

RWANDA / JUDGMENT

ANGELIQUE INTERNATIONAL LTD v. RYAMUGEMA N'ABANDI

RSOCA 0015/13/HC/NYA

COURT

High Court

DECIDED

13 March 2013

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ANGELIQUE INTERNATIONAL LTD v. RYAMUGEMA N'ABANDI

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Text

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ANGELIQUE INTERNATIONAL LTD v. RYAMUGEMA N'ABANDI [Rwanda URUKIKO RUKURU, URUGEREKO RWA NYANZA – RSOCA 0015/13/HC/NYA (Kamanzi, J.) 13 Werurwe 2013]

Amategeko agenga imiburanishirije y'umurimo – Kugena ikiburanwa no kudahinduka kw'ikirego – Ikiburanwa kigenwa n'ibisabwa na buri muburanyi kandi bikagaragazwa n'inyandiko itangiza ikirego n'imyanzuro yo kwiregura, umuburanyi

ntashobora

guhindura

ikirego

ababuranyi

bose batabyemeranyizeho mw'iburanisha n'umucamanza kandi aca urubanza ku cyaregewe cyonyine – Itegeko no.21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'ianza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo za 4, 7. Incamake y'ikibazo: Ryamugema na Nkongoli nyuma yukunanirwa kumvikana kuri bimwe imbere y'ubugenzuzi bw'umurimo bareze Angelique International Ltd mu Rukiko Rwisumbuye rwa Muhanga aho bayiregaga bayisaba indishyi zo kubirukana hadakurikijwe amategeko, icyemezo cy'umurimo, imperekeza, integuza, amasaha y'ikirenga, amafaranga y'ikurikirana rubanza, kwishyurirwa imisanzu mu kigo cy'ubwiteganyirize ndetse n'igihembo cy'avoka. Urwo rukiko rwemeje ko ikirego cyabo gifite ishingiro kuri bimwe rutegeka Angelique Interantional ltd kubaha indishyi z'integuza, indishyi z'icyemezo cy'umurimo itamuhaye n'amafaranga y'ikurikirana rubanza hamwe n'igihembo cy'Avocat Angelique International Ltd yajuririye urwo rubanza mu Rukiko Rukuru urugereko rwa Nyanza ivuga ko umucamanza yageneye RYAMUGEMA Michel indishyi z'integuza kandi ataraziregeye, kandi ikaba itishimiye impamvu umucamanza yashingiyehob atanga izo ndishyi. Ryamugema akavuga ko umucamanza yibeshye agatanga ukwezi kwa nyuma nk'umushahara maze agahita abyita integuza akandi n'icyemezo cy'umurimo nacyo bakimuhaye bacyererwe kandi nabwo kirimo amakosa menshi. Nkongoli Emmanuel we yasabye urukiko ko rwategeka Angelique interational ltd kubaha izindi ndishyi ziyongereye kuzo urukiko rwisumbuye rwari rwarayitegetse Incamake y'icyemezo: 1. Ryamugema yemeye ko integuza yayibonye, mu nyandiko yo gutanga ikirego mu rukiko rwisumbuye rwa huye(cote ya 20) Ryamugema ntabwo yaregeye integuza uru Rukiko rusanga ko Urukiko rubanza rwakiye urubanza ku kitararegewe binyuranije n'Itegeko. Amafaranga y'integuza akaba avanyweho, hakagumaho indishyi y'icyemezo cy'umurimo, umushahara w'ukwezi kwa cyenda atahawe, amafaranga y'ikurikirana rubanza n'igihembo cy' Avocat.

2. Ubujurire bwa Angelique kuri Nkongoli Kenny Emmanuel nta shingiro bufite kuko integuza yayihawe mu buryo binyuranije n'amategeko nkuko

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umucamanza waburanishije uru rubanza mu rwego rubanza yabigaragaje mu rubanza rujuririrwa .

3. Urubanza rwajuririwe rugomba kuranginzwa mu ngingo zarwo zose kuko amafaranga y'integuza ahindutse kuri Ryamugema Michel asimbuwe n'amafaranga y'umushahara we w'ukwezi kwa cyenda bituma n'ubundi amafaranga yose hamwe Angelique International ltd yagombaga kumuha aguma n'ubundi angana nayo urukiko rubanza rwategetse akaba ariyo mpamvu imikirize y'urubanza idahindutse kuko ibihindutse mo bitagabanya umubare w'amafaranga. Judgment for the Ubujurire bufite ishingiro. Urubanza rwajuririwe nuko uhindutse kuri bimwe ariko rugomba kuranginzwa mu ngingo zarwo zose; amagarama y'urubanza aherereye ku wajuriye.. Amategeko yashingiweho: Itegeko no.21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'ianza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo za 4, 7. Nta manza zifashishijwe. rubanza I.IMITERERE Y'URUBANZA [1] RYAMUGEMA Michel na NKONGOLI Kenny Emmanuel

