

RWANDA / JUDGMENT

HUANG ZHONGKA VS UNION STONE LTD

RCOM00002/2025/CA

COURT

Court of Appeal

DECIDED

18 July 2025

CASE / FILE NUMBER

RCOM00002/2025/CA

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

HUANG ZHONGKA VS UNION STONE LTD

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2025-07-18
- Case/document no.: RCOM00002/2025/CA
- Collection: Court of Appeal

Text

Page 1

HUANG ZHONGKA VS UNION STONE LTD [Rwanda URUKIKO RW'UBUJURIRE – RCOM00002/2025/CA (Kamere, P.J.) 18 Nyakanga 2025] Amategeko yerekeye imiburashirize y'imanza Mboneyamubano – Ikirego kihutirwa – Ikirego kihutirwa cyamaze gufatwaho umwanzuro ndakuka – Ikirego kihutirwa cyamaze gufatwaho umwanzuro ndakuka mu bujurire nticyakongera kuregerwa ngo kinafatweho umwanzuro mu rukiko ruburanisha ikirego cyo mu mizi kigeze mu bujurire bwa kabiri kuko hashobora gufatwamo icyemezo kivuguruzanya n'icyambere bigatuma havuka ibindi birego byo kuvuguruzanya kw'imanza. Incamake y'ikibazo: Uru rubanza rwatangiye Huang Zhongkai arega Union Stone Ltd mu rukiko rw'Ubucuruzi ashingiye ku masezerano y'imikoranire bari bafitanye cyandikwa kuri RCOM01279/2023/TC ariko anatanga ikirego kihutirwa gisaba Urukiko gushinganisha imashini zo gusya no gutunganya amabuye ya concassée zishinze mu ruganda rwa Union Stone Ltd ngo hakumirwe ko zigurigiswa, zitangwaho ingwate, zigurishwa cyangwa gukomeza gukoreshwa mu gihe cyose urubanza rw'iremezo mu mizi rutaracibwa burundu, kuko zakwangirika cyangwa zigasaza. Urukiko mu rubanza RCOM01253/2023/TC, rwemeje ko ikirego cyihutirwa cya Huang Zhongkai kitakwagirwa ngo gisuzumwe mu mizi kubera ko nta mpamvu z'ubwihutirwe zihari. Huang Zhongkai yajuririye

urwo rubanza mu Rukiko Rukuru rw'Ubucuruzi, Narwo mu rubanza RCOMA00439/2023/HCC, rwemeza ko ikirego cyihutirwa cyagombaga kwakirwa, rutegeka ko gisubizwa kuburanishwa mu mizi yacyo mu Rukiko rw'Ubucuruzi. Urukiko rw'Ubucuruzi rwaciye urubanza RCOM01711/2023/TC, rwemeza ko ikirego cya Zhongkai Huang nta shingiro gifite. Zhongkai Huang yongeye kurujuririra mu Rukiko Rukuru rw'Ubucuruzi. Urukiko mu rubanza RCOMA00550/2023/HCC rwemeje ko ubujurire bwatanzwe na Zhongkai Huang bufite ishingiro kuri bimwe, rwemeza ko imashini zo gusya no gutunganya amabuye ya concassée zishinze mu ruganda rwa Union Stone Ltd zikomeza gukoreshwa kugeza urubanza mu mizi ruciwe burundu, rutegeka ariko ko izo mashini zaregewe zishinganishijwe. Huang Zhongkai yatanze ikirego cyihutirwa mu Rukiko rw'Ubujurire gishamikiye ku rubanza RCOMAA00023/2025/CA - CMB RCOMAA00024/2025/CA gisaba kwambura Union Stone Ltd imashini yashinganishijwe kuko ziri gukoreshwa n'indi sosiyete yitwa Union Venture Ltd kandi binyuranyije n'icyemezo cyafashwe mu rubanza RCOMA00550/2023/HCC, maze zigashinganishwa by'agateganyo mu maboko ye. Union Stone Ltd ivuga Urukiko rw'Ubujurire rudafite ububasha bwo kuburanisha ikirego cyihutirwa cyane cyane ko urega adatanga ingingo y'Itegeko yashingiyeho atanga ikirego cyihutirwa ku rwego rwa mbere mu Rukiko rw'Ubujurire. Ivuga kandi ko ibyo Huang Zhongkai asaba nta bwihutire burimo. Urukiko mu rubanza RCOM00002/2025/CA rwemeje ko rufite ububasha bwo kuburanisha ikirego kihutirwa kuko gifite aho gihuriye n'ikirego cyo mizi cyanditse kuri RCOMAA00023/2025/CA - CMB RCOMAA00024/2025/CA haburana n'ubundi abababurana mu kirego kihutirwa. Urukiko rugisuzumye rusanga nta shingiro gifite kuko cyamaze gufatwaho umwazuro mu buryo ndakuka mu Rukiko Rukuru rw'ubucuruzi. Incamake y'icyemezo:1. Ikirego ihutirwa igihe cyose gifite ikirego cy'iremezo gishamikiyeho cyakwakirwa n'Urukiko.

