

RWANDA / JUDGMENT

DUNIA v. KAYITANA N' ABANDI

RS/REV/RCOM 00002/2022/SC

COURT

Supreme Court

DECIDED

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DUNIA v. KAYITANA N' ABANDI

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Text

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DUNIA v. KAYITANA N' ABANDI [Rwanda URUKIKO RW' IKIRENGA – RS/REV/RCOM 00002/2022/SC (Nteziryayo, P.J., Karimunda na Mukamulisa, J.) 19 Gicurasi 2023] Amategeko agenga imiburanishirize y' imanza z' ubucuruzi – Gusubirishamo ingingo nshya – Ikimenyetso gishya – Itariki inyandiko yiswe ikimenyetso gishya yarashyiriweho muri dosiye niyo ifatwa nk'iyo umuburanyi yayimenyeho. Iyo ibihe byo gutanga ibimenyetso bishya bisaba gusubirishamo urubanza ingingo nshya bitubahirijwe nk'uko itegeko ribiteganyaga, ikirego nticyakirwa – Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 171 niya 277. Incamake y' ikibazo: Uwitwa Majyambere Silas yareze Société d'Exploitation Agricole du Rwanda (EAR SARL) hamwe na Dunia Bakarani Faustin mu Rukiko Rukuru rw'Ubucuruzi asaba iseswa ry'amasezerano y'ubugure bw'ibibanza bibiri yabaye hagati ya Bemba SAOLONA (wari Perezida w'Inama y'ubutegetsi ya EAR SARL) yagurishije Dunia Bakarani Faustin avuga ko yakozwe mu buryo bunyuranyije n'amategeko. Majyambere Silas avuga ko sosiyete EAR SARL yashinzwe mu mwaka wa 1990, n'abitwa Bemba SAOLONA, Jean Pierre Bemba GOMBO, Mulumba LUKOJI, société SOGETTI SARL na Ngendahimana Ezéchiel wapfuye mu 1991. Inama idasanzwe ya EAR SARL yemeje ko

imigabane ya Ngendahimana Ezéchiél yeguriwe umunyamuryango Bemba SAOLONA wayisabye kubera ko Ngendahimana Ezéchiél yapfuye atarayishyura kandi abazungura be bakaba batarigeze bagaragaza ubushake bwo kuyizungura. Nyuma y'uko inama y'Umuryango wa Ngendahimana Ezéchiél yemeje ko Majyambere Silas azunguye imitungo, ndetse n'imyenda yose ya nyakwigendera, Majyambere Silas nk'umuzungura wa Ngendahimana Ezéchiél yatanze ikirego mu Rukiko Rukuru rw'Ubucuruzi asaba ko ubugure bw'ibibanza bibiri byavuzwe haruguru bukurwaho. Kayitana Imanzi Emmanuel nawe yagobotse muri urwo rubanza avuga ko ari umunyamuryango wa EAR SARL, asaba ko amasezerano y'ubugure bw'ibibanza byavuzwe haruguru yateshwa agaciro kuko bwakozwe mu rwego rwo kwigabiza umutungo wa EAR SARL kandi nk'umunyamuryango, akaba na Administrateur gérant wa EAR SARL, ubwo bugure butari gukorwa atabizi. Mu iburanisha ryabereye mu Rukiko Rukuru rw'Ubucuruzi, Dunia Bakarani Faustin yatanze inzitizi yo kutakira ikirego cya Majyambere Silas avuga ko adafite ububasha. Uru Rukiko rwanzura ko Majyambere Silas afite ububasha n'uburenganzira bwo gusaba iseswa ry'amasezerano y'ubugure avuga ko bwakozwe adahari, kandi ko nta buzime bw'ikirego bwabayeho hashingiwe ku kuba muri "procuration" yo ku wa 13/03/1990 Ngendahimana Ezéchiél yari yarasigiye umuvandimwe we Majyambere Silas ububasha busesuye ku mutungo we wose.

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Mu gihe urubanza rwari rutegereje kuburanishwa mu mizi, habaye ubwihane bw'umucamanza wari wafashemo icyemezo kibanzira ikindi, maze umucamanza nawe arwivanamo, hashyirwaho indi nteko, iyi nayo ifata icyemezo cyo kongera gutangira urubanza bundi bushya, maze mu mwaka wa 2012, icyemezo cyari cyafashwe, Inteko nshya ikigira impfabusa, hemezwa kutakira ikirego cya Majyambere Silas kuko atariwe muzungura wa Ngendahimana Ezéchiél, hemezwa kandi ko ukugoboka kwa Kayitana Imanzi Emmanuel nako kutakiriwe kuko ikirego kwari gushamikiyeho kitakiriwe. Majyambere Silas yajuririye Urukiko rw'Ikirenga avuga ko umucamanza wasuzumye urubanza mu Rukiko Rukuru rw'Ubucuruzi nta burenganzira yari afite bwo kuvanaho icyemezo cyari cyafashwe na mugenzi we cyo kwakira ikirego cye no kwemeza ko ari umuzungura wa Ngendahimana Ezéchiél, bityo ko asaba Urukiko kwemeza ko yari afite ububasha bwo kurega mu Rukiko Rukuru rw'Ubucuruzi. Urukiko rw'Ikirenga rwaciye urubanza rubanziriza urundi, rwemeza ko Majyambere Silas afite uburenganzira busesuye bwo kuburana imigabane nyakwigendera Ngendahimana Ezéchiél afite muri sosiyete EAR SARL. Mu mwaka wa 2015, Jean Pierre Bemba GOMBO nawe yagobotse ku bushake muri urwo rubanza, maze avuga ko ikirego cya Majyambere Silas kitagomba kwakirwa kubera kubura inyungu, anavuga ko mu gihe Urukiko rwabibona ukundi, rwakwemeza ko ubugure bw'ibibanza biherereye Remera II n'amasezerano y'ubwo bugure yaba yarabaye hagati ya EAR SARL na nyakwigendera Bemba SAOLONA na Dunia Bakarani Faustin atabayeho. Urukiko rusuzuma ibirebana n'inyungu Jean Pierre Bemba Gombo afite yo kugoboka muri urwo rubanza, n'ibirebana n'inyungu n'ububasha byo kurega Majyambere Silas yaba afite muri urwo rubanza, kuko nyakwigendera Ngendahimana Ezéchiél atari akiri umunyamigabane nkuko byazamuwe na Jean Pierre Bemba GOMBO, bikanagarukwaho na Dunia Bakarani Faustin mu iburanisha. Urukiko rwemeje mu rubanza rubanziriza urundi, ko mbere yo guca urubanza burundu, iburanisha rigomba kongera

