

RWANDA / JUDGMENT

# ECOBANK Ltd v. NDAYAMBAJE

RCOMA 0044/12/CS

## COURT

Supreme Court

## DECIDED

7 November 2014

## CASE / FILE NUMBER

RCOMA 0044/12/CS

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

## ECOBANK Ltd v. NDAYAMBAJE

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2014-11-07
- Case/document no.: RCOMA 0044/12/CS
- Collection: Supreme Court

### Text

#### Page 1

ECOBANK Ltd v. NDAYAMBAJE [Rwanda URUKIKO RW'IKIRENGA – RCOMA 0044/12/CS (Mugenzi, P.J., Kayitesi na Munyangeri, J.) 07 Ugushyingo 2014] Amategeko agenga amasezerano – Amasezerano y'inguzanyo – Inyungu z'ubukererwe – Kuba uwahawe inguzanyo asaba gusonerwa indishyi kubera ko Banki itahise igurisha ingwate yahawe igihe cyo kwishyura kirangiye – Igihe ntahagaragara ko Banki yasoneye uwatse inguzanyo umwenda cyangwa nyungu zawo nyuma y'igihe ntaregwa cyo kwishyura hanyuma bikagaragara ko uwatse inguzanyo ariwe wishe amasezerano bagiranye bituma ntaho yahera asaba gusonerwa inyungu. Incamake y'ikibazo: ECOBANK Ltd yahaye Ndayambaje inguzanyo maze nawe atanga ingwate y'inzu afite i Musanze. Hagati aho amasezerano ntiyubahirijwe nk'uko impande zombi zari zabyumvikanyeho bituma Ndayambaje avuga ko yasabye ECOBANK Ltd ko yagurisha ingwate yayihaye ikabyanga kugira ngo inyungu zikomeze kwiyongera. Ndayambaje yaregeye Urukiko Rukuru rw'ubucuruzi asaba ko ECOBANK Ltd yakubahiriza amasezerano impande zombi zagiranye ikagurisha ingwate yahawe aho gutegereza ko inyungu zakomeza kwiyongera. Urwo Rukiko rwategetse ko guhera itariki inguzanyo yagomba kurangirira kwishyurwaho nta zindi nyungu zigomba kubarwa ko kandi nubwo ntaho byanditse mu masezerano ko uwagurijwe natishyura ingwate yatanze

izagurishwa iyo ngwate yagombaga ku gurishwa kuko ariko kamaro kayo. Rukomeza ruvuga ko kuba ECOBANK Ltd yarahaye Ndayambaje integuza nyuma y'umwaka ari uburangare yagize ku buryo itabyitwaza ngo yake inyungu itasabye mu gihe yari bifitiye uburenganzira ku bw'amategeko ntibikore. ECOBANK Ltd yajuririye urubanza mu Rukiko rw'Ikirenga avuga ko Urukiko rwahinduye amasezerano yari ifitanye na Ndayambaje maze rwanga gutanga inyungu z'ubukererwe kandi zari ziteganyijwe mu masezerano bagiranye, ndetse ko rwemeje ko inyungu zidakomeza kubarwa rwitaje ko itahise yishyura kandi aruko yashakaga ko yakwishyura ku ineza ikindi kandi rwanirengagije ko kugurisha ingwate hari inzira nyinshi binyuramo bityo rero Ndayambaje akaba atagendera ku amakosa ye ngo asabe guhagarika kubarwa kw'indishyi. ECOBANK Ltd isoza isaba ko Urukiko rwategeka Ndayambaje ko yayishyura umwenda wose n'inyungu zawo hamwe n'amafaranga y'ikurikiranarubanza n'igimbo cy'Avoka. Ndayambaje yiregura avuga ko ECOBANK Ltd iterekana aho umucamanza yafashe icyemezo gihindura amasezerano, ko ahubwo umucamanza yubahirije ibyo ababuranyi bumvikanyeho, hakaba nta na hamwe mu masezerano hateganyijwe ko inyungu zizakomeza kubarwa na nyuma y'uko itariki ya nyuma yo kwishyuriraho irangiye;