2. Ikirego kihutirwa cyamaze gufatwaho umwanzuro ndakuka mu bujurire nticyakongera kuregerwa ngo kinafatweho umwanzuro mu rukiko ruburanisha ikirego cyo mu mizi kigeze mu bujurire bwa kabiri kuko

Page 2

hashobora gufatwamo icyemezo kivuguruzanya n'icyambere bigatuma havuka ibindi birego byo kuvuguruzanya kw'imanza.

Ikirego kihutirwa nta shingiro gifite. Amategeko yashingiyeho: 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 14, 185 Imanza zifashishijwe: Urubanza RCOM 00001/2024/CA rwaciye ku wa 21/06/2024 ya NFCS Ltd NEXTGEN DEVELOPERS Ltd na Gasirikare Evariste. Urubanza. I. IMITERERE Y'URUBANZA [1] Huang Zhongkai na Union Stone Ltd bagiranye amasezerano y'imikoranire yaje kuzamo impaka mu ishyirwa mu bikorwa ryayo, bituma Huang Zhongkai atanga mu Rukiko rw'Ubucuruzi ikirego cy'iremezo mu rubanza RCOM01279/2023/TC rwaciye ku wa 10/11/2023, ariko anatanga ikirego cyihutirwa kirushamikiyeho cyanditswe kuri RCOM01253/2023/TC kigamije gusaba Urukiko gushinganisha imashini zo gusya no gutunganya amabuye ya concassée zishinze mu ruganda rwa Union Stone Ltd ngo hakumirwe kurigiswa kwazo, gutangwaho ingwate, kugurishwa cyangwa gukomeza gukoreshwa, kandi byazitara

kwangirika no gusaza, mu gihe cyose urubanza rw'iremezo mu mizi rutarazifataho icyemezo cya burundu . [2] Ku wa 12/09/2023, Urukiko rw'Ubucuruzi rwaciye urubanza RCOM 01253/2023/TC, rwemeza ko ikirego cyihutirwa cya Huang Zhongkai kitakwagirwa ngo gisuzumwe mu mizi kubera ko nta mpamvu z'ubwihutire zihari. [3] Huang Zhongkai yajuririye urwo rubanza mu Rukiko Rukuru rw'Ubucuruzi. Ku wa 31/10/2023, urwo Rukiko ruca urubanza RCOMA00439/2023/HCC, rwemeza ko ikirego cyihutirwa cyatanze na Zhongkai Huang gisubizwa kuburanishwa mu mizi yacyo mu Rukiko rw'Ubucuruzi, nta yindi ngwate y'amagarama itanzwe. [4] Ku wa 10/11/2023, Urukiko rw'Ubucuruzi rwaciye urubanza RCOM01711/2023/TC, rwemeza ko ikirego cya Zhongkai Huang nta shingiro gifite, ko nta ndishyi zitanze muri uru rubanza ku kirego cyihutirwa, rutegeka ko amafaranga 20.000 Frw Zhongkai Huang yatanzeho ingwate y'amagarama ahwanye n'ibyakozwe byose mu rubanza. [5] Urwo rubanza Zhongkai Huang yongeye kurujuririra, ubujurire mu Rukiko Rukuru rw'Ubucuruzi bwandikwa kuri RCOMA 00550/2023/HCC. Mu kuruca ku wa 06/12/2023 Urukiko rwemeza ko ubujurire bwatanze na Zhongkai Huang bufite ishingiro kuri bimwe, ko imikirize y'urubanza RCOM01711/2023/TC rwaciye n'Urukiko rw'Ubucuruzi ihindutse kuri bimwe; rwemeza ko ibyo Huang Zhongkai yasabye ko imashini zo gusya no gutunganya amabuye ya concassée zishinze mu ruganda rwa Union Stone Ltd zitakomeza gukoreshwa kugeza urubanza mu mizi ruzifasheho icyemezo cya burundu, nta shingiro bifite; rutegeka ko imashini zaregwe zisya, zitunganya amabuye ya concassée zishinze mu ruganda rwa Union Stone Ltd zishinganishijwe. Izo mashini zaregwe zikaba zidakwiye kugurishwa, gutangwaho ingwate, gukodeshwa no gutizwa mbere y'uko urubanza rw'iremezo rucibwa ; rutegeka kandi