gupfundurwa kugira ngo ababuranyi bazabanze bagire icyo bavuga ku nzitizi y'iburabubasha bwa Kayitana Imanzi Emmanuel. Jean Pierre Bemba GOMBO yatanze kirego kiregera ko inyandiko y'amasezerana y'ubugure bavuga yaba yarabaye hagati EAR SARL na Nyakwigendera Bemba SAOLONA na Dunia Bakarani Faustin ko ari amahimbano, maze rwemeza ko ikirego kigamije kuregera inyandiko ko ari impimbano kitakiriwe, runemeza ko Kayitana Imanzi Emmanuel afite ububasha bwo kuburana urwo rubanza. Mu Rukiko rw'Ikirenga Majyambere Silas yatanze ikirego gisaba gusobanura icyemezo cyafashwe n'uru Rukiko aho rwemeje ko afite uburenganzira busesuye bwo kuburana imigabane ya nyakwigendera Ngendahimana Ezéchiél yari afite muri sosiyete EAR SARL, kuko rwaje gufata ikindi cyemezo, rwemeza ko nta bubasha n'inyungu afite muri uru rubanza. Urukiko rw'Ikirenga rwasuzumye ikirego cya Majyambere Silas mu mwiherero, maze rwanzura ko akomeza kuba umuburanyi muri urwo rubanza.

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Nyuma yaho Urukiko rufatiye icyo cyemezo, uwari uhagarariye EAR SARL akanunganira Kayitana Imanzi Emmanuel yatanze ikirego cyo gukiranura imanza zivuguruzanya, avuga ko Ubwanditsi bw'uru Rukiko bwanze kucyakira, anakijuririyeye Perezida w'Urukiko rw'Ikirenga asanga kidafite ishingiro. Dunia Bakarani Faustin na Jean Pierre Bemba GOMBO basubirishijemo urubanza RCOMA 0115/12/CS ingingo nshya, ibirego byabo bihurizwa hamwe mu rubanza RS/REV/RCOM 00005/2017/SC, icyakora Urukiko mu gufata icyemezo rwemeza ko ibyo birego bitakiriwe kuko byatanzwe bikererewe. Dunia Bakarani Faustin yongeye gusubirishamo urubanza RCOMA 0115/12/CS ingingo nshya ashingiye ku nyandiko yanditswe na Kayitana Imanzi Emmanuel yiswe inyandiko yo kurangiza imanza hagati ye na Exploitation Agricole du Rwanda (EAR SARL). Ababuranyi basabye Urukiko kubaha igihe cy'ukwezi kugira ngo bagarageze inzira y'ubwumvikane mu gukemura ikibazo cyabo. Majyambere Silas yamenyesheje Urukiko ko ubwumvikane ku ruhande rw'uwo ahagarariye butakunze. Uhagarariye EAR Ltd na Dunia Barakani Faustin nabo bandikiye Urukiko bagaragaza ko ubwumvikane butakunze. Mu iburanisha, ababuranyi bagiye impaka ku nzitizi ijyanye no kumenya niba Dunia Bakarani Faustin yarubahirije ibihe byo gutanga ikirego cyo gusubirishamo urubanza ingingo nshya, maze Dunia avuga ko gushyira ikimenyetso muri sisitemu IECMS bitafatwa nko kumenyesha umuburanyi. Kayitana Imanzi Emmanuel hamwe na sosiyete EAR SARL bavuga ko ibivugwa na Dunia Bakarani Faustin ko inyandiko afata nk'ikimenyetso gishya cyatumye asubirishamo urubanza ingingo nshya yayimenye kuwa 28/12/2021, nyamara yarayimenye ku itariki ya 18/10/2021, bityo ko ikirego cyatanzwe kidakwiye kwakirwa kuko yagitanze akererewe kandi ibimenyetso yita bishya yabimenye mbere. Uhagarariye Dunia Bakarani Faustin nawe yiregura avuga ko asanga igihe cy'amezi 2 giteganywa n'itegeko kugira ngo umuburanyi atange ikirego gisubirishamo ingingo nshya cyari kitararangira kuko ikirego cyatanzwe ku wa 27/02/2022, ko ikimenyetso yakimenye ari uko akibonye mu rubanza RCOMA 00292/2021/HCC, aho cyashyizwe muri dosiye yarwo tariki 28/12/2021. Ku bijyanye n'ibivugwa ko iyo nyandiko yaba yarayimenye ku itariki ya 18/10/2021 ubwo yashyirwaga muri dosiye y'urubanza RCOMA 00436/2021/HCC, Dunia yiregura avuga ko ku wa 30/09/2020, mu rubanza RCOM 00482/2020/TC, Urukiko rw'Ubucuruzi rwemeje ko kugoboka ku bushake kwa Dunia kutemewe kuko nta nyungu afite

muri urwo rubanza, bityo ko icyo gihe atari akiri muri urwo rubanza, bityo kandi ko mu gihe uwatanze inzitizi atagaragaza ko Dunia yamenyeshejwe iyo nyandiko n'Umuhesha w'Inkiko, cyangwa hakoreshejwe iposita, cyangwa ubundi buryo buteganywa n'amategeko ku bijyanye no kumenyesha, ntaho Urukiko rwahera rwemeza ko atubahirije igihe cy'amezi abiri.

