

RWANDA / JUDGMENT

MP vs NAMBAJIMANA et al

RPAA 0323/11/CS

COURT

Supreme Court

DECIDED

22 April 2016

CASE / FILE NUMBER

RPAA 0323/11/CS

Source: amategeko.gov.rw · Research copy typeset by Esheria. Not court-issued or certified.

MP vs NAMBAJIMANA et al

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2016-04-22
- Case/document no.: RPAA 0323/11/CS
- Collection: Supreme Court

Text

Page 1

UBUSHINJACYAHA v. NAMBAJIMANA na mugenzi we [Rwanda URUKIKO RW'IKIRENGA – RPAA 0323/11/CS (Mukamulisa, PJ, Munyangeri na Hitiyaremye, J.) 22/4/2016] Amategeko agenga imiburanishirize y'imanza nshinjabyaha – Guhakana icyaha cyemerewe mu nzego z'iperereza – Nta gaciro bihabwa mu gihe nta bimenyetso bivuguruza ibyavuzwe mbere cyangwa ngo yerekanywe impamvu itigobotorwa yabiteye – Itegeko No 30/2013 ryo ku wa 24/05/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 197 Amategeko Mpanabyaha – Amategeko abiri ahana – Itegeko rishya niryo rigomba gukurikizwa iyo riteganyaga igihano cyoroheje – Itegeko Ngenga n° 01/2012 ryo ku wa 02/05/2012 rishyiraho igitabo gishya cy'amategeko ahana ibyaha, ingingo ya 8 Incamake y'ikibazo. Ndabananiye na Nambajimana bakurikiranywe ku cyaha cy'ubujura bukoreshwe intwari mu Rukiko rwa mbere rw'Iremezo rwa Kigali bakoze ubwo bajyaga kwa Nyirabekwa Annonciata ninjoro bitwaje umuhoro bakamwiba ibintu bitandukanye. Iperereza ritangira bahise bemera icyaha basobanura n'uburyo bagikoze ariko bageze mu Rukiko baragihakana. Urukiko rwabahamije icyaha rushingiye ku kuba mu Bugenzacyaha no mu Bushinjacyaha baracyemeye bagasobanura n'uburyo bagikoze, ndetse hakaba harafatiriwe n'umuhoro bukoreshwe, ruhanisha buri wese igifungo cy'imyaka makumyabiri (20). icyo

cyemezo bakijuririye mu Rukiko Rukuru, na rwo ruca urubanza rwemeza ko imikirize y'urubanza rwajuririwe idahindutse. bBajuririye mu Rukiko rw'Ikirenga, Ndabananiye avuga ko yahaniwe icyaha atakoze kuko Nambajimana yamushinjuye ubwo baburaniraga mu nama y'abacamanza, ko ndetse n'Urukiko Rukuru rwanze gukora iperereza. Nambajimana we avuga ko Urukiko Rukuru rutahaye agaciro ibyo yavuze ko yemeye icyaha kubera inkoni yakubiswe, kandi ko Nyiratebuka yamureze agamije kumwambura amafaranga ibihumbi icumi (10.000) yari amurimo kuko yamukoreraga. Uhagarariye Ubushinjacyaha avuga ko urubanza rujuririrwa rwasobanuye birambuye impamvu Ndabananiye Télesphore ahamwa n'icyaha, harimo kuba yaremeye icyaha ubwo yabazwaga mu Bugenzacyaha agasobanura n'uburyo yagikoze, imvugo ye igahura n'ibyavuzwe na Nambajimana Jackson na Nyiratebuka Annonciata, akaba atarigeze asobanura impamvu itigobotorwa yatumye yemera icyaha atakoze. Incamake y'icyemezo: Kuba uregwa yarageze imbere y'inkiko agahakana icyaha, ubwabyo ntibyatesha agaciro imvugo ze zo mu Bugenzacyaha no mu Bushinjacyaha, kuko uretse guhakana gusa, nta bimenyetso atanga bizivuguruzwa cyangwa ngo yerekane impamvu itigobotorwa yatumye yemera ibyo atakoze, bityo rero impamvu ze z'ubujurire zikaba nta shingiro zifite. Cyakora, itegeko rishya ni ryo rigomba gukoreshwa mu kumuhana, bityo akaba ahanishijwe igifungo cy'imyaka icyenda (9), agahita anarekurwa kubera ko igihano ahawe yakirangije. Ubujurire nta shingiro. Uregwa ahanishijwe igifungo cy'imyaka icyenda, agomba guhita arekurwa. Imikirize y'urubanza rwajuririwe ruhindutse gusa kugihano. Amagarama y'urubanza aherereye kwisanduku ya Leta.