Page 3

Union Stone Ltd gusubiza Zhongkai Huang 20.000Frw y'ingwate y'amagarama yatanze ajurira, andi 20.000Frw akirengerwa na Zhongkai Huang. [6] Ku wa 12/05/2025, Huang Zhongkai ashingiye ku biteganywa n'ingingo ya 185 No 22/2018 ryo ku wa 29/04/2018 y'Itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi1, yatanze ikirego cyihutirwa mu Rukiko rw'Ubujurire gishamikiye ku rubanza RCOMAA00023/2025/CA - CMB RCOMAA00024/2025/CA gisaba kwambura Union Stone Ltd imashini yashinganishijwe zikora concassée kubera ko zirimo gukoreshwa n'indi sosiyete yitwa Union Venture Ltd kandi binyuranyije n'icyemezo cyafashwe mu rubanza RCOMA00550/2023/HCC, maze zigashinganishwa by'agateganyo mu maboko ye. [7] Union Stone Ltd ishingiye ku ngingo ya 52 y'Itegeko N°30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, yatanze inzitizi y'iburabubasha bw'Urukiko rw'Ubujurire, uyihagarariye avuga ko mu bubasha bwahariwe Urukiko rw'Ubujurire hatarimo ubwo kuburanisha imanza ku rwego rwa mbere, ko ahubwo imanza uru Rukiko ruburanisha ziba zigomba kuba zigeze ku rwego rw'ubujurire kandi imanza ruciye zikaba zitajuririrwa, bityo ko Urukiko rw'Ubujurire rudafite ububasha bwo kuburanisha iki kirego cyihutirwa cyane cyane ko Huang Zhongkai nta ngingo y'Itegeko anagaragaza yashingiyeho atanga iki kirego cyihutirwa ku rwego rwa mbere mu Rukiko rw'Ubujurire. [8] Union Stone Ltd ivuga kandi ko ibyo Huang Zhongkai asaba nta bwihutire burimo kuko ntacyo bigiye kwangiza gikabije ku buryo Urukiko rukwiye kubifataho icyemezo mu buryo bwihuse. [9] Ivuga kandi ko ngo mu rwego rwo gutanga