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Uhagarariye Dunia avuga kandi ko kugira ngo umuburanyi ahuzwe muri system agomba kugira ijambo ry'ibanga na username, aribwo umuburanyi abona ubutumwa kuri telefoni, n'aho ubundi abona message ya noreply, kandi ko n'ubwo yinjiye mu rubanza nyuma yo gushyiramo icyo kimenyetso, ariko ko atandukanye n'uwo ahagarariye. Incamake y' icyemezo: 1. Itariki inyandiko yiswe ikimenyetso gishya yarashyiriweho muri dosiye niyo ifatwa nk'iyi umuburanyi yayimenyeho. Iyo ibihe byo gutanga ibimenyetso bishya bisaba gusubirishamo urubanza ingingo nshya bitubahirijwe nk'uko itegeko ribiteganywa, ikirego nticyakirwa. 2. Inyandiko yashyizwe muri IECMS ikamenyeshwa abari mu rubanza (shared with public) ifatwa nk'iyamenyeshejwe abahujwe n'urwo rubanza mu buryo bwemewe n'amategeko. 3. Ubundi buryo bw'ihamagara byiyambazwa gusa mu gihe ihamagarwa rikozwe mu buryo bw'ikoranabuhanga ritashobotse. Nta mpamvu yatuma umuburanyi amenyeshwa n'Umuhesha w'Inkiko inyandiko yashyizwe muri IECMS cyangwa ngo inyuzwe mu iposita mu gihe yayimenyeshejwe mu buryo bw'ikoranabuhanga. Inzitizi ifite ishingiro. Amagarama aherereye ku wareze. Amategeko yashingiweho: Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 171 niya 277. Nta manza zifashishijwe. Urubanza I.IMITERERE Y'URUBANZA [1] Uru rubanza rwatangiriye mu Rukiko Rukuru rw'Ubucuruzi, Majyambere Silas arega Société d'Exploitation Agricole du Rwanda¹ (EAR SARL) na Dunia Bakarani Faustin, asaba iseswa ry'amasezerano y'ubugure bw'ibibanza bibiri bifite No 2974 na No 3518 yabaye hagati ya Bemba SAOLONA (wari Perezida w'Inama y'ubutegetsi ya EAR SARL) yagurishije Dunia Bakarani Faustin avuga ko yakozwe mu buryo bunyuranyije n'amategeko. [2] Asobanura ko sosiyete EAR SARL yashinzwe ku wa 28/09/1990, n'abitwa Bemba SAOLONA, Jean Pierre Bemba GOMBO, Mulumba LUKOJI, société SOGETTI SARL na Ngendahimana Ezéchiél wapfuye mu 1991. Ku wa 23/07/1993, inama idasanze ya EAR SARL yemeje ko imigabane ya Ngendahimana Ezéchiél yeguriwe umunyamuryango Bemba 1 Muri uru rubanza iyi sosiyete irakomeza kwandikwa mu mpine nka EAR SARL.

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SAOLONA wayisabye kubera ko Ngendahimana Ezéchiél yapfuye atarayishyura kandi abazungura be bakaba batarigeze bagaragaza ubushake bwo kuyizungura. [3] Nyuma y'uko inama y'Umuryango wa Ngendahimana Ezéchiél yemeje ko Majyambere Silas azunguye imitungo, ndetse n'imyenda yose ya nyakwigendera, Majyambere Silas nk'umuzungura wa Ngendahimana Ezéchiél yatanze ikirego mu Rukiko Rukuru rw'Ubucuruzi asaba ko ubugure bw'ibibanza bibiri byavuzwe haruguru bukurwaho, ikirego cyandikwa kuri RCOM 0010/10/HCC. Kayitana Imanzi Emmanuel nawe yagobotse muri urwo rubanza avuga ko ari umunyamuryango wa EAR SARL, asaba ko amasezerano y'ubugure bw'ibibanza byavuzwe haruguru yateshwa agaciro kuko

bwakozwe mu rwego rwo kwigabiza umutungo wa EAR SARL kandi nk'umunyamuryango, akaba na Administrateur gérant wa EAR SARL, ubwo bugure butari gukorwa atabizi. [4] Mu iburanisha ryabereye mu Rukiko Rukuru rw'Ubucuruzi, Dunia bakarani Faustin yatanze inzitizi yo kutakira ikirego cya Majyambere Silas kuko adafite ububasha. Nyuma yo kumva impande zombi, mu rubanza rubanziriza urundi, rushingiye ku ngingo ya 82, igika cya 2, y'Itegeko ryerekeye imicungire y'umutungo w'abashyingiranywe, impano n'izungura, rwanzura ko Majyambere Silas afite ububasha n'uburenganzira bwo gusaba iseswa ry'ubugure bwavuzwe haruguru kuko bwakozwe adahari, kandi ko nta buzime bw'ikirego bwabayeho hashingiwe ku kuba muri "procuration" yo ku wa 13/03/1990 Ngendahimana Ezéchiel yari yarasigiye umuvandimwe we Majyambere Silas ububasha busesuye ku mutungo we wose. [5] Mu gihe urubanza rwari rutegereje kuburanishwa mu mizi, habaye ubwihane bw'umucamanza wari wafashemo icyemezo kibanzira ikindi, maze umucamanza nawe arwivanamo, hashyirwaho indi nteko, iyi nayo ifata icyemezo cyo kongera gutangira urubanza bundi bushya, maze ku wa 08/06/2012, icyemezo cyari cyafashwe Inteko nshya ikigira impfabusa, hemezwa kutakira ikirego cya Majyambere Silas kuko atariwe muzungura wa Ngendahimana Ezéchiel, hemezwa kandi ko ukugoboka kwa Kayitana Imanzi Emmanuel nako kutakiriwe kuko ikirego kwari gushamikiyeho kitakiriwe. [6] Majyambere Silas yajuririyemo Urukiko rw'Ikirenga avuga ko umucamanza wa kabiri wasuzumye urubanza RCOM 0010/10/HCC mu Rukiko Rukuru rw'Ubucuruzi nta burenganzira yari afite bwo kuvanaho icyemezo cyari cyafashwe na mugenzi we cyo kwakira ikirego cye no kwemeza ko ari umuzungura wa Ngendahimana Ezéchiel, asaba Urukiko kwemeza ko yari afite ububasha bwo kurega mu Rukiko Rukuru rw'Ubucuruzi. [7] Urubanza rwaburanishijwe mu ruhamwe ku wa 14/04/2015, Me Buhuru Pierre Célestin wari uhagarariye Dunia Bakarani Faustin abyutsa inzitizi avuga ko Me Baragondoza Jean Damascène adakwiye guhagararira icyarimwe EAR SARL na Kayitana Imanzi Emmanuel, kuko yaba ahagarariye inyungu zitandukanye mu rubanza rumwe, Urukiko rufatira icyemezo mu ntebe, rwemeza ko nta "conflit d'intérêts" ihari, cyane ko itagaragajwe haba mu Rukiko rubanza no mu nama ntegura rubanza yabaye muri uru Rukiko. [8] Ku wa 22/05/2015, uru Rukiko rwaciye urubanza rubanziriza urundi, rwemeza ko Majyambere Silas afite uburenganzira busesuye bwo kuburana imigabane nyakwigendera Ngendahimana Ezéchiel afite muri sosiyete EAR SARL.