Page 2

Amategeko yashingiweho: Itegeko Ngenga n° 01/2012 ryo ku wa 02/05/2012 rishyiraho igitabo gishya cy'amategeko ahana ibyaha, ingingo ya 8 na 304 Itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo ya 3 na 119. Itegeko - Teka n° 21/77 ryo ku wa 18 Kanama 1977 rishyiraho igitabo cy'amategeko ahana, ingingo ya 403 bis Nta manza zifashishijwe. Urubanza I. IMITERERE Y'URUBANZA. [1] Uru rubanza rwatangiriye mu Rukiko rwa Mbere rw'Iremezo rwa Kigali, Nambajimana Jackson na Ndabananiye Télesphore bakurikiranyweho n'Ubushinjacyaha icyaha cy'ubujura bukoreshwe intwari bakoze ku wa 7/4/2001 ubwo bajyaga kwa Nyiratebuka Annonciata ninjoro bitwaje umuhoro bakamwiba ibintu bitandukanye. Iperereza rigitangira bahise bemera icyaha basobanura n'uburyo bagikoze. [2] Nyuma y'iperereza, Ubushinjacyaha bwabareze mu Rukiko rwa Mbere rw'Iremezo rwa Kigali, baburana bahakana icyaha, maze ku wa 18/04/2005 urwo Rukiko, hagati aho rwaje guhinduka Urukiko rw'Umujyi wa Kigali, ruca urubanza rwemeza ko bahamwa n'icyaha bari bakurikiranyweho rushingiye ku kuba mu Bugenzacyaha no mu Bushinjacyaha baracyemeye bagasobanura n'uburyo bagikoze, ndetse hakaba harafatiriwe n'umuhoro bakoresheje, ruhanisha buri wese igifungo cy'imyaka makumyabiri (20). [3] Ndabananiye Télesphore na Nambajimana Jackson ntibishimiye icyo cyemezo bakijuririra mu Rukiko Rukuru, na rwo ruca urubanza ku wa 11/11/2011 rwemeza ko imikirize y'urubanza rwajuririwe idahindutse. [4] Icyo cyemezo nacyo nticyabashimishije bakijuririra mu Rukiko rw'Ikirenga, Ndabananiye Télesphore avuga ko yahaniwe icyaha atakoze kuko Nambajimana Jackson yamushinjuye ubwo baburaniraga mu nama y'abacamanza, ko ndetse n'Urukiko Rukuru rwanze gukora iperereza. Nambajimana

Jackson we avuga ko Urukiko Rukuru rutahaye agaciro ibyo yavuze ko yemeye icyaha kubera inkoni yakubiswe, kandi ko Nyiratebuka yamureze agamije kumwambura amafaranga ibihumbi icumi (10.000) yari amurimo kuko yamukoreraga. [5] Urubanza rwaburanishijwe mu ruhamwe ku itariki ya 21/03/2016, Ndabananiye Télesphore yitabye yunganiwe na Me Rutagengwa Mukiga, Nambajimana Jackson atitabye, ku nyandiko imuhamagara handitseho ko atakibarizwa muri Gereza ya Gasabo kuko yatashye ku wa 1/12/2011 afunguwe by'agateganyo, Ubushinjacyaha buhagarariwe na Dushimimana Claudine, Umushinjacyaha ku rwego rw'Igihugu, wahise anasaba ko ubujurire bwa Nambajimana Jackson bwabwirwa. [6] Nyuma yo kubona ko Nambajimana Jackson atitabye Urukiko kandi atarakurikiranye ubujurire bwe, hashingiwe ku ngingo ya 186, igika cya gatanu, y'Itegeko n° 30/2013 ryo ku wa 24/5/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, Urukiko rw'Ikirenga rwafatiye icyemezo ku ntebe ko ubujurire bwe busibwe kubera ko byagaragaye ko nta nyungu akibufitemo.