ubutabera buboneye, utsinzwe urubanza ku kirego cyihutirwa yemererwa kurujuririra mu Rukiko rwisumbuyeho ku rwacye urubanza nk'uko biteganywa n'ingingo ya 188 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ariko ko kubera ko imanza ziciwe n'Urukiko rw'Ubujurire zitajuririrwa abona hadakwiye gutangwa ibirego ku rwego rwa mbere muri rusange muri urwo rukiko, kuko utsinzwe urubanza atabona ubutabera buboneye ngo abe yakwiyambaza inzira yo kujurira. Uyiagarariye asaba Urukiko kutakira iki kirego cyihutirwa cyatanzwe na Huang Zhongkai kuko cyatanzwe mu buryo budakurikije amategeko kandi kikaba kitari mu bubasha bw'Urukiko rw'Ubujurire. [10] Iburanisha ry'urubanza ryashyizwe ku wa 07/07/2025, ruburanishwa Huang Zhongkai ahagarariwe na Me Mugisha Fred, naho Union Stone Ltd ihagarariwe na Me Uwamahoro Marie Grace na Me Ndorimana Aaron, hasuzumwa ikibazo cy'ububasha bw'uru Rukiko kuri iki kirego, ikibazo cy'inzitizi yo kutakira ikirego cyihutirwa mu gihe ikiregerwa cyafashweho icyemezo mu rubanza RCOMA00550/2023/HCC rwamaze kuba itegeko, n'ikibazo cyo kumenya niba hari ubwihutirwe bwatuma Urukiko ruha ishingiro ibisabwa na Huang Zhongkai. Urukiko rwatangaje ko ruzabifataha icyemezo ku wa 18/07/2025, haherewe ku nzitizi zatanzwe nk'uko zimaze kuvugwa zikurikiranye, zitahabwa ishingiro Urukiko rugagata icyemezo no kwishingiro mu mizi ry'ikirego cyihutirwa. II. IBIBAZO BIGIZE URU RUBANZA N'ISESENGURA RYABYO Gusuzuma niba ikirego cyihutirwa cyatanzwe na HUANG ZHONGKAI kiri mu bubasha bw'Urukiko rw'Ubujurire

1 Iyo ngingo ya 185 ikaba iteganya ibi bikurikira: "Iyo hari ikirego cy'iremezo, ariko hagomba kugira icyemezwa by'agateganyo mu buryo bwihuta ku rubanza rwaregewe urukiko rutaraburanishwa, ikirego cyihutirwa gishyikirizwa umucamanza ushinzwe kurangiza impaka zihutirwa w'aho zigomba gukemurirwa hakurikijwe uburyo busanzwe bw'ihamagara. Ikirego cyihutirwa gitangwa mu buryo bumwe n'ubw'ikirego gisanzwe."

Page 4

[11] Me Uwamahoro Marie Grace na Me Ndorimana Aaron bahagarariye Union Stone Ltd bavugaga ko hashingiye ku ngingo ya 52 y'Itegeko N°30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, basanga mu bubasha bwahariwe Urukiko rw'Ubujurire hatarimo ubwo kuburanisha imanza ku rwego rwa mbere, ko ahubwo imanza ruburanisha zigomba kuba zigeze ku rwego rw'ubujurire kandi izo manza zikaba zitajuririrwa, bityo ko basanga Urukiko rw'Ubujurire rudafite ububasha bwo kuburanisha iki kirego cyihutirwa. [12] Me Mugisha Fred uhagarariye Zhongkai Huang avugaga ko uwo aburanira yatanze iki kirego ashingiye ku biteganywa n'ingingo ya 185 y'Itegeko no 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ko hafashwe icyemezo cyihutirwa ku irindwa ry'ikintu, none hakaba hari ibangamirwa ry'icyo kintu (ry'iyoye référé), kuko imashini zafashweho icyemezo cyo gushinganishwa ubu zirimo kurigiswa, kandi ko urubanza rw'iremezo rugeze muri uru Rukiko rw'Ubujurire aho rwanditswe kuri RCOMAA00023/2025/CA –CMB RCOMAA 00024/2024/CA, ari nayo mpamvu abona ko uru Rukiko rw'Ubujurire ari rwo rufite ububasha bwo kuburanisha iki kirego cyihutirwa gishamikiye kuri urwo rubanza rw'iremezo. UKO