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[9] Ku wa 21/07/2015, Jean Pierre Bemba GOMBO yatanze ikirego cyo kugoboka ku bushake muri urwo rubanza, avuga ko ikirego cya Majyambere Silas kitagomba kwakirwa kubera kubura inyungu, anavuga ko mu gihe Urukiko rwabibona ukundi, rwakwemeza ko ubugure bw'ibibanza No 2974 na No 3518 biherereye Remera II n'amasezerano y'ubwo bugure yaba yarabaye hagati ya EAR SARL na nyakwigendera Bemba SAOLONA na Dunia Bakarani Faustin atabayeho. [10] Urubanza rwaburanishijwe mu ruhamwe ku wa 06/10/2015, Urukiko rusuzuma ibirebana n'inyungu Jean Pierre Bemba Gombo afite yo kugoboka muri urwo rubanza, n'ibirebana n'inyungu n'ububasha byo kurega Majyambere Silas yaba afite muri urwo rubanza, kuko nyakwigendera Ngendahimana Ezéchiel atari akiri umunyamigabane nkuko byazamuwe na Jean Pierre Bemba GOMBO mu myanzuro ye yo ku itariki ya

21/07/2015, bikanagarukwaho na Dunia Bakarani Faustin mu iburanisha. Rwasuzumye kandi ikibazo kijyanye n'inzitizi yatanze ku ruhande rwa EAR SARL na Kayitana Imanzi Emmanuel ijyanye no guhuza urwo rubanza n'urubanza RCOM 481/15/TC/NYGE rwari mu Rukiko rw'Ubucuruzi rwa Nyarugenge, kuko zifitanye isano. [11] Ku wa 27/11/2015, Urukiko rwemeje mu rubanza rubanziriza urundi, ko mbere yo guca urubanza burundu, iburanisha rigomba kongera gupfundurwa kugira ngo ababuranyi bazabanze bagire icyo bavuga ku nzitizi y'iburabubasha bwa Kayitana Imanzi Emmanuel yatanze na Me Buhuru Pierre Célestin, iburanisha ry'urubanza rishyirwa ku wa 19/01/2016; hagati aho abahagarariye Jean Pierre Bemba GOMBO batanze ikirego kiregera ko inyandiko ari impimbano, ko amasezerano y'ubugure bavuga yaba yarabaye hagati EAR SARL na Nyakwigendera Bemba SAOLONA na Dunia Bakarani Faustin ari amahimbano. [12] Ku wa 08/03/2016, urubanza rwaruburanishijwe ababuranyi bose bahari, Urukiko rusuzuma ikirego cya Jean Pierre Bemba GOMBO kiregera inyandiko mpimbano, maze ku wa 15/04/2016 mu rubanza rubanziriza urundi, rwemeza ko ikirego kigamije kuregera inyandiko ko ari impimbano kitakiriwe, runemeza ko Kayitana Imanzi Emmanuel afite ububasha bwo kuburana urwo rubanza. [13] Ku wa 21/6/2016, Urukiko rwaburanishije inzitizi irebana no guhuza urubanza RCOM 0481/15/TC/NYGE rwo mu Rukiko rw'Ubucuruzi rwa Nyarugenge n'urubanza RCOMA 0115/12/CS rwo mu Rukiko rw'Ikirenga, maze ku wa 29/07/2016, rwanzura ko ntaho rwahera ruhuza izo manza zombi kuko ababuranyi ndetse n'ikiburanwa atari bimwe, ko kandi izo manza zidahujwe nta ngaruka rumwe rwateza urundi. [14] Urubanza rwaburanishijwe mu ruhame ku wa 22/12/2016 rurapfundikirwa ababuranyi bamenyeshwa umunsi ruzasomerwaho. Ku wa 01/03/2017, Urukiko rwaciye urubanza rubanziriza urundi, rwemeza ko Majyambere Silas na Jean Pierre Bemba GOMBO nta bubasha n'inyungu bafite muri urwo rubanza. [15] Ku wa 15/03/2017 Me Munderere Léopold mu izina rya Majyambere Silas yatanze ikirego gisaba gusobanura icyemezo cyafashwe n'uru Rukiko ku wa 22/05/2015, aho rwemeje ko Majyambere Silas afite uburenganzira busesuye bwo kuburana imigabane ya nyakwigendera Ngendahimana Ezéchiel yari afite muri sosiyete EAR SARL, kuko rwaje gufata ikindi cyemezo ku wa 01/03/2017, rwemeza ko Majyambere Silas nta bubasha n'inyungu afite muri uru rubanza.

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Ku wa 21/03/2017, Urukiko rw'Ikirenga rwasuzumye icyo kirego cya Majyambere Silas mu mwiherero, maze ku wa 24/03/2017 rwanzura ko akomeza kuba umuburanyi muri urwo rubanza. [16] Nyuma yaho Urukiko rufatiye icyo cyemezo, Me Baragondoza Jean Damascène wari uhagarariye EAR SARL akanunganira Kayitana Imanzi Emmanuel yatanze ikirego cyo gukiranura imanza zivuguruzanya, ariko Ubwanditsi bw'uru Rukiko bwanga kucyakira, anakijuririyeye Perezida w'Urukiko rw'Ikirenga asanga kidafite ishingiro. [17] Mu rubanza RCA 0115/12/CS rwaciye ku wa 14/7/2017, ku kibazo kijyanye n'imizi y'urubanza, Urukiko rwasanze: i. icyemezo cy'Inama Rusange ya sosiyete EAR SARL yo ku wa 23/07/1993, cyaravanye Ngendahimana Ezéchiel mu banyamigabane ba EAR SARL kubera kutishyura imigabane yari yayifashemo, bityo ko Majyambere Silas adashobora kuzungura ibyo umuvandimwe we atari afite hashingiwe ku

ihame ry'uko ntawe utanga ibyo adafite (nul ne peut transférer plus de droits qu'il n'en a), bityo no gusaba ko amasezerano y'ubugure aseswa bikaba bitashoboka kuko ntaho ahurira n'umutungu wagurishijwe; ii. Ku bijyanye no kuba Me Munderere Léopold yaravugaga ko Majyambere Silas yari afite uburenganzira bwo gusaba iseswa ry'amasezerano y'ubugure, abishingiye ko umuvandimwe we Ngendahimana Ezéchiel yari umunyamigabane wa EAR SARL, Urukiko rwasanze nabyo nta shingiro byahabwa, kuko bigaragara muri dosiye ko abanyamigabane bayo bagaragazwa n'Igazeti ya Leta yasohotse ku wa 15/10/1993 ari abo mu mwaka wa 1990, mu gihe Ngendahimana Ezéchiel yavanywe muri EAR SARL n'Inama Rusange yabaye ku wa 23/07/1993, inyandikomvugo yayo igashyirwaho umukono na Noteri, bityo ko byumvikana ko ntaho Majyambere Silas yahera asaba iseswa ry'amasezerano yabaye hagati y'abantu bagurisha umutungu adafiteho uruhare; iii. Rwasanze kandi kuba Bemba SAOLONA yaragurishije umutungu wa sosiyete ari umwe kandi nta n'ububasha yahawe n'Inama y'Ubutegetsi, yaranyuranyije n'ibiteganywa n'ingingo ya 23 y'Amategako Shingiro ya EAR SARL, bityo ibisabwa na Kayitana Imanzi Emmanuel ko amasezerano y'ubugure bw'imitungo iburanwa yaseswa, bikaba bikwiye guhabwa agaciro kuko ariwe ubifitiye uburenganzira nk'uhagarariye Sosiyete; iv. Ku birebana n'inyandiko Kayitana Imanzi Emmanuel yanditse mu mwaka wa 2003 yemeza ko ibibanza no 2974 na no 3518 ari ibya Jean Pierre BEMBA GOMBO, ko imigabane yari yaramuhaye ku buntu muri sosiyete ingana na 40% ntacyo ayivugaho, ko n'ibibazo byabo bari bafite muri sosiyete birangiye, Urukiko rwasanze iyo nyandiko nta gaciro yahabwa kuko kuva muri sosiyete bikorwa hakurikijwe Amategako Shingiro yayo, hagakorwa Inama Rusange igakorerwa inyandiko mvugo igaragaza ko umunyamigabane wayo avanyweho; rwanzura ko ubujurire bwa Majyambere Silas ku bijyanye n'urubanza mu mizi nta shingiro bufite naho ubujurire bwatanzwe na Kayitana Imanzi Emmanuel bukaba bufite ishingiro, rwemeza ko amasezerano y'ubugure bw'ibibanza no 2974 na no 3518 biri i Remera II yo ku wa 04/05/2007 asheshwe, rutegeka Majyambere Silas na Dunia Bakarani Faustin gufatanya guha Kayitana Imanzi Emmanuel 1.000.000