bavuga ko bari abakozi ba ANGELIQUE INTERNATIONAL LTD baza kwirukanwa, bavuga ko birukanywe mu buryo bunyuranyije n'amategeko bagerageza kumvikana n'umukoresha nti byakunda bajyana ikibazo mu bugenzuzi bw'umurimo bumvikana kuri bimwe bananiranwa ku bindi bituma biyambaza inkiko maze imanza zitangira gutyo baregera urukiko rwisumbuye rwa Muhanga; Urukiko rwisumbuye rwa Muhanga rwahuje imanza RSOC 0001-0002/12/TGI/MHG aho Ryamugema Michel na Nkongoli Kenny Emmanuel baregaga Angelique International Ltd, bayisaba indishyi zo kubirukana hadakurikijwe amategeko , icyemezo cy'umurimo, impereyeze, integuza, amasaha y'ikirenga , amafaranga y'ikurikirana rubanza , kwishyurirwa imisanzu mu kigo cy'ubwiteganyirize ndetse n'igihembo cy'avoka. Urwo rukiko rwemeje ko ikirego cyabo gifite ishingiro kuri bimwe maze rutegeka Angelique International ltd guha Ryamugema Michel indishyi zingana n'ibihumbi 140,000 frw y'integuza , amafaranga ibihumbi 140, 000 y'icyemezo cy'umurimo itamuhaye n' amafaranga ibihumbi 200,000 frw y'ikurikirana rubanza hamwe n'igihembo cy'avocat , yose hamwe akaba ibihumbi 480,000 frw . Rutegeka kandi Angelique International ltd guha Nkongoli Kenny Emmanuel indishyi zingana n'ibihumbi 150,000 frw y'integuza , amafaranga ibihumbi 150, 000

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y'icyemezo cy'umurimo itamuhaye n' amafaranga ibihumbi 200,000 frw y'ikurikirana rubanza hamwe n'igihembo cy'avocat , yose hamwe akaba ibihumbi 500,000 frw. [2] Angelique International ltd ntiyishimiye imikirize y'urwo rubanza maze ijurira mu rukiko rukuru urugereko rwa Nyanza, ihagarariwe na Me BIZUMUREMYI Isaac asobanura ko atishimiye impamvu umucamanza yashingiyeho atanga indishyi Nkongoli Kenny Emmanuel avuga ko yahawe umushahara wanyuma w'ukwezi kwa 9 bawita integuza kandi ngo uko kwezi kose yaragukoze bityo akaba ngo abona batagakwiye kubyita integuza ndetse akavuga ko nta n'icyemezo cy'umurimo yahawe. Me Habimana umwunganira avuga ko Angelique international ltd itubahirije ingingo ya 38 y'itegeko ry'umurimo kuko itigeze iha Nkongoli icyemezo cy'umurimo ikimara kumwirukana ndetse nta n'integuza ngo yigeze imuha kuko icyo yamuhaye ni ukwezi kwa nyuma. Me Habimana uhagarariye Ryamugema muri runo rubanza avuga ko umucamanza yibeshye agatanga ukwezi kwa nyuma nk'umushahara maze agahita abyita integuza, akomeza avuga icyemezo cy'umurimo nacyo bakimuhaye bacyererwe kandi nabwo kirimo amakosa menshi. Nkongoli Emmanuel hamwe n'umwunganizi we [3] Me Habimana unahagarariye Ryamugema basabye urukiko ko rwategeka Angelique international ltd kubaha izindi ndishyi ziyongereye kuzo urukiko rwisumbuye rwari rwarayitegetse; [4] Muri uru rubanza harasuzumwa niba indishyi urukiko rwategetse Angelique International ltd guha Nkongoli Kenny Emmanuel hamwe na Ryamugema kubera kubirukana binyuranyije n'amategeko zitari ngombwa, hasuzumwe na none niba indishyi zisabwa mu bujirire na Nkongoli Kenny Emmanuel hamwe na Ryamugema zatangwa. II.IBIBAZO BIGIZE URUBANZA N'ISESENGURWA RYABYO [5] a.Ku kibazo cyo kumenya niba indishyi urukiko rwategetse Angelique International ltd guha Nkongoli Kenny Emmanuel hamwe na Ryamugema kubera kubirukana mu buryo bunyuranyije n'amategeko zitari ngombwa; [6] Me BIZUMUREMYI Isaac uhagarariye Angelique international ltd mu gusobanura

impamvu z'ubujurire avugako umucamanza yageneye RYAMUGEMA Michel indishyi z'integuza kandi ataraziregeye, iyi mpamvu y'ubujurire uru rukiko rubona ifite ishingiro kuko imbere y'umugenzuzi w'umurimo mu nyandiko mvugo y'ubwumvikane(cote ya 27-29) Ryamugema yemeye ko integuza yayibonye, mu nyandiko yo gutanga ikirego mu rukiko rwisumbuye rwa huye(cote ya 20) integuza ntabwo yayiregeye harebwe ibiteganywa n'ingingo ya 4(1) y'itegeko no.21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ko: "Ikiburanwa kigenwa n'ibisabwa na buri muburanyi. Ibisabwa bigaragazwa n'inyandiko itangiza ikirego n'imyanzuro yo kwiregura"

