

RWANDA / JUDGMENT

INGABIRE v. SAFARI

RS/INJUST/RC 00008/2022/HC

COURT

High Court

DECIDED

9 February 2024

CASE / FILE NUMBER

RS/INJUST/RC 00008/2022/HC

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INGABIRE v. SAFARI

- Source: Amategeko
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- Date: 2024-02-09
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Text

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INGABIRE v. SAFARI [Rwanda URUKIKO RUKURU – RS/INJUST/RC 00008/2022/HC/KIG (Gatete, P.J., Kankindi na Maneza, J.) 09 Gashyantare 2024] Amategeko agenga umuryango – Ubutane – Amasezerano y’ubwumvikane bw’abashyingiranywe – Amasezerano y’ubwumvikane bw’abashyingiranywe ntashobora gushingirwaho nk’impamvu yo gutanga ubutane bwumvikanyweho kuko kugira ngo ubutane bwumvikanyweho butangwe hagomba kuba hari ikirego cyatanzwe mu Rukiko n’ababuranyi bombi (requête conjointe/Jointly application) maze bakomekaho amasezerano bagiranye agaragaza uburyo bakemuye ibibazo byabo harimo imitungo n’ibijyanye n’abana babo. Incamake y’ikibazo: Ingabire Joséphine yashakanye byemewe n’amategeko na Safari François ku wa 28/11/2010 mu Murenge wa Ruhuha, bahitamo ivangamutungo rusange nk’uburyo bwo gucunga umutungo w’abashakanye, baza kubyarana abana babiri. Ingabire na Safari bagiranye amasezerano y’ubwumvikane bw’uburyo bazagabana imitungo mu gihe baba batandukanye. Nyuma, buri wese yatanze ikirego cy’ubutane mu Rukiko rw’Ibanze rwa Kicukiro byaje guhurizwa hamwe bihabwa nimero imwe ariyo RC 00419/2019/TB/KICU ariko muri uko gutanga ikirego Safari yashingiye kuri ya masezerano y’ubwumvikane naho Ingabire ashingira ku makosa y’umugabo avuga ko amuhoza ku nkeke. Urwo Rukiko rwaciye

urubanza rwanzura ko Ingabire na Safari batandukanye burundu, kandi ko bagabana imitungo hashingiwe ku masezerano y'ubwumvikane bagiranye ku wa 08/12/2017, ruvuga ko Ingabire yayasinye imbere ya noteri nta gahato ashyizweho. Ingabire yajuririye urwo rubanza mu Rukiko Rwisumbuye rwa Nyarugenge, urwo rukiko mu guca urubanza rwemeza ko nta gihindutse ku cyemezo cyafashwe n'Urukiko rw'Ibanze. Ingabire yandikiye Perezida w'Urukiko Rukuru asaba gusubirishamo urubanza RCA 00071/20/TGI/NYGE ku mpamvu z'akarengane, arabyemererwa, urubanza rwoherezwa mu Rukiko Rukuru kugira ngo rusubirwemo ku mpamvu z'akarengane. Ingabire mu miburanire ye mu rubanza rusubirwamo ku mpamvu z'akarengane, avuga ko akarengane ke gashingiye ku kuba inkiko zabanje zarashingiye ku bwumvikane aho gushingira ku mategeko, rubagabanya imitungo kandi ayo masezerano y'ubwumvikane atariyo bose bashingiyeho batanga ikirego cy'ubutane. Ku rundi ruhande Safari avuga ko we na Ingabire bagiranye amasezerano y'ubwumvikane akorewe imbere ya Noteri agaragaza uko imitungo yabo izagabanwa mu gihe kubana byaba bitagishobotse ndetse ko ayo masezerano yakozwe nta gahato, ko nta n'amategeko yirengagijwe, akaba asanga nta karengane gashingiye kuri ayo masezerano kabayeho. Incamake y'icyemezo: Amasezerano y'ubwumvikane bw'abashyingiranywe ntashobora gushingirwaho nk'impamvu yo gutanga ubutane bwumvikanyweho kuko kugira ngo ubutane bwumvikanyweho butangwe hagomba kuba hari ikirego cyatanzwe mu Rukiko n'ababuranyi bombi (requête conjointe/Jointly application) maze bakomekaho amasezerano bagiranye agaragaza uburyo bakemuye ibibazo byabo harimo imitungo n'ibijyanye n'abana babo.

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Ikirego cyo gusubirishamo urubanza ku mpamvu z'akarengane gifite ishingiro.

Amategeko yashingiweho: Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets, ingingo ya 195. Itegeko N° 32/2016 ryo ku wa 28/08/2016 rigenga abantu n'umuryango, ingingo ya 207 n'ya 229. Imanza zifashishijwe: RS/REV/INJUST/CIV/0012/16/CS; Uwamwezi Josephine vs RANGHELLA Giuseppe rwaciwe kuwa 01/06/2018. Urubanza I. IMITERERE Y'URUBANZA [1] Ingabire Josephine yashakanye byemewe n'amategeko na Safari François ku wa 28/11/2010 mu Murenge wa Ruhuha, bahitamo ivangamutungo rusange nk'uburyo bwo gucunga umutungo w'abashakanye, baza kubyarana abana babiri aribo Safari Roxane Nissi wavutse 30/07/2012 na Safari Laig Bessie wavutse ku wa 14/07/2014. Ingabire Josephine yaje gutanga ikirego cy'ubutane mu Rukiko rw'Ibanze rwa Kicukiro cyandikwa kuri numero RC 00419/2019/TB/KICU ndetse na Safari François atanga ikirego cy'ubutane mu Rukiko rw'Ibanze rwa Kicukiro, maze ibyo birego byombi birahuzwa bihabwa numero imwe RC 00419/2019/TB/KICU; Kuwa 20/01/2020, urwo Rukiko rwaciye urubanza RC 00419/2019/TB/KICU rwemeza ko rwemeje ko ikirego cyatanzwe na Ingabire Josephine gifite ishingiro kuri bimwe, rwemeje ko ikirego cyatanzwe na Safari François gifite ishingiro, rwemeje ko Josephine Ingabire na Safari François batandukanye burundu, rutegeka ko amasezerano yo gushyingirwa bari baragiranye mu Murenge wa Ruhuha ku wa 28/11/2010 avanyweho n'Urukiko, rutegeka ko icyi cyemezo cyandukurwa mu bitabo by'irangamimerere byo mu Murenge wa Ruhuha aho basezeraniye, rutegeka ko abana babiri aribo Safari Roxane Nissi wavutse 30/07/2012 na Safari Laig Bessie wavutse ku wa 14/07/2014

bakomeza kurerwa na nyina Ingabire Josephine ariko bitamubujije se Safari François kuzajya asura abana igihe cyose abishatse nabo bakamusura kandi akazajya abishyurira amafaranga y'ishuri ndetse akabavuzi, rutegeka ko Ingabire Josephine agumana inzu yo kubamo ifite no UPI 1/03/05/02/1286 iherereye mu Mudugudu wa Mulindi, Akagali ka Kabeza, Umurenge wa Kanombe, Akarere ka Kicukiro, Umujyi wa Kigali ikamwandikwaho. Rutegeka ko Safari François agumana inzu y'ubucuruzi ifite no UPI 1/03/10/03/402 iherereye mu Mudugudu wa Umushumbamwiza, Akagali ka Rwimbogo, Umurenge wa Nyarugunga, Akarere ka Kicukiro, Umujyi wa Kigali ikamwandikwaho. Rutegeka ko Safari François azishyura umwenda wose w'inzu y'ubucuruzi bafitiye Banque Populaire. Rutegeka ko ingwate y'amagarama uko ari amafaranga ibihumbi icumi (10.000Frw) Josephine Ingabire na Safari François buri umwe yatanze arega, ihwanye n'ibyarukozwemo. [2] Ingabire Josephine yajuriye urwo rubanza mu Urukiko Rwisumbuye rwa Nyarugenge ruhabwa numero RCA 00071/20/TGI/NYGE. Kuwa 30/09/2021, urwo Rukiko rwemeje ko