URUKIKO RUBIBONA [13] Ingingo ya 185 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu iteganya ibi bikurikira : “Iyo hari ikirego cy'iremezo, ariko hagomba kugira icyemeza by'agateganyo mu buryo bwihuta ku rubanza rwaregwe urukiko rutaraburanishwa, ikirego cyihutirwa gishyikirizwa umucamanza ushinze kurangiza impaka zihutirwa w'aho zigomba gukemurirwa hakurikijwe uburyo busanzwe bw'ihamagara. Ikirego cyihutirwa gitangwa mu buryo bumwe n'ubw'ikirego gisanzwe.” [14] Dosiye igaragaraza ko muri uru Rukiko rw'Ubujurire hari urubanza RCOMAA00023/2025/CA – CMB RCOMAA00024/2025/CA, ruri hagati y'abaturanyi Zhongkai Huang na Union Stone Ltd bajuririra urubanza RCOMA00614/2024/HCC - CMB RCOMA 00615/2024/HCC rwaciye ku wa 30/01/2025 ikiburanwa cy'ibanze ari “gusaba Urukiko gutegeka ko HUANG ZHONGKAI ahabwa uburenganzira bwo gutwara imashini, ibikoresho byubatswe inyubako zigize uruganda, kwishyurwa ikiguzi ku musaruro, inyungu n'indishyi zitandukanye”, uru rubanza rukaba rugeze ku rwego rw'ubujurire bwa kabiri muri uru Rukiko rw'Ubujurire kandi rukaba rugitegereje kuburanishwa. [15] Urukiko rw'Ubujurire rubona ikiburanwa mu rubanza RCOMAA00023/2025/CA – CMB RCOMAA00024/2025/CA ari uguhabwa uburenganzira bwo gutwara imashini, ibikoresho byubatswe inyubako zigize uruganda, kwishyurwa ikiguzi ku musaruro; mu kirego cyihutirwa RCOM00002/2025/CA Zhongkai Huang muri iki kirego akaba aregera guhabwa uburenganzira bushinganiye by'agateganyo mu maboko ye izo mashini zari zarashinganiye mu maboko ya Union Stone Ltd mu rundi rubanza RCOMA00550/2023/HCC rw'ikirego cyihutirwa kugeza urubanza mu mizi ku kibazo cyazo ruciye burundu. Ibyo bituma uru Rukiko rubona ko urubanza RCOMAA00023/2025/CA – CMB RCOMAA00024/2025/CA Huang Zhongkai afata nk'urwiremezo n'uru rubanza RCOM00002/2025/CA yifuza ko ruba ikirego cyihutirwa kirushamikiyeho, zifite koko aho zihuriye ku byo zigamije, bityo hashingiwe ku ngingo y'Itegeko yibukijwe haruguru ikirego cyihutirwa nk'iki kikaba kigomba kwakirwa hashingiwe gusa ku kuba gishamikiye ku rubanza rw'iremezo rwagaragarijwe ko ruri muri uru Rukiko, kandi ibi bikaba atari ubwa mbere byaba bibayeho muri uru Rukiko, n'ubwo koko hashingiwe ku biteganywa n'ingingo ya 52 y'Itegeko rigena Ububasha bw'Inkiko, umuntu yabona ko mu

2Iyo ngingo ya 185 ikaba iteganya ibi bikurikira: “Iyo hari ikirego cy'iremezo, ariko hagomba kugira icyemeza by'agateganyo mu buryo bwihuta ku rubanza rwaregwe urukiko rutaraburanishwa, ikirego cyihutirwa gishyikirizwa umucamanza ushinze kurangiza impaka zihutirwa w'aho zigomba gukemurirwa hakurikijwe uburyo busanzwe bw'ihamagara. Ikirego cyihutirwa gitangwa mu buryo bumwe n'ubw'ikirego gisanzwe.”

Page 5

rwego rwo gutanga ubutabera bwuzuye uwatsindwa ntabyishimire yaba adafite amahirwe agirwa n'abaturanyi bwa mbere mu nkiko zo hasi yo kugira urundi rukiko yiyambaza mu buryo bw'ubujurire (garantie du double degré de juridiction). [16] Urukiko rw'Ubujurire rushingiye kuri iyi misesengurire n'ibiteganywa n'ingingo ya 185 y'Itegeko ryavuzwe hejuru, rubona ko hari