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Frw y'igihembo cya Avoka ndetse no gufatanya kwishyura EAR SARL 1.000.000 Frw y'igihembo cya Avoka. [18] Dunia Bakarani Faustin na Jean Pierre Bemba GOMBO basubirishijemo urubanza RCOMA 0115/12/CS ingingo nshya, ibirego byabo bihurizwa hamwe mu rubanza RS/REV/RCOM 00005/2017/SC, icyakora Urukiko mu gufata icyemezo rwemeza ko ibyo birego bitakiriwe kuko byatanzwe bikererewe. [19] Ku wa 27/02/2022, Dunia Bakarani Faustin yongeye gusubirishamo urubanza RCOMA 0115/12/CS ingingo nshya ashingiyeye ku nyandiko yanditswe na Kayitana Imanzi Emmanuel yiswe inyandiko yo kurangiza imanza hagati ye na Exploitation Agricole du Rwanda (EAR SARL). [20] Ku wa 07/03/2022, Umwanditsi mu Rukiko rw'Ikirenga yafashe icyemezo No 0001/2022/COM/GCS, yemeza ko ikirego cyatanzwe na Dunia Bakarani Faustin kidakwiye kwandikwa mu bitabo by'ibirego by'Urukiko rw'Ikirenga kuko cyatanzwe gikererewe. Ku wa 08/03/2022, Dunia Bakarani Faustin yatakambiye Perezida w'Urukiko rw'Ikirenga asaba ko icyemezo cyafashwe n'Umwanditsi kivanwaho, maze mu cyemezo No 0004/2022 cyo ku wa 15/03/2022 yemeza ko icyemezo No 0001/2022/COM/GCS cyafashwe n'Umwanditsi w'Urukiko

rw'Ikirenga ku wa 07/03/2022 cyo kutakira ikirego cyo gusubirishamo ingingo nshya urubanza No RCA 0115/12/CS kivanyweho, anemeza ko cyandikwa mu bitabo by'ibirego by'Urukiko rw'Ikirenga. [21] Mu iburanisha rwo ku wa 13/09/2022, ababuranyi basabye Urukiko kubaha igihe cy'ukwezi kugira ngo bagerageze inzira y'ubwumvikane mu gukemura ikibazo cyabo, bakazamenyesha Ubwanditsi ikizavamo bitarenze ku wa 13/10/2022. [22] Ku wa 24/10/2022, Me Munderere Léopold, uhagarariye Majyambere Silas yamenyesheje Urukiko ko ubwumvikane ku ruhande rw'uwo ahagarariye butakunze. Ku wa 27/10/2022, Me Mhayimana Isaïe uhagarariye EAR Ltd na Me Buhuru Pierre Célestin uhagarariye Dunia Barakani Faustin nabo bandikiye Urukiko bagaragaza ko ubwumvikane butakunze. Urubanza rwahawe indi tariki y'iburanisha. [23] Urubanza rwaburanishijwe mu ruhame ku wa 28/03/2023, ababuranyi bose bitabye, Dunia Barakani Faustin ahagarariwe na Me Buhuru Pierre Célestin, Kayitana Imanzi Emmanuel ahagarariwe na Me Kayitare Serge, Majyambere Silas ahagarariwe na Me Munderere Léopold, Exploitation Agricole du Rwanda Ltd (EAR Ltd) ihagarariwe na Me Abijuru Emmanuel na Me Basominger Albert. [24] Mu iburanisha, ababuranyi bagiye impaka ku nzitizi ijyanye no kumenya niba Dunia Bakarani Faustin yarubahirije ibihe byo gutanga ikirego cyo gusubirishamo urubanza ingingo nshya, Me Buhuru Pierre Célestin avuga ko gushyira ikimenyetso mu rubanza ruburanwa muri sisitemu IECMS bitafatwa nko kumenyesha umuburanyi kuko itegeko riteganyanya uburyo imenyeshwa rikorwa, ko byasabaga ko nyir'urubanza akimenyeshwa n'Umuhesha w'Inkiko kandi ko uwagishyizemo atari agamije kukimenyesha uwo bireba kugira ngo azagikoreshe mu gusubirishamo urubanza ingingo nshya ahubwo yagishyizemo kubera urwo rubanza rwaburanwaga.

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[25] Me Abijuru Emmanuel na Me Kayitare Serge basobanura ko ikirego cyatanze na Dunia Bakarani Faustin kidakwiye kwakirwa kuko ibimenyetso yita bishya yabimenye mbere kuko n'uware umuhagarariye, ari we Me Buhuru Pierre Célestin yari ahujwe n'urubanza RCOMA 00292/2021/HCC ndetse n'urubanza RCOMA 00436/2021/HCC zashyizwemo ibyo bimenyetso, bakaba badashobora kwitwaza ko batamenye ibyo bimenyetso kuko uburyo bw'ikoranabuhanga ari bumwe mu buryo bwemewe bwo kumenyesha ababuranyi ibirebana n'urubanza, cyane ko hari ibindi bikorwa Me Buhuru Pierre Célestin yakoze mu rubanza RCOMA 00436/2021/HCC nyuma y'uko ibyo bimenyetso bishyizwemo.