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rwemeje ko ubujurire rwashyikirijwe na Ingabire Josephine nta shingiro bufite, ko urubanza RC 00419/2019/TB/KICU rwaciwe kuwa 20/01/2020 rugumanye agaciro karwo, ko ikirego cyatanzwe na Ingabire Josephine gifite ishingiro kuri bimwe, ko ikirego cyatanzwe na Safari François gifite ishingiro, rwemeje ko Josephine Ingabire na Safari François batandukanye burundu, amasezerano yo gushyingirwa bari baragiranye mu Murenge wa Ruhuha ku wa 28/11/2010 avanyweho n'Urukiko, rutegeka ko icyi cyemezo cyandukurwa mu bitabo by'irangamimerere byo mu Murenge wa Ruhuha aho basezeraniye, rutegeka ko abana babiri aribo Safari Roxane Nissi wavutse 30/07/2012 na Safari Laig Bessie wavutse ku wa 14/07/2014 bakomeza kurerwa na nyina Ingabire Josephine ariko bitamubujije se Safari François kuzajya asura abana igihe cyose abishatse nabo bakamusura kandi akazajya abishyurira amafaranga y'ishuri ndetse akabavuzi, Rutegeka ko Ingabire Josephine agumana inzu yo kubamo ifite no UPI 1/03/05/02/1286 iherereye mu Mudugudu wa Mulindi, Akagali ka Kabeza, Umurenge wa Kanombe, Akarere ka Kicukiro, Umujyi wa Kigali ikamwandikwaho, Rutegeka ko Safari François agumana inzu y'ubucuruzi ifite no UPI 1/03/10/03/402 iherereye mu Mudugudu wa Umushumbamwiza, Akagali ka Rwimbogo, Umurenge wa Nyarugunga, Akarere ka Kicukiro, Umujyi wa Kigali ikamwandikwaho. Rutegeka ko Safari François azishyura umwenda wose w'inzu y'ubucuruzi bafitiye Banque Populaire. Rutegeka ko ingwate y'amagarama uko ari amafaranga ibihumbi icumi (10.000Frw) Josephine Ingabire na Safari François buri umwe yatanze arega, ihwanye n'ibyarukozwemo, Rutegetse ko amafaranga y'amagarama ahwanye n'ibyakozwe. [3] Ingabire Josephine yandikiye Perezida w'Urukiko Rukuru asaba gusubirishamo urubanza RCA 00071/20/TGI/NYGE ku mpamvu z'akarengane, maze ku wa 10/08/2022 Perezida w'Urukiko Rukuru yandikira Perezida w'Urukiko rw'Ikirenga asaba ko urwo rubanza rusubirwamo ku mpamvu z'akarengane kuko hari amategeko n'ibimenyetso urukiko rwirengagije; kuwa 11/08/2022 Perezida w'Urukiko rw'Ikirenga yafashe icyemezo No 114/CJ/2022 cyo gusubirishamo ku mpamvu z'akarengane urubanza rwaciwe ku rwego rwa nyuma maze yemeje ko urubanza RCA 00071/2020/TGI/NYGE rwaciwe n'Urukiko Rwisumbuye rwa NYARUGENGE, ku wa 30/09/2021, rwongera kuburanishwa; urwo rubanza

rwoherezwa mu Rukiko Rukuru, rukandikwa mu bitabo byabugenewe kugira ngo arirwo ruzaruburanisha. Mu Rukiko Rukuru, icyo kirego cyanditswe kuri numero RS/INJUST/RC 00008/2022/HC/KIG. [4] Mu myanzuro no mu miburanire ye, Ingabire Josephine yunganiwe na Me Nkanika Alimasi avuga ko urubanza basubirishamo ku mpamvu z'akarengane ngo zatanze ubutane hagati ya Ingabire Josephine na Safari Francois ku mpamvu z'uko habaye ubwumvikane(divorce par consentement mutuel) ngo kandi ataribyo kuko yatanze ikirego cye mu Rukiko rw'Ibanze asaba ubutane ku mpamvu iteganywa n'amategeko ndetse na Safari atanga ikindi kirego cye cy'ubutane asaba ko hashingirwa ku masezerano y'ubwumvikane bari baragiranye, ko rero asanga Umucamanza atari gutanga ubutane ashingiye kubwumvikane kuko batigeze abatanga ikirego kimwe bombi mu Rukiko ahubwo buri umwe yatanze ikirego cye; ko ubwo bwumvikane bari baragiranye mbere butari gukoresha bahabwa ubutane kuko ngo bwari kugira agaciro iyo batanga ikirego bombi (requete conjointe) maze bakomekaho ayo masezerano nk'uko biteganywa n'ingingo ya 229 y'Itegeko N° 32/2016 ryo ku wa 28/08/2016 rigenga abantu n'umuryango; ko rero gutanga ubutane hashingiwe ko bwakoze ku bwumvikane byamuteye akarengane bituma Safari ahabwa imitungo myinshi we agahabwa bike kandi bari bakwiye kugabana bakanganya; ko rero uru Rukiko rwakuraho urubanza basubirishijemo ku mpamvu z'akarengane maze bagahabwa ubutane ku mpamvu y'uko imibanire yabo itagishobotse, maze bakagabana imitungo bashakanye cyangwa bafitanye mu buryo bungana ariyo amamodoka n'amazu, na companies zitandukanye

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zanditse kuri Safari wenyine kandi bakamuha kurera abana ndetse bakanafatanyaga na Safari inshingano zo kurera abo bana. [5] Mu myanzuro no mu miburanire, Safari Francois yunganiwe na Me Kaboyi Benoit avuga ko Safari Francois na Ingabire Josephine bagiranye amasezerano y'ubwumvikane, bagaragaza uko bazagabana imitungo yabo mugihe bazaba batandukanye, ko rero Urukiko Rwisumbuye nta kosa rwakoze rwo kuba ubutane bushingiye kuri ayo masezerano y'ubwumvikane (divorce par consentement mutuel) kuko ngo ayo masezerano bayakoranye nta n'umwe ushyizweho agahato ndetse ngo Safari atanga ikirego cy'ubutane yasabye ko hashingirwa kuri ayo masezerano y'ubwumvikane bari bagiranye; ko ibyo bavugaga ko ayo masezerano yari kugira agaciro aruko batanze ikirego kimwe bombi(requete conjointe) ngo ntaho biteganyijwe n'amategeko; ko rero basanga ibyemejwe n'Urukiko Rwisumbuye bikwiye kugumaho. Avuga kandi mu gihe Urukiko rwasanga rutashingira kuri ayo masezerano, rwabaha ubutane kuko imibanire yabo itagishobotse, bakabagabanya imitungo bashakanye cyangwa bafitanye ariyo amamodoka, amazu, Company ya Quincallerie yitwa Trust Plus Company ; ndetse ko kubijyanye n'abana, Ingabire Josephine yakomeza kubarera maze bagatanyaga inshingano zo kubarera buri umwe atanga uruhare rwe. [6] Ibibazo bigomba gusuzumwa muri uru rubanza n'ibi bikurikira : i. Kumenya niba ubutane hagati ya Ingabire Josephine na Safari Francois bwaragombaga gutangwa hakurikijwe ubwumvikane (divorce par consentement mutuel) mu gihe buri umwe yatanze ikirego cye mu Rukiko asaba ubutane. ii. Kumenya umubyeyi uzakomeza kurera abana nyuma y'ubutane n'uburenganzira bw'undi mubyeyi mugusura abana be ndetse no kumenya inshingano za buri mubyeyi ku bana babo. iii. Kumenya imitungo ababuranyi bashakanye cyangwa bafitanye