ikirego cyihutirwa mu rubanza RCOM 00002/2025/CA gishamikiye ku rubanza RCOMAA00023/2025/CA – CMB RCOMAA00024/2025/CA, gishobora gusuzumwa n’uru Rukiko kuko hari urubanza rw’iremezo rutaraburanishwa. icyo kibazo cy’ikirego cyihutirwa kandi akaba atari bwo bwa mbere gisuzumwe n’uru Rukiko rw’Ubujurire mu gihe hari ikirego cy’iremezo, nk’uko cyasuzumwe mu rubanza RCOM00001/2024/CA rwaciwe ku wa 21/06/2024 nk’ikirego cyihutirwa mu gihe urubanza rw’iremezo RCOMAA00054/2023/CA rwari rutaracibwa. Bityo inzitizi y’iburabubasha yatanze na Union Stone Ltd ikaba nta shingiro ikwiye guhabwa. Gusuzuma niba iki kirego cyihutirwa RCOM 00002/2025/CA cyakwagirwa mu gihe icyemezo gisabirwa gukurwaho ari icyafashwe mu rubanza RCOMA00550/2023/HCC rwamaze kuba itegeko [17] Abahagarariye Union Stone Ltd bavugaga ko Urukiko rubibonye ukundi rugasanga rufite ububasha bwo kuburanisha urubanza RCOM00002/2025/CA, basanga rukwiye kwemeza ko iki kirego cyihutirwa kitakirwa, kuko ibyo urega asaba byaburanyweho kuva mu Rukiko rw’Ubucuruze rugera mu rubanza RCOMA00550/2023/HCC aho urubanza rwarangiriye, Urukiko rwemeje ko imashini zigomba gushinganishwa koko nk’uko Huang Zhongkai yari yabiregeye muri icyo kirego nacyo cyihutirwa ariko aho gushinganishwa mu maboko ye nk’uko yabisabaga ahubwo zigashinganishwa mu maboko ya Union Stone Ltd izisanganywe, ndetse urwo rubanza rukaba rwarabaye itegeko. Bavugaga rero ko Huang Zhongkai adakwiye kuregera bundi bushya ibyafashweho icyemezo cya burundu kandi bibujijwe mu ngingo ya 14 y’itegeko no 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y’imanza z’imbenezamubano, iz’ubucuruze, iz’umurimo n’iz’ubutegetsi. Ko kandi ku bireba Huang Zhongkai, mu gihe habonetse ikibazo cyo kurangiza urubanza nk’uko umuhagarariye abivugaga, yari gusubira mu Rukiko Rukuru rw’Ubucuruze rwaruciyemo ngo rurangize iza mpaka. [18] Kuri iyi nzitizi yo kutakira ikirego hakurikijwe ibiteganywa n’ingingo ya 14 yavuzwe haruguru, irebana n’urubanza rwabaye itegeko, Me Mugisha Fred uhagarariye Zhongkai Huang avugaga ko n’ubwo icyemezo cyafashwe mu rubanza RCOMA00550/2023/HCC rwateweho kashi mpuruzi, Union Stone Ltd itagishyize mu bikorwa nk’uko cyategetswe n’Urukiko Rukuru rw’Ubucuruze, ko iki kibazo cy’imashini zashinganishijwe bakigaruye koko kuko kirimo impaka ku irangiza ry’urubanza, bakaba bararegeye Urukiko rw’Ubujurire aho urubanza rw’iremezo ruzeze. Avugaga ko mu rwego rwo kugikemura no kurinda ko imashini zashinganishijwe zarigiswe, uru Rukiko noneho rutegeka ko urufunguzo rw’izo mashini rubikwa na Zhongkai Huang, kugira ngo ashobore kurengera inyungu ze muri urwo ruganda zirimo, kuko Union Stone Ltd itagaragaza ibimenyetso by’uko ari yo igifite iza mashini mu maboko mu gihe uwo aburanira we abona mu ruganda undi uzikoresha kandi atari we wazirindishijwe mu cyemezo cy’Urukiko Rukuru rw’Ubucuruze kizishinganisha cyamaze gufatwa. UKO URUKIKO RUBIBONA [19] Impaka ziri hagati y’ababuranyi kuri iyi ngingo zishingiye ku kumenya niba icyemezo cyafashwe ku kirego cyihutirwa mu rubanza RCOMA 00550/2023/HCC, mu gihe giteje impaka ku irangiza ryacyo cyakongera kuregerwa aho urubanza rw’iremezo ruzeze nk’ikindi kirego cyihutirwa kirushamikiyeho. Ababuranyi kandi nta mpaka bafitanye zirebana no kuba imashini zivugwaga muri iza manza zombi

3 Urwo rubanza rwaburanwaga hagati ya NFCS Ltd NEXTGEN DEVELOPERS Ltd na GASIRIKARE Evariste. 4 Aho iyo ngingo ya 14 iteganya ibi bikurikira: “Urubanza rwaciwe ku rwego rwa nyuma ntirushobora kongera kuburanishwa bundi bushya ku mpamvu zimwe no ku kiburanwa kimwe hagati y’ababuranyi bamwe baburana ikirego kimwe.”

