

RWANDA / JUDGMENT

KAYITESI v ADEPR

RS/INJUST/RSOC 00005/2023/CA

COURT

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KAYITESI v ADEPR

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Text

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KAYITESI v ADEPR [Rwanda URUKIKO RW'UBUJURIRE – RS/INJUST/RSOC 00005/2023/CA – (Munyangeri, P.J., Ngagi na Kamere, J.) 22 Ukuboza 2023] Amategeko agenga imanza z'umurimo – Amasezerano y'umurimo – Iseswa ry'amasezerano y'umurimo – Kwirukanwa ku kazi ku mpamvu z'ubukungu n'ikoranabuhanga – Kumenyeshya umugenzuzi w'umurimo – Iyo urutonde rw'abakozi bagomba gusezererwa ku mpamvu z'ubukungu n'ikoranabuhanga rudashyikirijwe umugenzuzi w'umurimo mbere y'uko umukozi asezererwa kugira ngo agenzure niba ruhuje n'ibiteganywa n'itegeko, umukozi aba yirukanywe mu buryo bunyuranyije n'amategeko. Incamake y'ikibazo: Kayitesi wari umukozi w'Itorero ry'ADEPR akora akazi k'ubunyamabanga n'ubucungamutungo yaje kwirukanwa mu kazi kubera impamvu z'ubukungu n'ikoranabuhanga n'iryo Torero. Avuga ko yirukanwe mu buryo bunyuranyije n'amategeko kuko nta nteguza yahawe ndetse n'ibindi bitandukanye bigenerwa umukozi uhagaritswe muri ubwo buryo. Ibi ni byo byatumye aregera Urukiko Rwisumbuye rwa Gasabo asaba ko yabiharerwa indishyi zitandukanye. Mu kwiregura, ADEPR ivuga ko iki kerego nta shingiro gifite kuberako Urega yirukanwe ku mpamvu yo kuvugurura imikorere biturutse ku kibazo cy'ubukungu, izo ndishyi akaba atagomba kuzihabwa. Urukiko Rwisumbuye rwaciye urubanza rwemeza ko nta kwirukanwa kunyuranyije n'amategeko

kwabayeho, ko Urega agomba gusubiza Uregwa amafaranga ajyanye n'ibyakoreshejwe mu rubanza. Ibi byatumye atanga ikirego cy'ubujurire mu Rukiko Rukuru asaba gusuzuma no kwemeza ko yirukanywe mu buryo bunyuranyije n'amategeko. Urukiko Rukuru rwemeje ko ubujurire nta shingiro bufite maze rumutegeka kwishyura Uregwa ibyakoreshejwe muri uru rubanza. Urega yandikiye Perezida w'Urukiko rw'Ikirenga asaba ko urubanza rwaciwe n'Urukiko Rukuru rusubirwamo ku mpamvu z'akarengane, arabyemererwa maze urubanza rwe ruburanishwa n'uru Rukiko rw'Ubujurire. Avuga ko akarengane yagiriwe gashingiye ku kuba urubanza asubirishamo rwaravuze ko nta gihe ntarengwa cyo kuba umugenzuzi w'umurimo yashyikirijwe urutonde rw'abakozi bagomba gusezererwa mu kazi, ko ahubwo arushyikirizwa ku mpamvu za "statistiques", ibi bikaba binyuranyije n'ibiteganyijwe n'Itegeko rigenga umurimo mu Rwanda, akaba abisabira indishyi zitandukanye. Uregwa yireguye avuga ko Urega yasezerewe mu kazi mu buryo bukurikije amategeko, bikaba byarakozwe ku mpamvu z'ubukungu, imyanya mishya ishyirwa ku isoko ntiyashobora kuzuza ibyasabwaga kugira ngo apiganwe. Avuga kandi ko aho umugenzuzi w'umurimo aherewe urutonde rw'abakozi bagombaga gusezererwa, nta cyo yarunenze, ngo abe yagaragaza ko hari amategeko yishwe. Bityo, akaba asaba ko iki kirego kitahabwa ishingiro, ahubwo hakemezwa ko asubizwa ibyo yakoresheje muri uru rubanza rusubirishwamo. Ku kibazo kijyanye n'amafaranga y'insimburakiruhuko, Urega asaba ko yagenerwa ayo mafaranga ahwanye n'umushahara w'ukwezi kumwe, kubera ko hari ikiruhuko cyo mu mwaka wa 2020 yari yasabye ariko ntiyagihabwa. Uregwa we avuga ko Urega agomba kugaragaza inyandiko isaba icyo kiruhuko atahawe, bitaba ibyo iyi ngingo ikaba itagomba guhabwa ishingiro. Incamake y'icyemezo: 1. Iyo urutonde rw'abakozi bagomba gusezererwa ku mpamvu z'ubukungu n'ikoranabuhanga rudashyikirijwe umugenzuzi w'umurimo mbere y'uko umukozi asezererwa kugira ngo agenzure niba ruhuje n'ibiteganywa n'itegeko umukozi aba yirukanywe mu buryo bunyuranyije