n'uburyo bwo kuyigabana. iv. Gusuzuma ibijyanye na Trust Plus Company(Quincallerie) ya Ingabire Josephine na Companies bivugwa ko ari iza Safari Francois. v. Kumenya amadeni(imyenda) ababuranyi bafite n'uburyo bagomba kuyishyura. II.ISESENGURA RY'IBIBAZO BIGIZE URUBANZA I. Kumenya niba ubutane hagati ya Ingabire Josephine na Safari Francois bwaragombaga gutangwa hakurikijwe ubwumvikane (divorce par consentement mutuel) mu gihe buri umwe yatanze ikirego cye mu Rukiko asaba ubutane. [7] Ingabire Josephine yunganiwe na Me Nkanika Alimasi avuga ko Inkiko zibanza zifashishije inzira ebyiri mu gutanga ubutane bwa Safari Francois na Ingabire Josephine, nyamara zaragombaga guhitamo inzira imwe nayo igakurikiza amategeko, ko Ingabire Josephine yatanze ikirego cy'ubutane ashingiye ku mpamvu ziteganywa n'amategeko kandi ko mu gutanga ikirego cy'ubutane gishingiye ku bwumvikane ngo gitangwa n'ababuranyi bombi mu kirego kimwe(requete conjointe) nk'uko biteganywa n'ingingo ya 229 y'Itegeko N° 32/2016 ryo ku wa 28/08/2016 rigenga abantu n'umuryango, ko rero asanga ubutane bwari gutangwa hanshingiye ku mpamvu ziteganywa n'amategeko aho kuba impamvu z'ubwumvikane, kuko ngo ubutane bwumvikanyweho ababuranyi bombi baba barega ntawe uregwa; ko rero ikirego cy'ubutane

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INGABIRE Josephine yatanze ari ikirego gisanzwe ndetse ngo na Safari yatanze ikindi kirego cy'ubutane ariko asaba ko hashingirwa ku masezerano y'ubwumvikane bagiranye ariko ngo ntabwo ari ikirego cy'ubutane bwumvikanyeho, ko rero Urukiko rutari kuvuga ko rutanze ubutane bushingiye kubwumvikane kandi bombi baratanze ibirego bisanzwe by'ubutane, ngo akaba ayo masezerano bagiranye mbere yarakozwe muburyo bw'uburiganya akaba atariyo yari gushingirwaho mu gutanga ubutane; ko rero utavugaga ko habaye ubutane bushingiye ku masezerano y'ubwumvikane nta kirego cyatanzwe n'ababuranyi bombi(requete conjointe) nk'uko biteganywa n'ingingo ya 229 yavuzwe hejuru ivuga ko ikirego cy'ubutane gushingiye kubwumvikane gitangwa n'ababuranyi bombi ndetse banakora amasezerano y'uburyo bakemura ikibazo cyabo; ko rero nta buryo cyatangwa n'umwe arega undi; ko rero ikosa ryakozwe n'umucamanza mu Rukiko Rwisumbuye aruko yatanze ubutane bushingiye kubwumvikane kandi bitari bikwiye bituma no kugabana imitungo bikorwa muburyo bw'ubusumbane maze Safari atawara imitungo ihenze naho Ingabire ahabwa umutungo ufite agaciro gake, ariyo mpamvu batanze ikirego cy'akarengane. [8] Safari Francois avuga ko Ingabire Josephine yaregeye Urukiko rw'Ibanze rwa Kicukiro asaba ubutane bushingiye ku nkeke, Safari nawe aregera Urukiko asaba ubutane bushingiye ku masezerano, maze ngo Urukiko ruhuza ibyo birego bihabwa numero imwe, ruca urubanza ndetse rusesengura ibisabwa na buri ruhande, aha ngo yibaza niba aribyo Ingabire yita kwifashisha inzira ebyiri, ko yibaza niba Ingabire yaba yarashakaga ko Urukiko ruvugaga ku byasabwe na Ingabire gusa ntirugire icyo ruvugaga ku busabe bwa Safari. Akomeza avuga ko mu rubanza RCA 00071/20/TGI/NYGE rusabirwa gusubirishwamo ku mpamvu z'akarengane, mu gice kijyanye n'isesengura ry'ibibazo bigize urubanza, ko ku kibazo A hibajijwe ibijyanye no kumenya niba ubutane butari gutangwa ku masezerano y'ubwumvikane yo ku wa 08/12/2017 yabaye hagati ya Safari Francois na Ingabire Josephine, ngo Urukiko rwagarutse kuri buri ruhande ibyo rwashingiragaho, ko ikigaragara buri ruhande rwasabaga ubutane akaba icyari

gisigaye kwari kumenya icyagenderwaho. Ku byasabwaga na Ingabire Josephine by'uko yasabaga ubutane ashingiyeye ku nkeke, urukiko rwajurirwaga mu rubanza, mu gice cya 14, Urukiko rwemeje ko: "...Mu rwego rw'ubujurire Ingabire Josephine nta bimenyetso birenze ibyo yatanze mu rukiko rw'ibanze yagaragaje uretse kubivuga gusa..."; Urukiko mu gice cya 15 rwemeje ko: "Urukiko rwasanze kuba hari amasezerano y'ubutane bwa burundu yakozwe hagati ya Josephine Ingabire na Safari François imbere ya Notaire Rubanda Abel w'Umurenge wa Kanombe ku wa 8/12/2017 agaragaza ko ubwumvikane bwabaye nta gahato gashyizwe kuri buri muburanyi kuko ababuranyi bombi n'imbere y'urukiko bemeranywa ku butane bityo rero Josephine Ingabire na Safari François bakaba barahawe ubutane bushingiyeye ku bwumvikane". Ko rero ibyemejwe n'Urukiko byari bikurikije amategeko, akaba asanga ibyasobanuwe na Ingabire Josephine ko inkiko zifashishije inzira ebyiri mu gutanga ubutane nta shingiro bifite. Safari François avuga ko Ingabire Josephine igihe yateguraga inyandiko y'ubwumvikane yarazi neza icyo igamije ndetse ngo iyo nyandiko yakorewe imbere ya Notaire ikaba itapfa guteshwa agaciro n'ubuyishakaye gusa atabanje ngo ayiregere Urukiko, ko ingingo ya 13 y'Itegeko N° 15/2004 ryo kuwa 12/06/2004 ryerekeye ibimenyetso yagaragaje agaciro gahabwa inyandiko mpamo, Ingabire Josephine akaba atayitesha agaciro atabanje gukurikiza inzira zateganyijwe n'amategeko; ko rero nta buhendanyi bwabayeho mu igabana ry'imitungo, akaba ngo amasezerano yo gutandukana ku bwumvikane bagiranye yagumana agaciro kayo dore ko nta n'ubwumvikane mu Rukiko asabako ko ateshwa agaciro. Avuga kandi ko ibijyanye n'agaciro kahabwa ukwikemurira ikibazo (transaction) impande zombi zagiranye, ngo Urukiko rw'Ikirenga mu rubanza RS/REV/INJUST/COM 0001/16/CS rwahamije

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ko 'transaction yabaye hagati ya Ntegeye Bernard na Ecobank Rwanda Ltd ariyo igomba kugenderwaho, akaba ngo asanga amasezerano y'ubwumvikane yabaye hagati ya Safari François na Ingabire Josephine agomba kubahirizwa ndetse ngo ashingiyeye ku nyandiko ya Dr Charles Ntampaka, mu gitabo cye cyitwa *Manuels de droit rwandais, les Personnes et de la famille, chargé de cours à la faculté de droit 1993*, pp127-1291 ngo asobanura ko inshingano y'Urukiko ari ukureba ko ibisabwa ku butane bwumvikanyweho byubahirijwe agatanga ubutane, ko rero ibi inkiko zo hasi zabigenzuye maze zitanga ubwo butane. [9] Safari François yunganiwe na Me Kaboyi Benoit bavuga ko umushingamategeko yasobanuye uko ikirego gitangwa, ko rero Ingabire yatanze ikirego cy'ubutane asobanura n'impamvu ashingiyeho ndetse na Safari atanga ikirego cy'ubutane asaba ko hashingirwa ku masezerano bagiranye, ko aya masezerano Safari avuga ari inyandikompani (acte authentique) akaba ngo ariyo mpamvu yakurikijwe, ko batayahindura uko bashatse; ko ibyo Ingabire Josephine avuga ko iyi nyandiko y'amasezerano y'ubwumvikane ajyanwa mu Rukiko ari kumwe n'ikirego cy'ubutane gitanzwe n'ababuranyi bombi (requête conjointe) ngo basanga ntaho itegeko ribiteganyaye ndetse ngo umushinga wariya masezerano y'ubwumvikane yakozwe na Ingabire Josephine ayohereza Safari kuri email kuwa 13/10/2017; ko impamvu Josephine yatanze kuriya cyifuzo (proposal) n'uko ngo yarazi ko inzu zirimo amadeni adashakira kugira uruhare mu kwishyura kugirango bizabeho biherereye kuri Safari François wenyine; ko basanga rero nta karengane kabaye mu rubanza rusubirishwamo ku mpamvu