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- [7] Aha uru rukiko akaba ariho rushingira rwemeranya na Me BIZUMUREMYI Isaac ko urukiko rwakiye urubanza ku kitararegewe binyuranije n'ingingo ya 7 y'iri tegeko, ibi bikaba bivuze ko amafaranga y'integuza angana n'ibihumbi ijana na mirongo ine (140.000frw) RYAMUGEMA Michel yahawe murubanza rwajuririwe avanyweho hakaba hagumye amafaranga ibihumbi ijana na mirongo ine(140.000frw) y'icyemezo cy'umurimo ataherewe igihe hakiyongeraho amafaranga ibihumbi ijana na mirongo ine(140.000frw) y'umushahara w'ukwezi kwa cyenda 2011 atahawe kandi yari akiri umukozi n'amafaranga ibihumbi magana abiri(200.000frw) y'ikurikirana rubanza n'igihembo cy'avocat yose hamwe akaba ari amafaranga ibihumbi magana ane na mirongo inani(480.000frw) aya mafaranga akaba agomba gutangwa na Angelique international ltd mw'izina ry'umuyobozi wayo kuko ariyo itubahirije ibyo amategeko y'umurimo ateganya igihe RYAMUGEMA Michel yahagarikwaga ku kazi; [8] Kubirebana n'ubujurire kuri NKONGOLI Kenny Emmanuel, uru rukiko rubona ubujurire bwa Angelique international ltd nta shingiro bufite kuko integuza yayihawe mu buryo bunyuranije n'amategeko nkuko umucamanza waburanishije uru rubanza mu rwego rubanza yabigaragaje mu rubanza rujuririrwa mu gace ka 17 ku rupapuro rwa kane; [9] Urukiko rurasanga ubujurire bwuririye ku bw' Angelique International ltd Me Habimana Bonaventure yatanze nta shingiro bufite kuko ibyo asabira abo ahagarariye arinabyo yaburanye mu rukiko rwisumbuye mu rwego rwa mbere kandi umucamanza akaba yarasobanuye impamvu indishyi zitandukanye bagiye basaba batazihawe bikaba rero bitagarurwa mu bujurire bwuririye ku bundi; [10] Nyuma yo gusuzuma ubujurire bw'impande zombi, uru rukiko rwajuririwe rubona urubanza R.SOC 0001-0002/12/TGI/MHG rwaciwe kuwa 28/06/2013 n'urukiko rwisumbuye rwa Muhanga rugomba kuranginzwa mu ngingo zarwo zose kuko amafaranga y'integuza ahindutse kuri RYAMUGEMA Michel asimbuwe n'amafaranga y'umushahara we w'ukwezi kwa cyenda bituma n'ubundi amafaranga yose hamwe Angelique International ltd yagombaga kumuha aguma n'ubundi angana nayo urukiko rubanza rwategetse akaba ariyo mpamvu imikirize y'urubanza idahindutse kuko ibihindutse mu bitagabanya umubare w'amafaranga Angelique International limited igomba guha RYAMUGEMA Michel na NKONGOLI Kenny Emmanuel; III.ICYEMEZO CY'URUKIKO [11] Rwemeye kwakira ubujurire bwa Angelique International ltd kuko bwaje mu nzira zikurikije amategeko kandi rubusuzumye rusanga bufite ishingiro kuri bimwe; [12] Rwemeje ko n'ubwo urubanza RSOC 0001-0002/12/TGI/MHG rwaciwe

n'Urukiko rwisumbuye rwa Muhanga ku wa 28/06/2013 ruhindutse kuri bimwe rugomba kuranginzwa mu ngingo zarwo zose,

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[13] Rutegetse Angelique International ltd mw'izina ry'umuyobozi wayo kubahiriza ibyategetswe mu rubanza RSOC 0001-0002/12/TGI/MHG rwavuzwe haruguru; [14] Rutegetse Angelique International ltd mw'izina ry'umuyobozi wayo gutanga amagarama y'urubanza angana n'amafaranga ibihumbi mirongo ine na birindwi n'amafaranga Magana icyenda na mirongo itanu(47.950frw) ahereye ku mafaranga ibihumbi 6000frw yatanzeho ingwate ajurira kandi akayatanga mu gihe cy'imisi 8 ibarwa kuva uru rubanza rusomwe bitaba akavanwa mu bye ku ngufu za leta;

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