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2. Iyo umukozi asezerewe mu kazi bitewe n'iseswa ry'amasezerano cyangwa arangiye mbere y'uko afata ikiruhuko cy'umwaka yari afiteho uburenganzira, ahabwa amafaranga agisimbura, angana n'umushahara w'ukwezi kumwe. Ikirego cyo gusubirishamo urubanza ku mpamvu z'akarengane, gifite ishingiro kuri bimwe. Amategeko yashingiweho: Itegeko No 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda, ingingo ya 2, 21, 25, 30, 31, 34, iya 39, 43, 47, 49 n'ya 50. 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 12. Itegeko No 05/2015 ryo ku wa 30/03/2015 rigenga imitunganyirize y'ubwiteganyirize, ingingo ya 6, 9, 10, 12 n'ya 14. Itegeko Ngenga No 03/2012/OL ryo ku wa 13/06/2012 rigenga imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga, ingingo ya 47. Itegeko No 13/2009 ryo ku wa 27/05/2009 rigenga umurimo mu Rwanda, ingingo ya 33 n'ya 34. Itegeko No 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo ya 3. Imanza zifashishijwe: RSOC 0014/12/CS, Musoni Rwigimba Désiré na Banki ya Kigali rwaciwe n'Urukiko rw'Ikirenga ku wa 18/01/2013. RS/INJUST/RSOC 00010/2022/CA, Mukandayisenga Gentile na Unguka Bank Plc rwaciwe n'Urukiko

rw'Ubujurire ku wa 24/11/2023. RS/INJUST/RC 00030/2022/CA, Codenya Multiservices Ltd na Nzeyimana Fred na Munyakarambi Charles rwaciwe n'Urukiko rw'Ubujurire ku wa 30/11/2023. RS/INJUST/RSOC 00011/2022/CA, Nyirabwiza Justine na Unguka Bank Plc rwaciwe n'Urukiko rw'Ubujurire ku wa 20/04/2023. RS/INJUST/RSOC 00009/2022/CA, Uwineza Alliance na Unguka Bank Plc, rwaciwe n'Urukiko rw'Ubujurire ku wa 20/04/2023. RPAA 00273/2020/CA CMB RPAA 00339/2020/CA CMB RPAA 00349/2020/CA, Ubushinjacyaha na Mahirwe Ephrem n'abandi rwaciwe n'Urukiko rw'Ubujurire ku wa 28/04/2023. Urubanza I. IMITERERE Y'URUBANZA [1] Kayitesi Joselyne avuga ko yakoreye Itorero rya ADEPR ku mwanya w'umunyamabanga n'umucungamutungo (secrétaire-comptable) kuva mu mwaka wa 2008 kugeza ku wa 29/04/2021, ahembwa umushahara ungana n'amafaranga ibihumbi magana abiri na birindwi, na mirongo icyenda na rimwe (207.091 Frw). Nyuma yo guhabwa ibaruwa imusezerera mu kazi ku mpamvu z'ubukungu n'ikoranabuhanga, Kayitesi Joselyne yabifashe nko kwirukanwa mu kazi mu buryo bunyuranyije n'amategeko kubera ko atahawe integuza n'ibindi bitandukanye bigenerwa umukozi uhagaritswe muri ubwo buryo, kandi ko ibaruwa imusezerera yahawe itariho kashi y'ikigo. [2] Kayitesi Joselyne yareze Itorero rya ADEPR mu Rukiko Rwisumbuye rwa Gasabo, avuga ko