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II. IBIBAZO BIGIZE URUBANZA N'ISESENGURWA RYACYO

- a. Ibijyanye n'inzitizi yatanze na Kayitana Imanzi EMMANUEL
- (i) Kumenya niba Dunia Bakarani Faustin yarubahirije igihe cy'amezi abiri cyo gusubirishamo urubanza ingingo nshya.

[26] Me Kayitare Jean Pierre uhagarariye Kayitana Imanzi Emmanuel, mu myanzuro ye no mu iburanisha avuga ko ibivugwa na Dunia Bakarani Faustin ko inyandiko afata nk'ikimenyetso gishya cyatumye asubirishamo urubanza ingingo nshya yayimenye ku wa 28/12/2021 ubwo yashyirwaga muri dosiye y'urubanza RCOMA 00292/2021/HCC nawe yaburanaga, nyamara yarayimenye ku itariki ya 18/10/2021 ubwo yashyirwaga muri dosiye y'urubanza RCOMA 00436/2021/HCC narwo yari ahujwe narwo kuko yarubayemo umuburanyi, bityo ko ikirego cyatanzwe kidakwiye kwakirwa kuko yagitanze akererewe. [27] Mu iburanisha, yongeraho ko ikoranabuhanga ari bumwe mu buryo bwemewe n'amategeko bwo kumenyesha ababuranyi mu gihe bahujwe n'urubanza. Asobanura kandi ko iyo hari inyandiko ishyizwe mu rubanza iba ireba nyiri urubanza, itaba ishyiriweho Avoka umuburanira, bikanumvikanisha ko umuburanyi atamenyeshwa ukwe ngo n'Avoka umuhagarariye amenyeshwe ukwe. Akomeza avuga ko kuba Me Buhuru Pierre Célestin atavuga ko yamenye ikimenyetso maze Dunia Bakarani Faustin ahagarariye ngo abe atarakimenye. [28] Me Abijuru Emmanuel uhagarariye EAR SARL avuga ko imiburanire ya Dunia Bakarani Faustin kuri iyi ngingo atari ukuri kuko inyandiko yita ikimenyetso gishya akizi guhera ku wa 18/10/2021 kuko aricyo gihe zashyizwe muri system IECMS nk'uko zigaragara kuri attachment ya 006 y'urubanza RCOMA 00436/2021/HCC yarimo umuburanyi ndetse n'umuhagarariye mu rwego rw'amategeko ariwe Me Buhuru Pierre Célestin akaba yarahujwe n'urwo rubanza; ibyo bikaba bisobanuye ko igihe ntarengwa cyo gutanga ikirego cyari itariki ya 17/12/2021; bityo ko kuba Dunia Bakarani Faustin yarareze ku wa 27/02/2022, ikirego cye cyatanzwe impitagihe kikaba kitagomba kwakirwa. [29] Mu iburanisha, yongeraho ko kuba Me Buhuru Pierre Célestin yiyemerera ko yamenye ibimenyetso bita bishya, ikibazo gisigaye ari ugusesengura amategeko aho avuga ko nta ngaruka byagombye kugira kuri Dunia Bakarani Faustin, ariko akaba asanga amatariki yabimenyeho ari nayo yafatwa ko Dunia Bakarani Faustin yamenyeho ibyo bimenyetso kuko guhera igihe umuburanyi ahereye Avoka urubanza rwe, aba akoze élection du domicile, aho yaba ari hose, ibyo Avoka we umuhagarariye yamenye bifatwa nk'aho n'umuburanyi yabimenye, ko atarenga ku buryo Urukiko rwashyizweho bwo gufasha ababuranyi bwa IECMS ngo avuge ko atabonye inyandiko zashyizwemo kandi ari muri urwo rubanza. [30] Me Buhuru Pierre Célestin uhagarariye Dunia Bakarani Faustin avuga ko ashingiye ku ngingo ya 171 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets, asanga igihe cy'amezi 2 giteganywa n'iyi ngingo kugira ngo umuburanyi atange ikirego gisubirishamo ingingo nshya

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cyari kitararangira kuko ikirego cyatanzwe ku wa 27/02/2022, ko icyo kimenyetso yakimenye ari uko akibonye mu rubanza RCOMA 00292/2021/HCC, aho cyashyizwe muri dosiye yarwo tariki 28/12/2021. [31] Ku bijyanye n'ibivugwa ko iyo nyandiko yaba yarayimenye ku itariki ya 18/10/2021 ubwo yashyirwaga muri dosiye y'urubanza RCOMA 00436/2021/HCC, Me Buhuru Pierre Célestin yiregura avuga ko ku wa 30/09/2020, mu rubanza RCOM 00482/2020/TC, Urukiko rw'Ubucuruzi rwemeje ko kugoboka ku bushake kwa Dunia Bakarani Faustin kutemewe kuko nta nyungu afite

muri urwo rubanza. Bikumvikanisha ko icyo gihe atari akiri muri urwo rubanza, bityo ko mu gihe uwatanze inzitizi atagaragaza ko Dunia Bakarani Faustin yamenyeshejwe iyo nyandiko n'Umuhesha w'Inkiko, cyangwa hakoreshejwe iposita, cyangwa ubundi buryo buteganywa n'amategako ku bijyanye no kumenyesha, ntaho Urukiko rwahera rwemeza ko atubahirije igihe cy'amezi abiri. [32] Mu iburanisha, Me Buhuru Pierre Célestin avuga ko icyo kimenyetso yakimenye mu rubanza RCOMA 00292/2021/HCC, ku itariki cyashyirwemo yo ku wa 18/10/2021, ariko abanza gufata igihe cyo kukiganiraho na DuniA Bakarani Faustin yari ahagarariye, ategereza ko amuha uburenganzira bwo kugishingiraho kugira ngo atange ikirego gishya gisaba gusubirishamo urubanza ingingo nshya kuko we igihe yakimenyeye gitandukanye n'icyo Dunia Bakarani Faustin yakimenyeye kubera ko atari ahujwe n'urubanza kandi ataba no mu Rwanda, bikaba bitari gushoboka ko ahita amubona ngo bakiganireho. [33] Me Buhuru Pierre Célestin asobanura ko kugira ngo umuburanyi ahuzwe muri system agomba kugira ijamba ry'ibanga na username, aribwo umuburanyi abona ubutumwa kuri telefoni, n'aho ubundi abona message ya noreply. Akomeza avuga ko n'ubwo yinjiye mu rubanza nyuma yo gushyiramo icyo kimenyetso, ariko ko atandukanye na Dunia Bakarani Faustin kandi ko nta kintu na kimwe yashoboraga gukora atamubajije kuko ububasha bw'Avoka butangana n'ubw'umuburanyi. [34] Me Munderere Léopold uhagarariye Majyambere Silas avuga ko ibihe byo kurega byubahirijwe kuko Dunia Bakarani Faustin yamenye ikimenyetso gishya ku wa 28/12/2021 ubwo cyashyirwaga muri system na Kayitana Imanzi Emmanuel mu rundi rubanza, kubera ko Kayitana Imanzi Emmanuel atabasha kwerekana ko yamumenyesheje icyo kimenyetso mbere y'iyi tariki. UKO URUKIKO RUBIBONA [35] Ingingo ya 171, igika cya mbere, y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'ibanza z'imbenezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, igira iti "Igihe ntarengwa cyo kuregera gusubirishamo urubanza ingingo nshya rwaciwe burundu ni amezi abiri (2) kuva igihe impamvu ituma urwo rubanza rusabirwa gusubirwamo yabonekeye." Naho ingingo ya 277 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 rimaze kuvugwa haruguru, ikagira iti "Ku bihe byagenwe mu mezi no mu mwaka, bibarwa kuva ku itariki ibanza kugeza ku munsu ubanziriza itariki ya nyuma igikorwa kigomba kurangiriraho." [36] Ingingo ya 39 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 rimaze kuvugwa haruguru, igira iti: "Thamagara rikorwa n'umwanditsi w'urukiko mu buryo bw'ikoranabuhanga kuri aderesi

