranyije n'ibiteganywa mu ngingo ya 59, agace ka 1° n'aka 3°, y'Itegeko N° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange¹, bikaba kandi bitagize inenge cyangwa amakosa biba bigomba gukosorwa

1 Mu gace kayo ka mbere (1°), iyo ngingo ya 59 igira iti: “Umucamanza ashobora kugabanya ibihano nk'iyi ushinjwa, mbere yo gukurikiranwa, yemeye icyaha akagisabira imbabazi uwo yakoreye icyaha n'umuryango nyarwanda mu buryo budashidikanywaho, akicuza kandi akishyura ibyo yangije nk'uko bari babimutegerejeho”; naho mu gace ka gatatu (3°) ikagira iti: “Umucamanza ashobora kugabanya ibihano nk'iyi ushinjwa, mu ntangiriro z'iburanisha ku rwego rwa mbere, ushinjwa yireze akemera icyaha mu buryo budashidikanywaho”,

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n'Urukiko rusuzuma ubujurire, ahubwo ari ingingo nshya iba izanywe mu bujurire kandi itari mu bubasha bwarwo hashingiwe ku biteganywa n'ingingo ya 183, agace ka 5° n'aka 6°, y'Itegeko N° 027/2019 ryo ku wa 19/09/2019 ryavuzwe haruguru no ku byemejwe mu rubanza N° RPAA 00048/2020/CA rwaciwe ku wa 26/05/2022 haburana Ubushinjacyaha na Bimenyimana Jean, aho Urukiko rw'Ubujurire rwemeje ko “kwemera icyaha bwa mbere mu bujurire bitagirira akamaro uregwa kuko ujurira aba azanye ingingo nshya ataburanishije mu nkiko zibanza kandi umucamanza w'ubujurire afite gusa inshingano yo gukosora amakosa yaba yarakozwe n'izo nkiko; bityo rero Urukiko Rukuru, Urugereko rwa Musanze rukaba nta kosa rwakoze mu kwanga kugabanyiriza Kwizera Patrene alias Pate igihano. [16] Uhagarariye Ubushinjacyaha avuga kandi ko umurongo watanze mu rubanza N° RPAA 00282/08/CS rwaciwe n'Urukiko rw'Ikirenga kuwa 12/03/2010 bitashingirwaho Kwizera Patrene alias Pate agabanyirizwa igihano nk'uko abisaba, kuko itegeko uwo murongo wari ushingiye ryahinduwe, ukaba rero udashobora gukurikizwa hashingiwe ku byemejwe mu manza zitandakanye zirimo n'urubanza N° RPAA 00048/2020/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 26/05/2022 haburana Ubushinjacyaha na Bimenyimana Jean Paul (igika cya 26), ko “uwo murongo wavanyweho n'Itegeko N° 68/2018 ryo ku wa 30/08/2018 nk'uko ryahinduwe n'Itegeko N° 69/2019 ryo ku wa 08/11/2019 riteganya ibyaha n'ibihano muri rusange, riteganya ku buryo busobanutse neza (sans équivoque) ko ukwemera icyaha gushobora gushingirwaho nk'impamvu nyoroshyacyaha ari ugukozwe mu ntangiriro y'iburanisha ku rwego rwa mbere”. UKO URUKIKO RUBIBONA [17] Impaka muri uru rubanza zishingiye ku mumenya niba uru Rukiko rushobora kugabanyiriza Kwizera Patrene alias Pate igihano rushingiye ku mpamvu nyoroshyacyaha z'uko yemeye icyaha, kuba yaragikoze akiri muto no kuba yari asanzwe yitwara neza.

1. • Ku bijyanye no kwemera icyaha [18] Ibijyanye no kumenya igihe kwemera icyaha bifatwa nk'impamvu nyoroshyacyaha yashingirwaho uregwa agabanyirizwa igihano byasobanuwe mu rubanza N° RPA 00060/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 04/04/2022 haburana Ubushinjacyaha na Nsabimana Callixte Alias Sankara n'abandi, aho Urukiko rwasobanuye neza ibiteganywa n'ingingo ya 59 (1°&3°) y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu2,