z'akarengane rwaciwe n'Urukiko Rwisumbuye. [10] Mu iburanisha ry'uru rubanza, ababuranyi bemeraniye ko mu gihe uru Rukiko rwasanga bagomba guhabwa ubutane, babuhabwa ku mpamvu y'uko imibanire yabo itagishobotse. UKO URUKIKO RUBIBONA [11] Impaka ziri muri uru rubanza zishingiye mu kumenya niba ikirego cy'ubutane bwumvikanweho (divorce par consentement mutuel) kigomba gutangwa n'ababuranyi bombi (requete conjointe) cyangwa cyatangwa n'umuburanyi umwe agashingira ku masezerano bombi bagiranye. [12] Ingingo ya 195 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu isobanura inyandiko nsobanurakirego itanzwe n'ababuranyi bombi aho ivuga iti : " Iyo ababuranyi bombi bemeranyijwe gukemura amakimbirane bafitanye cyangwa bashobora kugirana, bashobora kuregera urukiko mu mwanzuro umwe utanzwe n'impande zombi kandi ugaragaza ikibazo bifuzako rubakemurira. Si umuburanyi uba urega undi ahubwo ababuranyi bombi baba bifuzako urukiko rubakiranura" ; iyi ngingo yumvikanisha ko ababuranyi bombi bashobora kuregera Urukiko mu mwanzuro umwe utanzwe n'impande zombi, bombi bagaragaza icyo bivuzako urukiko rubakemurira.

1 Manuels de droit rwandais, les Personnes et de la famille, chargé de cours à la faculté de droit 1993, pp127-129: "Le consentement des époux constitue pour le juge l'expression de la volonté des époux en ce qui concerne le divorce et ses effets, akongera ati: Dans une séance ordinaire du tribunal, celui-ci examine si les conditions requises sont remplies et prononce le divorce".

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[13] Ingingo ya 229 y'Itegeko N° 32/2016 ryo ku wa 28/08/2016 rigenga abantu n'umuryango ivugaiti : " Gutana guturutse ku bwumvikane gusabwa n'abashyingiranywe bombi bamaze kumvikana ku gusesa ishyingirwa no ku nkurikizi zaryo kandi bagashyikiriza umucamanza amasezerano akemura ingaruka z'ubutane ku bashyingiranywe n'umutungu wabo kimwe n'abana babo. icyakora, ubutane bwashabwemo umwe mu bashyingiranywe bashobora guhinduka ubutane bwumvikanyweho mu gihe uregwa yemera ko ikirego gifite ishyingiro akemera ubutane ; iyi ngingo yumvikanisha ko ubutane buturutse ku bwumvikane gusabwa n'ababuranyi bombi mu kirego kimwe kandi bakashyikiriza umucamanza amasezerano akemura ingaruka z'ubutane. [14] Ingingo ya 207 y'Itegeko N° 32/2016 ryo ku wa 28/08/2016 rigenga abantu n'umuryango ivugaiti: " Ugushyingirwa biha abashyingiranywe uburyo bwo gushinga umuryango ndemyabuzima, kukanabaha itegeko ryo kubana" ; iyi ngingo yumvikanisha ko mu gihe abashyingiranywe batubahirije inshingano yo kubana biturutse ku bwumvikane buke bagiranye cyangwa amakimbirane, baba banyuranije n'itegeko bikaba bigaragara ko imibanire yabo iba itagishobotse. [15] Umurongo watanze mu rubanza RS/REV/INJUST/CIV/0012/16/CS rwaciwe kuwa 01/06/2018 hagati ya Uwamwezi Josephine vs RANGHELLA Giuseppe n'uko amasezerano y'ubwumvikane bwo kugabana umutungu akozwe hagati y'abashyingiranywe mu buryo bw'ivangamutungu, nta gaciro aba afite igihe atakozwe hagamiye guhinduza uburyo bwo gucunga umutungu hagati yabo, kuko ivangamutungu riba rigikomeje igihe cyose batari bahabwa ubutane; akaba rero ibi bihuje n'ikibazo kiri muri uru rubanza kuko amasezerano y'ubwumvikane yakozwe hagati ya

Ingabire Josephine na Safari Francois bagamije gutanga ikirego cy'ubutane bwumvikanyweho(divorce par consentement mutuel) akaba nta gaciro agifite kuko batigeze batanga ikirego bombi(requete conjointe) bagamije gusaba ubutane bw'umwikanyweho ahubwo buri umwe ku giti cye yagiye atanga ikirego cy'ubutane agaragaza impamvu ashingiyeho. [16] Mu rubanza RCA 00071/20/TGI/NYGE igika cya 15 na 162, Urukiko Rwisumbuye rwasobanuye ko rwemeranya n'Urukiko rw'Ibanze rwatanze ubutane hashingiye ku masezerano y'ubwumvikane yabaye hagati ya Safari Francois na Ingabire Josephine. [17] Uru Rukiko rusanga ibyo Safari avuga ko ubutane bwari gutangwa kubwumvikane nta shingiro bifite kuko bidahura n'izi ngingo z'amategeko zivuzwe hejuru, izi ngingo z'amategeko zikaba zigaragaza procedure igomba kubahirizwa mu gihe cyo gutanga ikirego cy'ubutane gishingiye kubwumvikane(divorce par consentement mutuel) byumvikanisha ko amasezerano ajyanye n'ubu butane afite ingingo ibiteganywa ukaba utayitiranye n'andi masezerano y'imbonezamubano akorwa hagati y'abantu; akaba rero bigaragara ko Ingabire Josephine yatanze ikirego cye RC 00419/2019/TB/KIC ndetse na Safari Francois atanga ikirego cye gihabwa numero RC 00474/2029/TB/KIC maze ibirego byombi birahuzwa; akaba uru Rukiko rusanga ariya masezerano y'ubwumvikane ya 08/12/2017 hagati ya Safari na Ingabire bagiranye mbere yo gutanga ikirego cy'ubutane, akaba atashingirwaho nk'impamvu yo gutanga ubutane bwumvikanyeho kuko kugirango ubutane bwumvikanyweho butangwe n'uko hagombye kuba hari ikirego cyatanze mu

2 [15] Urukiko rwasanze kuba hari amasezerano y'ubutane bwa burundu yakozwe hagati ya Josephine INGABIRE na SAFARI François mbere ya Notaire RUBANDA Abel w'Umurenge wa Kanombe ku wa 8/12/2017 igaragaza ko ubwumvikane bwabaye nta gahato gashyizwe kuri buri muburanyi kuko ababuranyi bombi n'imbere y'urukiko