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yatanzwe n'umuburanyi cyangwa iyo asanzwe abarizwaho. Iyo uburyo bw'ikoranabuhanga budashobotse, urwandiko ruhamagara rutangwa n'umuhesha w'inkiko rugahabwa umuburanyi ubwe, yabura rugashyirwa iwe mu rugo cyangwa mu icumbi rye, rugashyikirizwa umuntu uhaba ufite nibura imyaka cumi n'itandatu (16) y'amavuko. -Iyo kurushyikiriza uregwa ubwe cyangwa umuntu wavuzwe mu gika cya mbere cy'iyi ngingo binaniranye, urwandiko ruhamagara rushobora gusigirwa umukoresha we nawe akarumushyikiriza, umunyamabanga nshingwabikorwa ku rwego rw'Akagari, byananirana rugasigirwa umunyamabanga nshingwabikorwa w'Umurenge amaze gushyira umukono ku nyandiko y'umwimerere y'iryo hamagara. -Iyo abayobozi b'inzego z'ibanze bamaze gushyira umukono ku rwandiko ruhamagara, bageza kopi yarwo kuri nyir'uguhamagarwa kandi igasubizwa uwayibagejejeho. -Iyo uregwa

atagira aho atuye mu Rwanda hazwi, ariko aho aba hazwi, urwo rwandiko rushyirwa aho aba.” [37] Hashingiwe kuri iyi ngingo rero, inyandiko yashyizwe muri IECMS ikamenyeshwa abari mu rubanza (shared with public) ifatwa nk’iyamenyeshejwe abahujwe n’urwo rubanza mu buryo bwemewe n’amategeko. Ubundi buryo bw’ihamagara bukoreshwa gusa iyo ubw’ikoranabuhanga budashobotse. [38] Dosiye y’urubanza igaragaza ko Dunia Bakarani Faustin yatanze ikirego ku wa 27/02/2022 asaba gusubirishamo urubanza RCA 0115/12/CS rwaciwe n’Urukiko rw’Ikirenga ku wa 14/7/2017 ingingo nshya, avuga ko yamenye ikimenyetso gishya kigizwe n’inyandiko ya Kayitana Imanzi Emmanuel yise “Kurangiza burundu ibibazo by’imanza hagati ya Kayitana Imanzi Emmanuel, sosiyete EAR LTD – Bemba Gombo Jean Pierre n’abazungura ba Bemba Saolona” ku wa 28/12/2021 kuko aribwo cyashyizwe muri IECMS mu rubanza RCOMA 00292/2021/HCC nawe yarimo nk’umuburanyi. Ibyo akaba ari nabyo yagaragaje atakambira Perezida w’Urukiko rw’Ikirenga asaba ko icyemezo cyafashwe n’Umwanditsi cyo kutakira ikirego kivanwaho, akaba yaravugaga ko cyashingiye ku gihe inyandiko yashyiriweho umukono kandi atari bwo yayimenye kuko atari mu bayishyizeho umukono. [39] Iyo nyandiko avuga ariko nk’uko bivugwa n’abo baburana, ikaba igaragara no mu rubanza RCOMA 00436/2021/HCC, aho yashyizwe muri IECMS ku wa 18/10/2021, kandi n’ubwo Dunia Bakarani Faustin atemerewe kugoboka ku bushake mu rubanza RCOM 00842/2020/TC nk’uko bigaragara mu cyemezo cy’Urukiko rw’Ubucuruzi cyo ku wa 30/09/2020, we na Me Buhuru Pierre Célestin bakomeje kuba bahujwe narwo, ndetse no mu bujurire bwarwo, ni ukuvuga mu rubanza RCOMA 00436/2021/HCC, IECMS ikaba igaragaza ko bose bari bahujwe n’urwo rubanza. Ibyo bikaba bisobanura ko n’ibyakorwaga kuri urwo rubanza byose yaba Dunia Bakarani Faustin ndetse na Me Buhuru Pierre Célestin babibonaga. Ibimaze kuvugwa bishimangirwa kandi no kuba Me Buhuru Pierre Célestin yaremereye mu iburanisha ry’uru rubanza ko yabonaga ibyakozwe ku rubanza, ari nayo mpamvu ku wa 23/02/2022, yanditse mu rubanza RCOMA 00436/2021/HCC ahagenewe gutangirwa ibitekerezo (Comments) agira ati “Dunia Bakarani Faustin ntiyagize uruhari mu bwumvikane buvugwa bwabaye hagati y’abandi atahamagawe.” [40] Urukiko rurasanga rero nta mpamvu yari gutuma Dunia Bakarani Faustin amenyeshwa n’Umuhesha w’Inkiko inyandiko yashyizwe muri IECMS ku wa 18/10/2021 cyangwa ngo