Page 3

II. IKIBAZO KIRI MU RUBANZA N'ISESENGURWA RYACYO. Kumenya niba Ndabananiye Télesphore yarahamijwe icyaha nta bimenyetso bihari. [7] Ndabananiye Télesphore avuga ko Urukiko Rukuru rutahaye agaciro ibyo yavuze ngo arenganurwe, ko kandi uwakoze icyaha wari waramushinje yagezaho akivuguruza. Avuga ko uwakorewe icyaha ntaho yigeze avuga ko yamubonye mu bamuteye, agasaba ko yahamagazwa mu rubanza akabazwa. [8] Me Rutagengwa Mukiga avuga ko Nambajimana Jackson mu Bugenzacyaha yabajijwe akemera icyaha ndetse agasobanura uko yagiye kwiba kwa Nyiratebuka Annonciata, akavuga ko yajyanye na Ndabananiye Télesphore n'undi wa gatatu atamenye izina, aha akavuga ko umucamanza yagombaga kwibaza ukuntu wacura umugambi n'abantu utazi, agasaba ko ibi Urukiko rw'Ikirenga rwabihereaho rugatesha agaciro iyi mvugo. [9] Akomeza avuga ko mu nama y'abacamanza, Nambajimana Jackson yashinjuye Ndabananiye Télesphore, ndetse na Nyiratebuka Annonciata ubwo yabazwaga yasobanuye ko mu bamwibye yamenyemo Nambajimana Jackson, ko uwa kabiri n'uwa gatatu atamenye, ko rero ibi byose Urukiko rwagombaga kubishingiraho rwemeza ko harimo ugushidikanya ku byerekeye Ndabananiye Télesphore. [10] Uhagarariye Ubushinjacyaha avuga ko urubanza rujuririrwa rwasobanuye birambuye impamvu Ndabananiye Télesphore ahamwe n'icyaha, harimo kuba yaremeye icyaha ubwo yabazwaga mu Bugenzacyaha agasobanura n'uburyo yagikoze, imvugo ye igahura n'ibyavuzwe na Nambajimana Jackson na Nyiratebuka Annonciata, akaba atarigeze asobanura impamvu itigobotorwa yatumye yemera icyaha atakoze. [11] Ku byerekeranye no kuba Nyiratebuka Annonciata atarabajijwe nk'uko Ndabananiye Télesphore yabisabaga, uhagarariye Ubushinjacyaha asanga Urukiko rwasobanuye ko ibyo yivugiye bihagije kandi Urukiko akaba ari rwo rufite ububasha bwo kwemeza ko ibimenyetso bihagije cyangwa bidahagije nk'uko Urukiko rw'Ikirenga rwabitanzeho umurongo mu rubanza RPA 011/08/CS rwaciye ku wa 29/05/2009 rwa Urayenzeza Mike. [12] Ku byerekeranye no kuba umuntu wa gatatu wari mu bagiye kwiba kwa Nyiratebuka Annonciata atamenyekanye, bikaba bitera gushidikanya kwarengera Ndabananiye Télesphore nk'uko umwunganizi we abivuga, uhagarariye Ubushinjacyaha asanga ibyo nta shingiro byahabwa kuko bidakuraho Ndabananiye Télesphore icyaha kandi bitavuguruza

ibimenyetso byatanzwe. Uko Urukiko rubibona. [13] Ingingo ya 3 y'Itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, iteganya ko « buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana. Umucamanza ashobora nyamara gutegeka umuburanyi wese gutanga gihamya y'ibimenyetso afite », naho iya 119 y'iryo tegeko rimaze kuvugwa, igateganya ko « mu manza nshinjabyaha, ibimenyetso bishingira kumpamvu zose z'ibyabaye n'ibyemejwe n'amategeko, ababuranyi bapfa kuba barahawe uburyo bwo kuhaba ngo banyomozanye. Urukiko ruhamya ku buryo butavuguruzwa ko ibimenyetso byose birega cyangwa biregura ari byo kandi ko bishobora kwemerwa ». [14] Ku birebana n'uru rubanza, Ubushinjacyaha burega Ndabananiye Télesphore bushingiye ku mvugo ze mu Bugenzacyaha no mu Bushinjacyaha aho muri izo nzego zombi z'iperereza yemeye ko yagiye kwiba kwa Nyiratebuka Annonciata agasobanura uko yakoze icyaha, ariko ageze imbere y'inkiko arabihakana.