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Rukiko n'ababuranyi bombi(requete conjointe) maze bakomekaho amasezerano bagiranye agaragaza uburyo bakemuye ibibazo byabo harimo imitungo n'ibijyanye n'abana babo; uru Rukiko rusanga kuba rero ababuranyi barakoze amasezerano yubwumvikane ariko bakaba bataratanze hamwe n'ikirego cyabo bombi(requete conjointe) ahubwo aya masezerano agatangwa na Safari Francois mu kirego cye bwite arega Ingabire Josephine; uru Rukiko rusanga aya masezerano atashingirwaho muri uru rubanza ngo hatangwe ubutane bwumvikanyeho, bikaba bigaragara ko icyo bari bagamije bakora ayo masezerano kitagezweho kuko batumvikanye bombi gutanga ikirego kimwe maze bomekeho ayo masezerano, akaba rero bombi batarigeze bayakurikiza akaba rero n'uru Rukiko nta gaciro rwayaha; aya masezerano nta gaciro yaba agifite kuko atakoze icyo yari yakorewe kuko akorwa agamijwe gukoreshwa gusa mu gihe baba batanze ikirego cy'ubutane bakurikije ingingo ya 229 y'Itegeko ryavuzwe hejuru. [18] Uru Rukiko rusanga rero gusubirishamo urubanza RCA 00071/20/TGI/NYGE byakozwe na Ingabire Josephine bifite ishingiro, kuko bigaragara ko habayemo akarengane, bityo ubutane butaragombaga gutangwa hashingiye kubwumvikane(divorce par consentement mutuel) ahubwo bwaragombaga gutangwa ku mpamvu ziteganijwe n'amategeko cyangwa se kuko imibanire itagishobotse; akaba gutanga ubutane kubera ko imibanire y'abashyingiranywe itagishobotse byashimangiye n'abahanga mu

mategeko ALAIN Duelz na Ntampaka Charles; mu nyandiko ya ALAIN Duelz yavuze ko bemeranywa ku butane bityo rero Josephine Ingabire na Safari François bakaba barahawe ubutane bushingiye ku bwumvikane.

[16] Uru rukiko ruremeranya n'urukiko rw'ibanze mu cyemezo cyafashwe no mu misobanurire y'amategeko rwagendeyeho mu gufata iki cyemezo. Urubanza rukaba rwemejwe hashingiwe ku ngingo zasobanuwe n'urukiko rw'ibanze. Amakosa yagaragajwe n'abajuriye nta shingiro afite. umucamanza mu gutanga ubutane atagomba kureba gusa niba umwe mu bashyingiranywe yarishe inshingano ikomoka ku ishyingirwa, ko icyo agomba kureba ari ukwerekana ko kubana kw'abashyingiranywe kutagishobotse³, naho mu nyandiko ya Ntampaka Charles yavuze ku k'ubutane nk'umuti (Divorce- remède) aho yasobanuye ko: ukubana kw'abashyingiranwe gushobora kunanirana, umucamanaza akurikije impamvu ziteganyijwe n'itegeko akabona ko kutabana no kwangirika kudasubirwaho kw'amasezerano y'abashyingiranwe, akena ingaruka atitaye k'ufite ikosa⁴; Urukiko rurasanga rero ku birebana n'aba baburanyi muri uru rubanza, inshingano z'abashyingiranywe zitagishoboka kuri bo, kuko hashize imyaka igera kuri irindwi yose batabana, nta n'umwe wagize ubushake bwo gushaka undi ngo bongere babane; bikaba bigaragara ko urukundo, ugukenerana n'ugushakana hagati yabo nta bigihari ndetse nta n'ibishoboka; bityo bakaba bakwiye guhabwa ubutane kuko kubana kwabo kutagishobotse.

II. Kumenya umubyeyi uzakomeza kurera abana nyuma y'ubutane n'uburenganzira bw'undi mubyeyi mugusura abana be ndetse no kumenya inshingano za buri mubyeyi ku bana babo.

3 ALAIN Duelz; Le droit du divorce, 3e éd., 2002:” Le juge n'est amené à rechercher la violation par tel époux d'une obligation essentielle du mariage mais à constater l'échec de communauté de vie que ce mariage tendait à établir. La désunion est irremediable dès qu'il apparait que l'un des conjoints a perdu toute affection et qu'il renonce irrévocablement à toute forme de communauté de vie”. 4 NTAMPAKA Charles, Droit de personnes et de la famille; p 117: la communauté conjugale peut aboutir à un échec, le juge, suivant les conditions spécifiées dans la loi constate l'échec et la destruction irremediable du mariage, il determine les effets independement de toute notion de faute.

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[19] Ingabire Josephine avuga ko yemera kuba yarera abo bana kuko n'ubundi ariwe ubarera maze ise akagira uburenganzira bwo kubasura maze bakajya bafatanyaga inshingano zo kurera abo bana. [20] Ingabire Josephine yunganiye na Me Nkanika Alimasi avuga ko yemera ko yakomeza kurera abana ariko Safari agakomeza kubishyurira amashuri nk'uko asanzwe abikora kandi akabagenera indezo ingana na 1.500.000Frw no kubishyurira transport yo kujya ku ishuli ndetse no kwivuza bigakorwa na Safari Francois kuko ariwe ufite ubwishingizi ; naho kurya no kwambura bigakorwa na Ingabire Josephine. Ariko ngo mu gihe bagabana imitungo asanga ngo banagabana inshingano zose kuburyo bungana harimo minerval, kurya, kwambura, kwishyura ingendo zijya no kuva ku ishuli no kwivuza ; gusa kwivuza ngo byakomeza gukorwa na Safari Francois kuko ariwe ufite ubwishingizi

nk'uko ubusanzwe abikora naho kwambara bigakorwa na Ingabire Josephine. [21] Safari Francois avuga ko nawe yemera ko Ingabire Josephine yakomeza kurera abo bana, maze akagira uburenganzira bwo kubasura ndetse bakanafatanyaga inshingano zo kubarera. [22] Safari Francois yunganiwe na Me Kaboyi Benoit avuga ko nta kibazo abana babo bakomeza kurerwa na nyina Ingabire Josephine nawe akagira uburenganzira bwo kubasura ndetse ngo nk'uko bari barabyumvikanye mu masezerano ngo Ingabire Josephine yakomeza gukora inshingano zisigaye Safari Francois agakomeza kwishyura amashuri y'abana. Ariko ngo mu gihe Urukiko rwabagabanyaga imitungo, ngo n'inshingano ku bana bagomba kuzigabana zose. UKO URUKIKO RUBIBONA Ingingo ya 244 y'Itegeko N° 32/2016 ryo ku wa 28/08/2016 rigenga abantu n'umuryango ivuga iti: "Hatitawe k'uwashinzwe kurera abana, ababyeyi babo bafite uburenganzira bwo kugenzura uko abana bafashwe n'uko barerwa. Bagomba kandi gutanga indezo hakurikijwe ubushobozi babifitiye". [23] Uru rukiko rusanga ababuranyi bari mu iburanisha baremeranijwe ko abana barerwa na nyina Ingabire Josephine maze ise akagira uburenganzira bwo kubasura ; akaba rero uru Rukiko rusanga Ingabire Josephine azakomeza kurera aba bana babo maze Safari Francois akagira uburenganzira bwo kubasura. [24] Uru Rukiko rusanga ababuranyi mu iburanisha baremeranijwe ko mu gihe bagabana imitungo kuburyo bungana, bagomba no kugabana inshingano kubana babo muburyo bungana; akaba rero Urukiko rubagabanyije inshingano mu buryo bukurikira: - Kwishyura amashuri na transport ijya no kuva ku ishuri: Safari Francois na Ingabire Josephine bazagabana inshingano kuburyo bungana; - Kurya: Safari Francois na Ingabire Josephine bazagabana izi nshingano kuburyo bungana; - Kuvuza abana: bizakorwa na Safari Francois; - Kwambara: bizakorwa na Ingabire Josephine. III. Kumenya imitungo ababuranyi bashakanye cyangwa bafitanye n'uburyo bwo kuyigabana.