rukemeza ko ukwemera icyaha kugira agaciro gashobora gutuma uregwa agabanyirizwa igihano ari ugukozwe byibura mbere y'uko iburanisha ku rwego rwa mbere ripfundikirwa3...'. Ibi kandi byanagarutseho mu zindi manza nyinshi zaciye muri uwo murongo harimo n'iziheruka gucibwa, nk'urubanza N° RPAA 00464/2023/CA rwaciye n'Urukiko rw'Ubujurire ku wa 29/11/2024, Ubushinjacyaha buburana na Zikamabahari Sylvain n'abandi (igika cya 44), n'urubanza N° RPAA 00114/2024/CA rwaciye ku wa 19/12/2024 haburana Ubushinjacyaha na Niyomugabo Cedrick.

2 Iyi ngingo iteganya ko Umucamanza ashobora kugabanya ibihano nk'iyi: 1° ushinjwa, mbere yo gukurikiranwa, yemeye icyaha akagisabira imbabazi uwo yakoreye icyaha n'umuryango nyarwanda mu buryo budashidikanywa, akicuza kandi akishyura ibyo yangije nk'uko bari babimutegerejeho. 3° mu ntangiriro z'iburanisha ku rwego rwa mbere, ushinjwa yireze akemera icyaha mu buryo budashidikanywa. 3 Reba igika cya 136 cy'urubanza N° RPA 00060/2021/CA rwaciye n'Urukiko rw'Ubujurire ku wa 04/04/2022 haburana Ubushinjacyaha na Nsabimana Callixte Alias Sankara n'abandi.

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[19] Ku birebana n'uru rubanza, dosiye yarwo igaragaza ko mu Bugenzacyaha, mu Bushinjacyaha no mu Rukiko Rwisumbuye rwa Musanze Kwizera Paterne alias Pate yaburanye ahakana icyaha, avuga ko atigeze akubita nyakwigendera ahubwo yamuteye amazi agira ngo arebe ko yazanzamuka (reba inyandikomvugo ze mu Bugenzacyaha no mu Bushinjacyaha, n'urubanza urubanza N° RP/Min 00177/2021/TGI/MUS rwaciye n'Urukiko Rwisumbuye rwa Musanze ku wa 26/05/2022, mu gika cya 5) ; ibi bikaba bigaragaza ko atigeze yemera icyaha nibura mbere y'uko iburanisha ku rwego rw'ambere ripfundikirwa ; bikanashimangirwa n'imiburanire ye kuri uru rwego aho avuga ko yajuriye agamije kwemera icyaha noneho ku buryo budashidikanywaho, kimwe n'iy'uwunganira uvuga ko Kwizera Paterne alias Pate akomeje kwemera icyaha nk'uko yari yabikoze mu Rukiko Rukuru, Urugereko rwa Musanze ariko ntibihabwe agaciro ; n'ubwo bombo badahuza ariko imiburanire yabo yumvikanisha neza ko nabo bemera ko ku rwego rwa mbere atari yemeye icyaha, kandi hashingiwe ku murongo wagaragajwe mu gika cya 18 cy'uru rubanza, watanze mu rubanza N° RPA 00060/2021/CA rwaciye n'Urukiko rw'Ubujurire ku wa 04/04/2022 haburana Ubushinjacyaha na Nsabimana Callixte Alias Sankara n'abandi, ukwemera icyaha Kwizera Paterne alias Pate atakoze nibura mbere y'uko iburanisha ku rwego rwa mbere ripfundikirwa kukaba ntacyo kwamumarira ku bijyanye no kugabanyirizwa igihano. Hashingiwe kuri ibyo bisobanuro, ubujurire bwa Kwizera Paterne alias Pate kuri iyi ngingo bukaba nta shingiro bufite.