Page 6

zaramaze gushinganishwa mu rubanza RCOMA00550/2023/HCC rwamaze kuba itegeko, ahubwo impaka ziri k’ugomba kuzirindishwa hagati ya Union Stone Ltd yazirindishijwe n’Urukiko Rukuru rw’Ubucuruzi mu rubanza RCOMA00550/2023/HCC rwamaze kuba itegeko na Huang Zhongkai wifuzaga muri uru rubanza kuzirindishwa n’uru Rukiko rw’Ubujurire, ibyo ngo bigakorwa mu kirego gishya gitangiwe ku rwego rwa mbere muri uru Rukiko rw’Ubujurire, kitari mu nzira y’ubujurire (voie de recours) iyo ari yo yose ku rubanza RCOMA00550/2023/HCC bigaragara ko iki kirego gishyamba kugira ibyo gihinduraho birebana n’ushinzwe kurinda imashini ziburanwa. [20] Ingingo ya 14 y’Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y’imanza z’imbenezamubano, iz’ubucuruzi, iz’umurimo n’iz’ubutegetsi iteganya ibi bikurikira : “Urubanza rwaciwe ku rwego rwa nyuma ntirushobora kongera kuburanishwa bundi bushya ku mpamvu zimwe no ku kiburanwa kimwe hagati y’ababuranyi bamwe baburana ikirego kimwe”. [21] Dosiye y’uru rubanza igaragaza ko ikibazo cyo gushinganisha imashini zo gusya no gutunganya amabuye ya concassée zishinze mu ruganda rwa Union Stone Ltd ngo zidakomeza gukoreshwa kugeza urubanza mu mizi ruzifasheho icyemezo cya burundu, cyaburanweho kuva mu Rukiko rw’Ubucuruzi kugera mu Rukiko Rukuru rw’Ubucuruzi mu rubanza RCOMA00550/2023/HCC rwaciwe ku wa 06/12/2023 nk’uko byagaragajwe hejuru mu miterere y’urubanza. Urwo rubanza rwaburanwe hagati ya Union Stone Ltd na Zhongkai Huang, hagibwa impaka ku kumenya niba zigomba gushinganishwa no k’ugomba kuzirindishwa hagati y’aba baburanyi bombi, maze Urukiko rutegeka ko imashini zaregewe zisya, zitunganya amabuye ya concassée zishinze mu ruganda rwa Union Stone Ltd zishinganishijwe, kandi zikaba zidakwiye kugurishwa, gutangwaho ingwate, gukodeshwa no gutizwa mbere y’uko urubanza rw’iremezo rucibwa, ndetse rushyira inshingano yo kuzirinda mu maboko ya Union Stone Ltd nyuma yo kwanga kuzirindisha Huang Zhongkai. [22] Urukiko rw’Ubujurire rurasanga muri uru rubanza RCOM00002/2025/CA, Zhongkai Huang aregera guhabwa uburenganzira buzishinganisha by’agateganyo kuko ngo nyuma y’urubanza RCOMA00550/2023/HCC yaje kumenya amakuru ko izo mashini zirimo gukoreshwa n’indi sosiyete yitwa Union Venture Ltd, bigaragazwa n’inyemezabwishyu za EBM itanga kandi ikaba inakorera neza mu nyubako zakoreragamo Union Stone Ltd, bishimangirwa n’inyandiko z’inzeho z’ibanze z’aho urwo ruganda rukoreraga. Akavuga ko ibyakozwe na Union Stone Ltd usibye kuba byaranyuraniye n’icyemezo cy’urukiko, byanyuraniye kandi n’ingingo ya 214 al. 1 ya CPCSA6, ibyo ngo bigashimangira mu buryo budashindikanwaho ko ifite umugambi wo kurigisa imashini zari zashinganishijwe mu maboko yayo. [23] Urukiko rurasanga iki kirego cya Huang Zhongkai kigarura mu nkiko impaka zamaze kuburanwaho ndetse zigafatwaho icyemezo ndakuka mu rundi rubanza, ku buryo kiramutse cyakiriwe kigasuzumwa, uru Rukiko rukaba rwagifataho icyemezo gitandukanye n’icyafashwe mu rubanza rwa mbere kandi rutararujuririwe, haba habayeho ikibazo cyo kubaho kw’imanza ebyiri zivuguruzanya kandi zose zifite agaciro