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[25] Ingabire Josephine avuga ko inkiko zibanza, mu gufata ibyemezo zirengagije uburenganzira bwa Ingabire Josephine yemererwa n'amategeko kuri icyo mitungo maze zifata ibyemezo zibogamiye ku ruhande rwa Safari Francois, Ingabire Josephine avutse uburenganzira bwe ku mitungo yavunikiye kuva ageze muri urwo rugo kugeza aruvuyemo. [26] Safari Francois avuga ko Urukiko rwemeza kugabanya abashyingiranywe hagendewe ku masezerano y'ubwumvikane rwari rwagaragarijwe ko nta gahato kashyizwe kuri Ingabire Josephine asinya amasezerano y'ubutane yo kuwa 18/12/2017, rwari rwagaragarijwe ko ariwe nk'umunyamategeko wayateguye kuwa 15/07/2017 ndetse ayohereza Safari Francois kuri e-mail, Safari Francois kuko atifuzaga ubutane yabanye kugerageza ibishoboka byose ngo habeho kudatana, bituma asubiza atinze kuwa 13/10/2017(ibi ubwabyo bigaragaza ko nta gahato kabayemo), nyuma impande zombi zijya kwa Notaire w'umurenge wa Kanombe kuwa 18/12/2017, nta gahato kayibayemo, ko ari nabyo Urukiko rwemeje. Safari Francois akaba asaba Urukiko ko mu gufata icyemezo ruzaha agaciro ibisobanuro Safari Francois yatanze, maze rwemeze ko ibyemejewe n'Urukiko Rwisumbuye rwa Nyarugenge nta gihindutse ku bijyanye n'igabana ry'imitungo hagati ya Safari Francois na Ingabire Josephine. [27] Ingabire Josephine yunganiwe na Me Nkanika Alimasi avuga ko bafite inzu

eshatu arizo inzu yo guturamo iri Kabeza, inzu ya etage y'ubucuruzi iri kucyamitsingi ndetse n'indi nzu ya etage iri Kicukiro, akaba ngo iyi nzu iri Kicukiro yubatswe kumafaranga yaturutse mu bukode bw'iyi nzu y'ubucuruzi iri kucya mitsingi ndetse n'ingwate kuri iyo nzu n'inzu yo guturamo iri Kabeza, maze bahabwa inguzanyo y'amafaranga Miliyoni Magana atatu na mirongo itandatu n'eshanu (365 millions) muri Equity Bank, ko rero asaba ko bazigabana kuburyo bungana; ko rero iyo nzu yubatswe nyuma ikomoka mu mitungo bari barashakanye nayo bakaba bagomba kuyigabana; ko rero bagomba kugabana imitungo yose bashakanye kugeza ubu kuko nibyabonetse Ingabire amaze kuva murugo kwa Safari ahubwo ngo byakometse mu nyungu n'ingwate kuri iyo mitungo bari bafitanye mbere yo kuva muri urwo rugo, kandi ngo inyungu zose zavaga muri iyo mitungo zagiye zicungwa na Safari Francois wenyine; kubijyanye n'imodoka, ngo Ingabire Josephine yarafite imodoka imwe ndetse na Safari Francois afite indi modoka. [28] Safari avuga ko mugihe Urukiko rwasanga rwabagabanya imitungo ngo nta kibazo abonamo ariko Ingabire nawe akagarura imodoka yandikishije abandi bantu ndetse akagarura na quincallerie; ndetse ngo ibijyanye n'inzu yubatswe nyuma y'uko batakibana hakaba harebwa icyo amategeko ategeanya; ko bashyize muri dosiye jurisprudence y'Urukiko rw'Ikirenga igaragaza uburyo bigenda igihe habaye kugabana imitungo umwe mubashakanye yaravuye murugo, ko bareba imitungo igihe umwe yavuye murugo naho ibyashatswe nyuma buri umwe kuruhande rwe arabigumana. Avuga ko iyi inzu iri muri UPI: 1/03/06/03/222, SAFARI Francois yayubatswe atakibana na Ingabire Josephine, ko rero idakwiye kugabanwa ahubwo ikaba ari iya SAFARI Francois. UKO URUKIKO RUBIBONA; [29] Ingingo ya 242 y'Itegeko N° 32/2016 ryo ku wa 28/08/2016 rigenga abantu n'umuryango ivuga iti : " Ubutane busesa ishyingirwa n'amasezerano agenga imicungire y'umutungo w'abashyingiranywe. Igabana ry'umutungo rikorwa hakurikijwe amategeko abigenga" ;

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- [30] Umurongo watanzwe mu rubanza RS/INJUST/RC 00002/2018/SC haburana Uwimana Marine na Kagitare Dancille rwaciye kuwa 21/02/2020 mu gika cya 23 na 245 n'uko urubanza rw'ubutane nirwo runagaragaza uburyo abari barashyingiranywe bagabana umutungo bari basangiye, uru Rukiko rukaba rusanga uyu murongo wakoreshwa muri uru rubanza kuko ababuranyi bakwiye kugabana imitungo bashakanye cyangwa bafitanye, bakagabana n'inyungu zose zikomoka kuri iyo mitungo; akaba ntawukwiye kugira umutungo yiharira atawugabanye n'uwo basezeranye ivanamutungo. [31] Uru rukiko rusanga ku bijyanye n'imodoka ababuranyi bari bafite bakibana, buri wese azagumana iyo yarafite igihe barekeyaho kubana mu nzu(separation de fait); kubijyanye n'inzu eshatu bafite harimo inzu yo gutarimo iri Mulindi, Kabeza, Kanombe, Kicukiro ifite UPI:1/03/05/02/1286, inzu y'ubucuruzi ya etage y'ubucuruzi iherereye Mushumbamwiza, Rwimbogo, Nyarugunga, Kicukiro ifite UPI: 1/03/10/03/402, inzu y'ubucuruzi ya etage iri Gasave, Kicukiro, Kicukiro, Umuji wa Kigali ifite UPI: 1/03/06/03/222; kuba iyi inzu iri muri UPI UPI: 1/03/06/03/222, Safari Francois yunganiwe na Me Kaboyi Benoit bavuga ko Safari yayubatswe atakibana na Ingabire Josephine, ko rero idakwiye kugabanwa ahubwo ikaba ari iya Safari; naho Ingabire

Josephije yunganiwe na Me Nkanika Alimasi akavuga ko uyu mutungo Safari yawubonye akoresheje ingwate y'imitungo n'ubundi bari barashakanye ariyo UPI: 1/03/05/02/1286 na UPI: 1/03/10/03/402; Uru Rukiko rusanga nyuma y'uko inkiko zibanje zemeje ko Safari Francois ahawe inzu y'ubucuruzi iherereye mushumbamwiza(kucyamitsinzi), yakomeje kuyibyaza umusaruro aho ikodeshwa 11.800.000Frw ku kwezi, akaba uru Rukiko rusanga muri uwo musaruro ariho yakuye amafaranga yo kugura ikibanza UPI: 1/03/06/03/222 aho bigaragara ku masezerano yo kuwa 29/01/2022, akaba Safari Francois atagaragaza ahandi yaba yarakuye ayo mafaranga adakoresheje iyo mitungo yashakanye cyangwa ahuriyeho na Ingabire Josephine, kuko ntaho agaragaza kuburyo bufatika yaba yarakuye ayo mafaranga; byongeye kandi amafaranga yubakishije inzu iri muri iki kabanza akomoka ku nguzanyo yahawe na Equity Bank atanze ingwate y'inzu y'ubucuruzi ya etage iherereye Mushumbamwiza, Rwimbogo, Nyarugunga, Kicukiro ifite UPI : 1/03/10/03/402, ndetse n'inzu y'ubucuruzi ya etage iri Gasave, Kicukiro, Kicukiro, Umuji wa Kigali ifite UPI : 1/03/06/03/222 akaba ariyo ikomoka muri iyo mitungo bari basanganywe ; akaba rero uru Rukiko rusanga iyi UPI : 1/03/06/03/222 ikomoka mu mitungo bashakanye bityo UPI : 1/03/05/02/1286, UPI: 1/03/10/03/402, UPI: 1/03/06/03/222, Ingabire Josephine na SAFARI Francois bagomba kuzigabana mu buryo bungana. Akaba uru Rukiko rusanga ababuranyi, ku bushake bwabo, mbere yo kuba bagurisha muri cyamunara, umwe muriho ushobora kwishyura undi kimwe cya kabiri cy'igiciro akaba yayegukana yose.