2. • Ku bijyanye no kuba uregwa yarakoze icyaha akiri muto kandi akaba yari asanzwe yitwara neza [20] Ingingo ya 11 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 iteganya ko « iyo gukubita cyangwa gukomeretsa byateye urupfu, igihano kiba igifungo kitari muni y'imyaka 10 ariko kitarenze imyaka 20 n'ihazabu itari muni ya 3.000.000 FRW ariko itarenze 5.000.000 FRW » ; naho ingingo ya 2 nayo y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 igateganya ko «

Iyo umucamanza yemeje impamvu nyoroshyacyaha, ashobora kugabanya igihano ku buryo bukurikira: (b) Igifungo kimara igihe kizwi kiva ku mezi 6 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 ». [21] Ingingo ya 6 y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu yo iteganya ko mu gihe hari amategeko ahana, rimwe ryariho mu gihe icyaha cyakorwaga, irindi ryatangajwe nyuma y'uko icyaha gikorwa, ariko urubanza rutaracibwa burundu, itegeko rishya ari ryo rikurikizwa iyo riteganya igihano cyoroheje. [22] Urukiko rushingiye ku biteganywa n'ingingo ya 6 ivuzwe mu gika kibanziriza iki, ingingo ya 11 n'ya 2 (b) na (d) zivuzwe haruguru, z'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, ari zo zigomba gushingirwaho mu kugena igihano Kwizera Paterne alias Pate agomba guhanishwa kuko ziri mu Itegeko ryatangajwe nyuma y'uko icyaha akurikiranyweho gikorwa kandi urubanza rukaba rutaracibwa burundu, zikaba kandi ziteganya igihano cyoroheje ugereranyije n'icyateganywaga n'Itegeko ryakurikizwaga igihe icyaha cyakorwaga. [23] Nk'uko byemejwe mu rubanza N° RPA 00060/2021/CA rwavuzwe haruguru rwaciwe n'Urukiko rw'Ubujurire ku wa 04/04/2022, haburana Ubushinjacyaha na Nsabimana Callixte alias

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Sankara na bagenzi be (ibika bya 242-254), iyo uregwa nta kindi anenga urubanza yajuririyeye, uretse kuvuga gusa ko atagabanyirijwe igihano bihagije, buri mucamanza ku rwego urwo arirwo rwose, yemerewe gutanga igihano mu bushishozi bwe kijyanye n'uburemere bw'icyaha n'ingaruka zacyo (.....), cyakora mu bujurire Umucamanza akaba agomba kuzirikana ko yemerewe gusa guhindura igihano cyatanze n'Umucamanza wo mu Rukiko rubanza ari uko amaze kugaragaza ko urwo Rukiko rwaba rwarakoresheje nabi Itegeko cyangwa ubushishozi bwawo mu gutanga igihano. [24] Urukiko rw'Ubujurire rurasanga, n'ubwo Kwizera Paterne alias Pate yakozwe icyaha azi neza ingaruka zacyo kuko yari arengeje imyaka 18 y'ubukure, kuba yaragikoze afite imyaka 20 y'amavuko, ni ukuvuga ko yari akiva mu gihe cy'ubugimbi kirangwa no kudashishoza bihagije, no kuba ari ubwa mbere akurikiranyweho icyaha mu buryo buzwi byamubera impamvu nyoroshyacyaha igihano yari yahanishijwe kikagabanywa, ariko bikareberwa hamwe n'uburyo icyaha cyakozwemo (kuba barakubise nyakwigendera bakabona ko ameze nabi ariko bakamusiga aho ari nijoro akaza kuhakurwa n'abagenzi) n'ingaruka cyagize z'uko cyateye urupfu, akaba akwiriye guhanishwa igifungo cy'imyaka 12 n'ihazabu ingana na 3.000.000 Frw. [25] Hashingiye ku byasobanuwe haruguru byose, Urukiko rw'Ubujurire rurasanga ubujurire bwa Kwizera Paterne alias Pate bufite ishingiro kuri bimwe, urubanza rwajuririwe rukaba ruhinduwe gusa ku birebana n'igihano yari yahanishijwe III. ICYEMEZO CY'URUKIKO [26] Rwemeje ko ubujurire bwa Kwizera Paterne alias Pate bufite ishingiro kuri bimwe; [27] Rwemeje ko urubanza N° RPA/MIN 00061/2022/HC/MUS rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze kuwa 09/03/2023 ruhindutse gusa ku birebana n'igihano Kwizera Paterne alias Pate ahanishijwe; [28] Ruhanihije Kwizera Paterne alias Pate igifungo cy'imyaka cumi

n'ibiri (12) n'ihazabu y'amafaranga y'u Rwanda miliyoni eshatu (3.000.000 FRW); [29] Rutegetse ko Kwizera Paternealias Pate asonewe amagarama y'urubanza kuko aburana afunze.

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