## Page 2

Yongeraho ko kumara imyaka ibiri itishyuje no kuba batarahise bakora ibikenewe kugira ngo ingwate igurishwe bagategereza icyo gihe cyose kugira ngo inyungu zigumye ziyongere bashaka kuzegukana inzu ye bitwaje ko bakomeje kubara inyungu z'ubukererwe n'izisanzwe. Incamake y'icyemezo: Igihe ntahagaragara ko Banki yasoneye umwenda cyangwa inyungu zawo nyuma y'igihe ntaregwa cyo kwishyura bikagaragara ko uwatse inguzanyo ariwe wishe amasezerano bagiranye bituma ntaho yahera asaba gusonerwa inyungu kandi azi neza ko izo nyungu arizo iba itegereje ku amafaranga ibikiye abakiraya bayo. Bityo rero izo inyungu zigomba gukomeza kubarwa na nyuma y'itariki yo kurangiza kwishyuriraho umwenda kuko Ndayambaje yari atarishyura umwenda yahawe. Ubujurire bufite ishingiro. Amagarama y'urubanza aherereye kuri Ndayambaje. Nta amategeko yashingiweho. Nta manza zifashishijwe. Urubanza I. IMITERERE Y'URUBANZA. [1] Kuwa 20/08/2008 ECOBANK Ltd yahaye Ndayambaje Emmanuel inguzanyo ya 45.000.000 frw yagombaga kurangiza kwishyurwa bitarenze kuwa 30/06/2009, Ndayambaje atanga ingwate y'inzu iri i Musanze ifite agaciro ka 70.344.200 frw. Ishyirwa mu bikorwa ry'aya masezerano ntiryakozwe nk'uko impande zombi zari zabyumvikanyeho, Ndayambaje akavuga ko yasabye ECOBANK Ltd ngo igurishe ingwate yahawe ikabyanga ikarindira kugira ngo inyungu zikomeze zibarwe. [2] Ndayambaje yaregeye Urukiko Rukuru rw'Ubucuruzi asaba ko rwategeka ECOBANK Ltd kubahiriza amasezerano impande zombi zagiranye ikagurisha ingwate yahawe aho gutegereza kugira ngo inyungu zikomeze zibarwe. Urukiko Rukuru rw'Ubucuruzi rwaciye urubanza rwemeza ko ikirego cya Ndayambaje gifite ishingiro, rutegeka ko guhera kuwa 30/06/2009 itariki Ndayambaje yagombaga kurangirizaho kwishyura nta zindi nyungu zigomba kubarwa. [3] Urukiko Rukuru rw'Ubucuruzi rwavuze ko n'ubwo bitanditse mu masezerano y'inguzanyo ko ingwate itanzwe n'ugurijwe izagurishwa natishyura, ingwate yagombaga kugurishwa kuko ariko kamaro kayo.

## Page 3

[4] Rwanavuze ko kuba umwenda waragombaga kurangira kwishyurwa kuwa 30/06/2009 ECOBANK Ltd igaha Ndayambaje integuza nyuma y'umwaka yagize uburangare idashobora kwitwaza ngo yake inyungu itasabye mu gihe yari ibifitiye uburenganzira ku bw'amategeko ntibikore. [5] Urukiko rwasanze kandi kuvuga ko gutinda kwishyura Ndayambaje byatewe nuko ECOBANK Ltd yari ikigoragoza kugira ngo irebe ko yakwishyura neza nta shingiro bifite kuko nta bimenyetso yabitangiye, n'ibaruwa ECOBANK Ltd ivuga ko Ndayambaje yayandikiye kuwa 17/06/2011 asaba guhindurirwa uburyo bwo kwishyura ntayo ECOBANK Ltd yagaragarije Urukiko, uretse kubivuga gusa. [6] ECOBANK Ltd yajuririye urubanza mu Rukiko rw'Ikirenga ivuga ko urukiko rubanza rwahagaritse kubara inyungu z'ubukererwe kandi zari ziteganyijwe mu masezerano y'inguzanyo Banki yagiranye na Ndayambaje. [7] Urubanza rwaburanishijwe mu ruhamwe kuwa 03/06/2014 ECOBANK Ltd iburanirwa na Me Rusanganwa Jan Bosco, Ndayambaje aburanirwa na Me Nizeyimana Léopold, urukiko rwemeza mu rubanza rubanziriza urundi ko mbere yo guca urubanza burundu, iburanisha rizongera gufungurwa kuwa 30/09/2014 ECOBANK Ltd ikagaragaza uburyo yabaze inyungu yishyura. Kuri iyo tariki urubanza rwongeye kuburanishwa mu ruhamwe na none ECOBANK Ltd iburanirwa na Me Rusanganwa Jean Bosco, Ndayambaje aburanirwa na Me Nizeyimana Léopold. II. IKIBAZO KIGIZE URUBANZA N'ISESENGURA RYACYO Kumenya niba ECOBANK Ltd yaragombaga guhagarika kubara inyungu, kubera ko yategereje imyaka ibiri itagurishije ingwate yahawe [8] Me Rusanganwa Jean Bosco uburanira ECOBANK Ltd avuga ko Urukiko Rukuru rw'Ubucuruzi rwahinduye amasezerano ECOBANK Ltd yagiranye na Ndayambaje rwanga gutanga inyungu z'ubukererwe kandi ziteganyijwe muri ayo masezerano Ndayambaje atigeze yubahiriza ngo yishyure, izo nyungu zikaba zari gushingira kuri ubwo bukererwe, no ku burangare bwa Ndayambaje wananiwe kwishyura. [9] Avuga ko, kuba umucamanza yaranze kubara inyungu yitwaje ko ECOBANK Ltd itahise yishyura nyamara mu masezerano nta hantu hateganyijwe ko kuwa 30/06/2009 inyungu zizahagarara, ahubwo kuri iyi tariki akaba aribwo yagombaga kuba yarangije kwishyura, ECOBANK Ltd ikaba yarerekanye ko kuba itarahise igurisha ingwate nta tegeko yishe kubera ko yashakaga ko yishyura ku neza. [10] Avuga kandi ko, Urukiko mu kwemeza ko inyungu zidakomeza kubarwa ngo kubera ko ingwate itahise igurishwa rwirengagije ko hari inzira nyinshi binyuramo kugira ngo igurishwe