5 [23] Ingingo ya 8 y'Itegeko N° 27/2016 ryo ku wa 08/07/2016 rigenga imicungire y'umutungo w'abashyingiranywe, impano n'izungura, iteganya ko "iyu uburyo bw'ivangamutungo rusange busheshwe ku mpamvu z'ubutane cyangwa guhindura uburyo bw'imicungire y'umutungo, abari barashyingiranywe kuvanga umutungo bagabana ku buryo bungana cyangwa mu bundi buryo bumvikanye imitungo n'imyenda..."

[24] Iyi ngingo yumvikanisha ko iyo habaye urubanza rw'ubutane ku bashyingiranywe, uburyo bw'ivangamutungo basezeranye buba busheshwe, bakagabana mu buryo bungana cyangwa mu bundi buryo bumvikanyeho imitungo. Urubanza rw'ubutane nirwo runagaragaza uburyo abari barashyingiranywe bagabana umutungo bari basangiye, ariko mu gihe hari imitungo itaragaragajwe igihe cy'urwo rubanza, nta kibuka ko igihe imenyekaniye, ubifitemo inyungu yabiregera Urukiko kugira ngo nayo igabanwe. Bitabaye bityo, uwo mutungo wakwiharirwa n'umwe mu bari barashyingiranywe, bikaba binyuranye n'ibiteganywa mu ngingo ya 8 y'Itegeko No 27/2016 ryo ku wa 08/07/2016 ryavuzwe haruguru.

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IV. Gusuzuma ibijyanye na Trust Plus Company(Quincallerie) ya Ingabire Josephine na Companies bivugwa ko ari iza Safari Francois. [32] Ingabire Josephine avuga ko Safari Francois yaregeye imitungo ya Trust Plus Campany muri uru rubanza rw'ubutane nyamara abizi neza ko ntaho iyo sosiyeti ihuriye n'urugo rwe na INGABIRE Josephine, ko icyo agamije ari gutesha agaciro Ingabire Josephine n'umuryango we kuko yanatanze ikirego cy'inshinjabyaha avuga ko Ingabire Josephine n'umuryango we bamwibye umutungo, ko ibyo byose abikora agamije kubuza

Ingabire Josephine amahirwe yo gukomeza gutungwa n'umuryango we, kugirango yangare muri uyu muji atitaye ko amurerera abana. Ingabire Josephine yunganiwe na Me Nkanika Alimasi akomeza avuga ko quincallerie" ya Trust Plus Company Ltd yatangiye ari iy'umuryango wa Ingabire Josephine, ko yaje kwandikwa kuri Ingabire Josephine yaramaze kuva murugo kwa Safari muri 2016, ngo iyi company yatangiye muri 2015 na 10.000.000Frw yatanze na nyina wa Josephine maze itangira iyoborwa na murumuna wa Ingabire Josephine witwa Claudine, ariko ngo nyuma Claudine yaje kuyihombya maze Josephine abona gutangira kuyiyobora muri 2017 binakorerwa raporo y'umuryango; ko rero iyi company ntaho ihuriye n'imitungo ya Safari na Ingabire; ko rero iyi company ari iy'umuryango ya Josephine ndetse ngo magingo aya yamaze guhomba ikaba idakora kuko kugeza ubu bajya bakora imenyekanishamusoro(declaration) ya "NEANT"; ko rero ibyo Safari avuga ko INGABIRE yafataga amafaranga y'umuryango wa Safari na Ingabire akaba ariyo ashora muri iyo quincallerie ayakuye kuri konti yabo, ngo ntabwo aribyo kuko historique ya banki igaragaza ko ari Safari wajyaga kubikuza kuri iyo konti; rero rero iyi quincallerie itari mu mitungo yashakanye cyangwa ahuriyeho na Safari Francois. [33] Me ARMAND yunganiye Ingabire Josephine avuga ko ibyangombwa bya quincallerie bigaragaza ko yari iy'umuryango wa Ingabire Josephine maze uyu ayandikwaho yaramaze kuva murugo kwa Safari kandi ngo naho igishoro cyaturutse bigaragara ko ari nyina wa Josephine wagitanze ; asaba ahubwo ko Urukiko rwanareba attachments 155 kugeza 158 ahagaragara Companies zindi zanditse kuri Safari Francois kandi zikomoka kuri iriya mitungo afitanye na Ingabire Josephine, nazo bakazigabana. [34] Safari Francois avuga ko igihe imanza z'ubutane zatangiraga, Ingabire Josephine yagaragaje ko atacyemera inyandiko y'ubwumvikane agaragaza ko igabana ry'imitungo rikozwe hakurukijwe ibiri muri iyo nyandiko yaba arenganyijwe; ngo asanga atemeranya na Ingabire Josephine kuko ngo kuba mu Nkiko zo hasi Safari Francois yarahawe inzu y'ubucuruzi ngo n'uko yanahawe inshingano zihariye zo kwishyura imyenda iyo nzu ifite ndetse n'umwenda wari ku nzu yo guturamo yahawe Ingabire Josephine, ko rero basinya iriya nyandiko yubwumvikane bagaragaje gusa imitungo itimukanwa, kuko indi mitungo ndetse n'imyenda y'abantu batandukanye ntibayishyize mu nyandiko y'ubwumvikane nkuko byifujwe na Ingabire Josephine na Safari Francois akabyemera, ko iyo mitungo batashyizwe mu nyandiko y'ubwumvikane ngo igizwe n'imodoka Safari Francois yagendamo n'iyi Ingabire Josephine yagendagamo, ndetse na Quincallerie Ingabire Josephine yacururizagamo hamwe nibindi bikoresho byo murugo bagabanye, ko by'umwihariko kuri iyi Quincallerie byagaragaje n'umugenagaciro ko ifite agaciro kangana na miliyoni zirenze magana abiri. Akomeza avuga ko iyi Quincallerie Trust Plus Company Ltd Ingabire Josephine afitemo imigabane 100%, ko Ingabire Josephine yahise ashaka inyandiko zihamya ko iyo nyandiko ari iy'umuryango, maze Safari Francois aza gusaba Ubugenzacyaha ngo bubikoreho iperereza, bwaje gusanga Ingabire Josephine nabo mu muryango we bakekwaho ibyaha byo gukora inyandiko mpimbano, ndetse iyo dosiye ishyikirizwa