(contrariété de jugements) maze bigatuma nta na rumwe rushobora kurangizwa. Ibi kandi ni bimwe mu ngaruka mbi uru Rukiko rusanga umushingamategeko yari agamiye gukumira mu gushyiraho ingingo ya 14 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets, yibukijwe haruguru. [24] Urukiko rw'Ubujurire rushingiye kuri ibi bisobanuro, rurasanga ikibazo ababuranyi bafitanye ari icy'ishyirwa mu bikorwa ry'icyemezo ku ishinganyisha ry'imashini zisya amabuye zikanayatunganya,

5 Aho ku wa 10/04/2025 umuyobozi w'Akagari ka Runzenze yemeje raporo yakoze n'umuyobozi w'Umudugudu wa Gisunzu w'aho urwo ruganda rukorera ko izo mashini ziri mu ruganda rukora concassée hasigaye hakorera sosiyete yitwa Union Venture Ltd. Ibyo kandi ngo bigahamywa n'inyandiko z'abatangabuhamy banyuranye batwara imodoka zihagura concassée ndetse na facture za EBM bagiye bahabwa zigaragaza ko Union Venture ari yo isigaye ikoresha izo mashini. 6 Iyo ngingo ya 214 ikaba iteganya ibi bikurikira: "Umutungo ushinganye uguma mu maboko ya nyirawo. Ntiwemerewe kugurishwa, gutizwa, gutangwa cyangwa gutangwaho ingwate igihe cyose icyemezo kiwushinganyisha kitaravanwaho n'urukiko cyangwa iyishyurwa ry'ugasabye ko ushinganyishwa."

Page 7

zishinze mu ruganda rwa Union Stone Ltd cyamaze gufatwa burundu mu rubanza RCOMA00550/2023/HCC. Kuba Zhongkai Huang ubu asaba ko ari we uhabwa urufunguzo rwazo, icyo cyemezo cyafashwemo gisabirwa guhinduka mu gihe Urukiko rugifata nk'ikibazo cyiharire mu ishyirwa mu bikorwa ryacyo n'ubwo urubanza RCOMAA00023/2025/CA – CMB RCOMAA00024/2025/CA hagati yabo rugeze kuri uru rwego rw'ubujurire, kikaba kitakongera kuburanishwaho hagati y'ababuranyi bombi. Bityo ikirego cyatanzwe na Zhongkai Huang kikaba kitagomba kwakirwa, bityo n'ingingo z'uru rubanza mu mizi zabunishijweho zikaba zitagisuzumwe kuko ikirego kitakiriwe. III. ICYEMEZO CY'URUKIKO [25] Rwemeje ko inzitizi y'iburabubasha yatanze na Union Stone Ltd nta shingiro ifite. [26] Rwemeje ko inzitizi yo kutakira ikirego cyihutirwa RCOM00002/2025/CA cya Huang Zhongkai yatanze na Union Stone Ltd ifite ishingiro. [27] Ruvuze ko amafaranga y'amagarama y'uru rubanza yatanze na Huang Zhongkai ahwanye n'ibyarukozwemo.

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/9914/10417>

CASE PAGE <https://chat.esheria.ai/case-law/rwanda/huang-zhongkai-v-union-stone-ltd-urgentapplications-court-of-appeal-2025>

Prepared on 13 October 2026 · Esheria