Page 4

[15] Urukiko rw'Ikirenga rusesenguye inyandiko zikubiye muri dosiye, rurasanga mu ibazwa rye mu Bugenzacyaha no mu Bushinjacyaha, Ndabananiye Télesphore yaremeye icyaha cyo kuba yarajyanye na Nambajimana Jackson kwiba kwa Nyiratebuka Annonciata, akavuga ukuntu ibyo bibye babigurishije n'aho babigurishije, mu guhakana icyaha akaba atarasobanuye impamvu yatumye yemera icyaha ubugira kabiri, kandi atagaragaza agahato yashyizweho ngo abyemere. [16] Ku byerekeranye no kuba Nambajimana Jackson yaramushinjiye ubwo baburaniraga mu nama y'abacamanza (chambre du conseil), Urukiko rw'Ikirenga rurasanga nta shingiro bifite kuko icyo gihe yavuze gusa ko yibeshyeye akanabeshyera mwene Se kubera ko yakubitiwe kuri Komini, ibi bikaba byari uburyo bwo guhunga icyaha gusa kuko nta bindi bisobanuro yatanze. Iyi ngingo y'ubujurire rero Urukiko rw'Ikirenga rurasanga nta shingiro ifite kuko imvugo ya Nambajimana Jackson, iya Ndabananiye Télesphore n'iya Nyiratebuka Annonciata wakorewe icyaha, imbere y'Ubugenzacyaha zihura neza ku byerekeranye n'imikorere y'icyaha. [17] Kuba avuga ko Urukiko Rukuru rwanze gukora iperereza, Urukiko rw'Ikirenga rurasanga umucamanza adategetswe gukora iperereza igihe cyose abisabwe, keretse iyo asanze ari ngombwa kandi byafasha kugira ngo ukuri kugaragare. Ku birebana n'uru rubanza rero, Urukiko rw'Ikirenga rurasanga nta kosa umucamanza waciye urubanza rujuririrwa yakozwe mu kudakora iperereza kuko rusanga ibimenyetso byari bihari bihagije, nta n'undi muntu wari ukenewe kubazwa ku byerekeranye n'ibyabaye kuko abari babizi aribo Ndabananiye Télesphore, Nambajimana Jackson na Nyiratebuka Annonciata wibwe bose bari barabajijwe. [18] Ku byerekeranye no kuba ubwo Nambajimana Jackson yabazwaga mu Bugenzacyaha akemeza ko hari undi muntu atazi bakoranye icyaha, Ndabananiye Télesphore n'umwunganizi we bakaba bavugaga ko nabyo biteye gushidikanya kurengera Ndabananiye Télesphore, Urukiko rw'Ikirenga rusanga nabyo nta shingiro byahabwa kuko kutamenya izina rye atari ikimenyetso gikuraho ko Ndabananiye Télesphore na we yari muri ubwo bujura hamwe na Nambajimana Jackson nk'uko byasobanuwe haruguru. [19] Urukiko rw'Ikirenga rero rurasanga, kuba Ndabananiye Télesphore yarageze imbere y'inkiko agahakana icyaha,

ubwabyo bitatesha agaciro invugo ze zo mu Bugenzacyaha no mu Bushinjacyaha, aho yiyemereraga icyaha nk'uko byavuzwe haruguru, ahubwo ari uburyo bwo kugihunga, kuko uretse guhakana gusa, nta bimenyetso atanga bizivuguruza cyangwa ngo yerekane impamvu itigobotorwa yatumye yemera ibyo atakoze, bityo rero impamvu ze z'ubujurire zikaba nta shingiro zifite. [20] Urukiko rw'Ikirenga rusanga ariko, mu kugena ibihano kuri uru rwego, ingingo ya 8 y'Itegeko Ngenga n° 01/2012 ryo ku wa 02/05/2012 rishyiraho igitabo gishya cy'amategeko ahana ibyaha, iteganya ko « mu gihe hari amategeko abiri ahana, rimwe ryariho mu gihe icyaha cyakorwaga, irindi ryaratangajwe kuva icyaha gikozwe, ariko urubanza rutaracibwa burundu, itegeko rishya ni ryo ryonyine rigomba gukurikizwa iyo riteganyaga igihano cyoroheje ». [21] Ku birebana n'uru rubanza, kuba ingingo ya 403 bis y'Itegeko - Teka n° 21/77 ryo ku wa 18 Kanama 1977 rishyiraho igitabo cy'amategeko ahana ryakoreshwaga igihe icyaha cyakorwaga yarateganyaga igihano cy'igifungo kuva ku myaka cumi n'itanu (15) kugeza ku myaka makumyabiri

- (20) ku cyaha cy'ubujura bukoreshwe intwari, naho ingingo ya 304 y'Itegeko Ngenga n° 01/2012 ryo ku wa 02/05/2012 rishyiraho igitabo gishya cy'amategeko ahana ibyaha ikaba iteganyaga igifungo kuva ku myaka itandatu (6) kugeza ku myaka icyenda (9) kuri icyo cyaha, Urukiko rw'Ikirenga rurasanga iri rya nyuma ari ryo rigomba gukoreshwa mu guhana Ndabananiye Télesphore, bityo akaba ahanishijwe igifungo cy'imyaka icyenda (9), agahita anarekurwa kubera ko igihano ahawe yakirangije. III. ICYEMEZO CY'URUKIKO [22] Rwemeje ko ubujurire bwa Ndabananiye Télesphore nta shingiro bufite ;

Page 5

- [23] Rwemeje ko Ndabananiye Télesphore ahanishwa igifungo cy'imyaka icyenda (9) ; [24] Rwemeje ko imikirize y'urubanza RPA 120/05/HC/KIG - RPA 0882/06/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 11/11/2011 ihindutse gusa ku birebana n'igihano ; [25] Rutegetse ko Ndabananiye Télesphore ahita arekurwa urubanza rukimara gusomwa kubera ko igihano ahawe yakirangije ; [26] Rutegetse ko amagarama y'ibyakoze muri uru rubanza aherera ku Isanduku ya Leta.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.amategeko.gov.rw/view/doc/7839/8124>

CASE PAGE <https://chat.esheria.ai/case-law/rwanda/armedrobbery-supreme-court-2016--6a3ea5223b1caa91298182ea>

Prepared on 23 October 2026 · Esheria