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Ubushinjacyaha nabwo buregera Urukiko ku buryo urubanza rwagombaga kuburanishwa kuwa 14/09/2022, rukaba rwarasubitswe rwimurirwa tariki ya 02/11/2022; Safari Francois yunganiwe na Me Kaboyi Benoit avuga ko iyi Quancaillerie ikomoka mu mutungo waba Safari Francois na Ingabire Josephine, ko abazwa muri CID(Criminal Investigation Department) yemeye ko iyi Quancallerie ari iye ahubwo ko yari yarayandikishijeho murumuna we Claudine muri RDB(Rwanda Development Board) kuko yari akiri umukozi wa Leta; ko batangiye kuburana aribwo yazanye inyandiko zivuga ko iyi company(quincallerie) ari iy'umuryango we kugirango abone uburyo yayigumana wenyine; ko iyi quincallerie ifite agaciro ka 200 Millions; ko ibivugwa ko iyi quancallerie itagikora ataribyo kuko ngo aherutse gufata ideni rya 50 Millions mu izina ry'iyi quincallerie; ko iyi quincallerie Ingabire yayandikishije kuri murumuna we Safari atabizi nk'uko nawe (Safari) hari companies afite zimwanditseho ariko Josephine akaba atazizi. Kandi ngo murumuna we yaje kwiba muri iyo quincallerie maze Josephine aramufungishako ; ko rero iyi Quincallerie nayo bagomba kuyigabana bombi mugihe baba bagabanye n'indi mitungo bashakanye cyangwa bahuriyeho. UKO URUKIKO RUBIBONA; [35] Ingingo ya 3 y'Itegeko n° 15/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo ivuga iti:” Buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana.....”. [36] Uru Rukiko rusanga ibyo Safari Francois avuga ko iyi Quancaillerie ikomoka mu mutungo wabo (Safari na Ingabire), nta kimenyetso na kimwe Safari abasha kugaragaza ko hari mu buryo cyangwa ubundi haba hari umutungo wabo nk'umuryango waba warashyizwe muri iyo Quincallerie, akaba ntaho agaragaza Ingabire yaba yarafashe ideni akoresheje imitungo yabo ngo ayashyire muri IYO Quincallerie kandi nta mafaranga Safari ubwe cyangwa afatanije n'umugore we agaragaza yaba yatanze kugirango iyo Quancaillerie itangire gukora; akaba ahubwo bigaragara mu mategeko y'iyi company(Quincallerie) muri RDB, ko yatangiye 2015 yanditse kuri Claudine kandi bagaragaza ko igishoro cyavuye mu muryango wa Claudine; akaba iyi Quincallerie yaraje kwandikwa kuri Josephine kuwa 20/11/2017 atakibana na Safari kandi Ingabire Josephine afata ideni rya 50.000.000Frw ryo kuwa 30/06/2022 mu izina rya Quancallerie ntaho bigaragara mu ngwate Josephine yatanze harimo imitungo ahuriyeho na Safari Francois; byumvikana ko iyi Quancallerie ntaho ihuriye n'imitungo Safari na Josephine bashakanye cyangwa bahuriyeho mbere yuko bareka kubana; ndetse murubanza nshinjabyaha numero RPA 00453/2023/HC/KIG, aho Safari Francois yari yarareze Ingabire Josephine n'umuryango we ko bahimbye inyandiko kugirango biyitirire iyi Quincallerie Trust Plus company muburyo bwo guhisha amafaranga bagiye bamwiba, akaba uru Rukiko rusanga mu isomwa ry'uwo rubanza ryabaye kuwa 12/1/2024, Ingabire Josephine nabo baregwa hamwe bo mu muryango we barabaye abere kandi hashimangirwa ibyemejwe murubanza n°RP 00897/2021/TGI/NYGE rwajuririwe, rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge ku wa 6/2/2023, ko rudahindutse, akaba rero iki ari ikimenyetso ko iyi Quincallerie ntaho ihuriye n'imitungo Ingabire Josephine na Safari Francois bahuriyeho; bityo rero uru Rukiko rusanga iyi Quincallerie itari mu mutungo ugabanwa muri uru rubanza. Urukiko rusanga kandi companies zivugwa na Ingabire Josephine ko zanditswe kuri Safari Francois, akaba nta bimenyetso bifatika Ingabire agaragaza ko izo companies zikomoka ku mitungo bahuriyeho cyangwa bashakanye mbere y'uko buri umwe ajya kwibana ; bityo akaba izi

companies nazo zitari mu mitungo ababuranyi bombi muri uru rubanza bagomba kugabana. V. Kumenya amadeni(imyenda) ababuranyi bafite n'uburyo bagomba kuyishyura.

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[37] Safari Francois yunganiwe na Me Kaboyi Benoit bavuga ko bafite kugeza ubu amadeni angana na 410.220.916Frw harimo amadeni bafashe mu bigo by'imari aribyo BPR, LETSHGO na Caisse d'entraide yo muri UR angana na 310.523.716Frw nayo Safari Francois yafashe ku bantu ku giti cye angana na 99.697.200Frws. [38] Ingabire Josephine yunganiwe na Me Nkanika Alimasi avuga ko amadeni yemera ari ayafashwe mu bigo by'imari bizwi naho ngo amadeni Safari Francois yafashe ku bantu ku giti cyabo ntabwo ayemera. UKO URUKIKO RUBIBONA; [39] Ingingo ya 8 y'Itegeko N°27/2016 ryo ku wa 08/07/2016 rigenga imicungire y'umutungo w'abashyingiranywe, impano n'izungura ivuga iti:” Iyo uburyo bw'ivangamutungo rusange busheshwe ku mpamvu z'ubutane cyangwa guhindura uburyo bw'imicungire y'umutungo, abari barashyingiranywe kuvanga umutungo bagabana ku buryo bungana cyangwa mu bundi buryo bumvikanye imitungo n'imyenda”; iyi ngingo yumvikanisha ko iyo abashyingiranywe ivangamutungo rusange bahawe ubutane, bagabana ku buryo bungana imitungo n'imyenda(amadeni).....”. [40] Uru rukiko rusanga ababuranyi bombi bagomba kugabana aya madeni yose ku buryo bungana; kuba Ingabire Josephine avuga ko atemera amadeni Safari Francois yafashe ku bantu, akaba uru Rukiko atariko rubibona kuko atashoboye kugaragaza ko iri deni riri muri za banki ariryo ryaguze ikibanza ndetse no kubaka inzu ya etage yavuzwe hejuru iri Kicukiro; kandi ntabwo Ingabire Josephine yashoboye kugaragaza ko aya madeni Safari Francois yayafashe mu nyungu ze bwite, akaba Urukiko rusanga hari ibikorwa byo kubaka inzu Safari Francois yakoze ikomoka muri ayo madeni yose Safari Francois yagiye afata yaba ayo yafashe muri za Banki nayo yagurijwe n'abantu ku giti cyabo. III. ICYEMEZO CY'URUKIKO [41] Rwemeje ko ikirego cya Ingabire Josephine cyo gusubirishamo urubanza RCA 00071/2020/TGI/NYGE ku mpamvu z'akarengane gifite ishingiro. [42] Rwemeje ko urubanza RCA 00071/2020/TGI/NYGE rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge ku wa 30/09/2021, rwasubirishijwemo ku mpamvu z'akarengane ruhindutse. [43] Rwemeje ko ubutane bwa Ingabire Josephine na Safari Francois butagombaga gutangwa hashingiye kubwumvikane. [44] Rwemeje ko ubutane bwa Ingabire Josephine na Safari Francois butanzwe ku mpamvu z'uko imibanire yabo itagishobotse. [45] Rwemeje ko Ingabire Josephine azakomeza kurera abana babo Safari Roxane Nissi wavutse 30/07/2012 na SAFARI Laig Bessie wavutse ku wa 14/07/2014; Safari Francois akaba afite uburenganzira bwo kubasura nabo bakamusura.

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[46] Rwemeje ko kubijyanye n'umutungo w'imodoka, buri wese agumana imodoka yarafite bajya kwibana. [47] Rwemeje ko Ingabire Josephine na Safari Francois bagabanyijwe inshingano mu buryo bukurikira: Kwishyura amashuri y'abana n'amafaranga y'ingendo yo kujya no kuva ku ishuli: Safari Francois na Ingabire Josephine bazagabana iyi nshingano kuburyo bungana; Kurya: Safari Francois na Ingabire Josephine bazagabana iyi nshingano kuburyo

bungana Safari Francois agatanga 300.000Frw na Ingabire Josephine agatanga 300.000Frw buri kwezi; Kuvuza abana: bizakorwa na Safari Francois; Kwambara: bizakorwa na Ingabire Josephine. [48] Rwemeje ko imitungo itimukanwa Ingabire Josephine na Safari Francois bashakanye kandi bahuriyeho ari UPI : 1/03/05/02/1286, UPI : 1/03/10/03/402 na UPI : 1/03/06/03/222, bakaba bagomba kuyigabana mu buryo bungana. [49] Rwemeje ko umutungo wa Quincallerie Trust Plus Company yanditse kuri Ingabire Josephine ndetse na Companies bivugwa ko ari iza Safari Francois, bitari mu mitungo bombi bagomba kugabana. [50] Rwemeje ko Ingabire Josephine na Safari Francois bagomba kugabana amadeni y'amafaranga Miliyoni Magana ane na cumi n'ibihumbi Magana abiri na makumyabiri n'amafaranga Magana cyenda na cumi n'atandatu (410.220.916 Frw) ku buryo bungana. 51. Rwemeje ko amagarama y'urubanza aherera mu isanduku ya Leta.

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Prepared on 12 October 2026 · Esheria