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inyuzwe mu iposita nk’uko Me Buhuru Pierre Célestin abiburanisha, kuko yayimenyeshejwe mu buryo bw’ikoranabuhanga buteganywa n’ingingo ya 39 y’Itegeko N° 22/2018 ryo ku wa 30/04/2018 ryavuzwe haruguru. Byongeye kandi, nk’uko byasobanuwe haruguru mu gika cya 37, ubundi buryo bw’ihamagara byiyambazwa gusa mu gihe ihamagaraga rikozwe mu buryo bw’ikoranabuhanga ritashobotse. [41] Urukiko rurasanga na none kuba inyandiko Dunia Bakarani Faustin yita ikimenyetso gishya yarashyizwe muri dosiye tariki 18/10/2021, iyo tariki ariyo igomba gufatwa nk’iyo yayimenyeho. Bityo, igihe cy’amezi abiri cyo gusubirishamo urubanza ingingo nshya kivugwa mu ngingo ya 171 y’Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru kikaba cyararangiyeye tariki 17/12/2021, mu gihe Dunia Bakarani Faustin yatanze ikirego tariki 27/02/2022. [42] Urukiko rurasanga kandi ibyo Me Buhuru Pierre Célestin aburanisha ko atatanze ikirego gisubirishamo urubanza ku mpamvu z’akarengane kuko yabanje

gufata igihe cyo kukiganiraho na Dunia Bakarani Faustin kubera ko atashoboraga gutanga ikirego gisubirishamo urubanza ingingo nshya atabimuhereye uburenganzira, atari impamvu yatuma ikirego cyakirwa mu gihe Dunia Bakarani Faustin atubahirije ibihe by'amezi abiri biteganywa n'itegeko. [43] Ku bijyanye n'inyandiko y'ubwumvikane yakozwe ku wa 11/07/2021, igashyirwa muri dosiye y'urubanza RCOMA 00292/2021/HCC, Urukiko rurasanga kuba yarashyizwe muri urwo rubanza ku wa 14/09/2021, kandi Dunia Barakani Faustin yarahujwe narwo, bivuze ko nayo yayimenye iyo tariki yashyirwemo, akaba ataragombaga kurenza ku wa 13/11/2021 ataratanga ikirego. [44] Hashingiwe ku bisobanuro byatanze mu bika bibanziriza iki, Urukiko rurasanga ikirego cya Dunia Barakani Faustin uhagarariye na Me Buhuru Pierre Célestin gisaba gusubirishamo ingingo nshya urubanza RCA 0115/12/CS rwaciye n'Urukiko rw'Ikirenga ku wa 14/7/2017, kitagomba kwakirwa kuko atubahirije igihe giteganywa n'amategeko. (ii) Kumenya niba hari indishyi z'ikurikiranarubanza n'igihembo cya Avoka zatangwa muri uru rubanza. [45] Me Abijuru Emmanuel avuga ko muri iki kirego, EAR SARL yiyambaje Abavoka ngo bayifashe kurengera uburenganzira bwayo, bityo ko igomba guhabwa indishyi z'igihembo cya Avoka zingana na 3,000,000 Frw na 2,000,000 Frw y'ikurikirarubanza. [46] Me Kayitare Jean Pierre avuga ko uwo ahagarariye asaba igihembo cya Avoka kingana na 3.000.000 Frw, 2.000.000 Frw y'indishyi z'akababaro zo guhora asiragizwa mu manza na 1.000.000 Frw y'ikurikiranarubanza, ibyo akabishingira ku ngingo ya 111 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, akazishyurwa n'uzatsindwa urubanza. [47] Me Munderere Léopold avuga ko uwo ahagarariye asaba indishyi zingana na 3.000.000 Frw y'igihembo cya Avoka, 2.000.000Frw y'indishyi z'akababaro na 1.000.000Frw y'ikurikiranarubanza, ibyo akabishingira ku ngingo ya 111 y'Itegeko no 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, akazishyurwa n'uzatsindwa urubanza.

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[48] Me Buhuru Pierre Célestin avuga ko EAR SARL nta ndishyi ikwiye guhabwa muri uru rubanza kuko idahakana ko yari yaragurishije Dunia Bakarani Faustin ibibanza byaburanwaga mu rubanza rusubirishwamo ingingo nshya ku giciro kingana na 80.000USD kandi agaciro k'ibyo bibanza kakaba kariyongereye, bityo EAR SARL ikaba idakwiye kugira ibyo iryoza Dunia Bakarani Faustin kandi ariyo yafashe amafaranga y'ibibanza yaguze, ahubwo EAR SARL yasubiza uwo ahagarariye ibibanza bye cyangwa agaciro kabyo. [49] Akomeza avuga ko nta kimenyetso kigaragaza ko amafaranga Kayitana Imanzi Emmanuel na Majyambere Silas basaba bayashoye muri uru rubanza, kandi ko Kayitana Imanzi Emmanuel wari uhagarariye EAR SARL adashobora guhindukira ngo agire ibyo aryoza Dunia Bakarani Faustin mu gihe adahakana ko aribo bari baramugurishije, ntibanagaragaze amakosa yaba yarakoze abarega.

UKO URUKIKO RUBIBONA [50] Ingingo ya 111 y'Itegeko No 22/2018 ryo ku wa 29/04/2018, ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ko "ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikira ku kirego cy'iremezo kigamije kwishyura ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishirizwa rimwe n'ikirego cy'iremezo. Gishobora kandi kwakirwa

kikanaburanishwa n'iyi ikirego cy'iremezo cyaba kitakiriwe.” [51] Urukiko rurasanga, nk'uko biteganywa n'ingingo ya 111 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, amafaranga y'igihembo cya Avoka n'ay'ikurikiranarubanza Kayitana Imanzi Emmanuel, Majyambere Silas na EAR SARL basaba bagomba kuyahabwa kuko byabaye ngombwa gukurikirana urubanza bitewe no kuba Dunia Bakarani Faustin yatanze ikirego gisubirishamo urubanza ingingo nshya, bikaba ngombwa ko abo baburana bashaka abababuranira. icyakora kubera ko ayo basaba ari menshi, kandi bakaba batagaragaza ko ariyo koko yatanze kuri uru rubanza, mu bushishozi bw'Urukiko bakaba bagenewe buri wese 500.000 Frw y'igihembo cya Avoka na 300.000 Frw y'ikurikiranarubanza, yose hamwe akaba 800.000 Frw kuri buri wese, agatangwa na Dunia Bakarani Faustin. [52] Urukiko rusanga indishyi z'akababaro Kayitana Imanzi Emmanuel na Majyambere Silas basaba batagomba kuzihabwa kuko urubanza rutakiriwe.

III. ICYEMEZO CY'URUKIKO [53] Rwemeje ko inzitizi yatanze na Kayitana Imanzi Emmanuel ifite ishingiro. [54] Rwemeje ko ikirego cyatanze na Dunia Barakani Faustin cyo gusubirishamo ingingo nshya urubanza RCA 0115/12/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 14/7/2017 kitakiriwe ngo gisuzumwe.

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[55] Rutegetse Dunia Bakarani Faustin guha EAR SARL, Kayitana Imanzi Emmanuel na Majyambere Silas amafaranga y'igihembo cy'Avoka n'ay'ikurikiranarubanza angana na 800.000 kuri buri wese.

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