## Page 4

kandi bigatinda, Ndayambaje akaba ataragombaga kwuririra ku makosa ye ngo asabe ko inyungu zihagarara kubarwa. [11] Asoza asaba ko Ndayambaje yategekwe kwishyura umwenda wose n'inyungu hamwe na 1.000.000 frw y'ikurikirana rubanza harimo n'igihembo cya avoka mu nkiko zombi. [12] Me Nizeyimana Léopold uburanira Ndayambaje avuga ko ECOBANK Ltd iterekana aho umucamanza yafashe icyemezo gihindura amasezerano, ko ahubwo umucamanza yubahirije ibyo ababuranyi bumvikanyeho, hakaba nta na hamwe mu masezerano hateganyijwe ko inyungu zizakomeza kubarwa na nyuma y'uko itariki ya nyuma yo kwishyuriraho irangiye. [13] Avuga ko ECOBANK Ltd yagize uburangare bugaragaraira mu kumara imyaka ibiri itishyuje no kuba

batarahise bakora ibikenewe kugira ngo ingwate igurishwe bagategereza icyo gihe cyose kugira ngo inyungu zigumye ziyongere, maze inzu yose ifite agaciro ka 70.344.200 frw bazayegukane bitwaje ko bakomeje kubara inyungu z'ubukererwe n'izisanzwe. [14] Akomeza avuga ko Ndayambaje yatunguwe no kubona ibaruwa y'integuza nyuma y'imyaka ibiri kandi inyungu zikomeza kubarwa, ECOBANK Ltd ntinahite itanga ikirego ahubwo we akagitanga nyuma y'amezi atatu abona ikomeje kubara inyungu, akarega asaba kubahiriza amasezerano hakaba nta makosa ye yuririyeho nk'uko ECOBANK Ltd ibivuga. UKO URUKIKO RUBIBONA [15] Amasezerano ECOBANK na Ndayambaje bagiranye kuwa 20/08/2008 ateganya ko Ndayambaje ahawe umwenda wa 45.000.000 frw uzishyurwa bitarenze itariki ya 30/06/2009. [16] Bigaragarira uru Rukiko ariko ko kugeza kuri iyo tariki ya 30/06/2009, ndetse na nyuma yayo, Ndayambaje atishyuye umwenda wa Banki, bituma nyuma yo kumugoragoza Banki yaramuhaye integuza imumenyesha ko natishyura izashyira mu bikorwa ibyo amasezerano bagiranye ateganya. [17] Urukiko rurasanga, imyiregurire ya Ndayambaje ntaho igaragaza ko Banki yaba yaramusoneye kwishyura umwenda cyangwa inyungu zawo nyuma y'igihe ntarengwa cyo kwishyura kuwa 30/06/2009, akaba ahubwo ari we wishe amasezerano, akaba rero atahera ku makosa ye ngo asabe gusonerwa inyungu, kandi azi neza ko izo nyungu ari zo nayo iba itegereje ku mafaranga ibikiye abakiriya bayo. [18] Hashingiwe ku bisobanuro bitanzwe haruguru, Urukiko rusanga rero inyungu zigomba gukomeza kubarwa na nyuma y'itariki ya 30/06/2009 kuko umwenda Ndayambaje yahawe wari utarishyurwa, izo nyungu zikaba zikwiye kubarwa mu buryo ECOBANK Ltd yagaragaje mu nyandiko yanditse kuwa 10/09/2014 yashyikirije urukiko kuwa 16/09/2014 yise ``historique de compte``, statement of account, loan recalculation sheet na summary of account statement

## Page 5

Ndayambaje atavugurujwe ibarwa ryazo, umwenda wose ugomba kwishyurwa ukaba ari 123.480.096 frw. [19] Urukiko rurasanga, amafaranga y'ikurikinarubanza n'igihembo cya avoka angana na 1.000.000 frw ECOBANK Ltd isaba ku nzego zombi ikwiye kuyagenerwa mu bushishozi bw'urukiko kuko byatumye yiyambaza avoka wayiburaniye ikaba igomba kumuhemba, naho izo NDAYAMBAJE yasabye zikaba nta shingiro zifite kuko atsinzwe. III. ICYEMEZO CY'URUKIKO [20] RWEMEJE ko ubujurire bwa ECOBANK Ltd bufite ishingiro; [21] RWEMEJE ko urubanza rwajuriwe ruhindutse; [22] RUTEGETSE Ndayambaje Emmanuel kwishyura ECOBANK Ltd 123.480.096 frw + 1.000.000 frw = 124.480.096 frw; [23] RUMUTEGETSE kwishyura amagarama y'urubanza.

---

## 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/7346/7625>

**CASE PAGE**              <https://chat.esheria.ai/case-law/rwanda/ecobank-ltd-v-ndayambaje-emmanuel-loanagreements-supreme-court-2014>

Prepared on 9 October 2026 · Esheria