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- [3] ADEPR yireguye ivuga ko Kayitesi Joselyne yirukanywe hagiye kuvugururwa imikorere y'Itorero kubera impamvu z'ubukungu, ko rero indishyi asaba nta shingiro zifite. [4] Mu rubanza RSOC 00208/2021/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ku wa 01/03/2022, urwo Rukiko rushingiye ku ngingo ya 2, iya 31, iya 34, iya 39, 6°, iya 43, iya 47, 2° z'Itegeko No 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda, rwemeje ko: - Kayitesi Joselyne atari guhabwa integuza, yahawe imperekeza ibariwe ku mushahara yahembwaga, bityo ko nta ndishyi zerekeye kwirukanwa mu buryo bunyuranyije n'amategeko yahabwa; - nta birarane by'imishahara Kayitesi Joselyne yasigawemo, nta kigaragaza ko yakoze amasaha y'ikirenga, nta ndishyi z'icyemezo cy'imirimo yahabwa, nta ndishyi zikomoka ku burwayi yagize yahabwa, nta birarane ADEPR itamutangiye muri RSSB; - Kayitesi Joselyne yishyura ADEPR amafaranga y'igihembo cya Avoka angana n'ibihumbi magana atanu (500.000 Frw), n'amafaranga ibihumbi ijana (100.000 Frw) y'ikurikiranarubanza, yose hamwe akaba amafaranga ibihumbi magana atandatu (600.000 Frw); - amafaranga y'amagarama Kayitesi Joselyne yatanze arega ahwana n'ibyakozwe mu rubanza. [5] Kayitesi Joselyne yajuririye urwo rubanza mu Rukiko Rukuru, arusaba gusuzuma no kwemeza ko yirukanywe mu buryo bunyuranyije n'amategeko akaba agomba kubiharerwa indishyi, gusuzuma no kwemeza ko ahabwa imperekeza zijyanye n'umushahara nyakuri yahembwaga, ko atangirwa imisanzu itaratanzwe muri RSSB, ko ahabwa amafaranga ya konji ya 2020 atahawe, ko adakwiye gutanga indishyi, amafaranga y'ikurikiranarubanza n'igihembo cya Avoka, ko ahubwo ari we ukwiye kubihabwa, yasabye kandi gusubizwa igarama, guhabwa indishyi z'akababaro, amafaranga y'ikurikiranarubanza n'igihembo cya Avoka. [6] ADEPR yireguye ivuga ko ubujurire bwa Kayitesi Joselyne nta shingiro bufite, kuko Urukiko rubanza rwasobanuye neza ishingiro ry'icyemezo ndetse

n'amategako ajyanye n'ibyo yaregeraga. Yasoje itanga ubujurire bwuririye ku bundi isaba gusuzuma igihembo cya Avoka n'amafaranga y'ikurikiranarubanza ku rwego rw'ubujurire. [7] Mu rubanza RSOCA 00074/2022/CA rwaciwe n'Urukiko Rukuru ku wa 20/10/2022, urwo Rukiko rushingiye ku ngingo ya 21, igika cya 2, y'Itegeko No 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda, iya 12 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, iya 6, 9, 10, 12 n'iya 14 z'Itegeko No 05/2015 ryo ku wa 30/03/2015 rigenga imitunganyirize y'ubwiteganyirize, rwemeje ko: - ubujurire bwa Kayitesi Joselyne nta shingiro bufite; - urubanza rwajuririwe rudahindutse, Kayitesi Joselyne akaba agomba guha ADEPR amafaranga y'igihembo cya Avoka angana n'ibihumbi magana arindwi na mirongo icyenda (790.000 Frw); - ingwate y'amagarama Kayitesi Joselyne yatanze ajurira ihwanye n'ibyakozwe mu rubanza. [8] Kayitesi Joselyne yandikiye Perezida w'Urukiko rw'Ubujurire asaba ko urubanza RSOCA 00074/2022/HC/KIG i 'U kik R k k 20/10/2022 bi i h k

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00005//2023/CA, maze nyuma y'imihango ntegururubanza yose, hemezwa ko ruzaburanishwa ku wa 06/12/2023, uwo munsu ruburanishirizwa mu ruhamu, Kayitesi Joselyne ahagarariwe na Me Ngiririshuti Vedaste, ADEPR ihagarariwe na Me Mubangizi Frank, iburanisha rirapfundikirwa, ababuranyi bamenyeshwa ko icyemezo kizasomwa ku wa 22/12/2023. [9] Mu myanzuro no mu miburanire, uhagarariye Kayitesi Joselyne anenga urubanza asubirishamo kuba rwaravuze ko nta gihe ntarengwa cyo kuba umugenzuzi w'umurimo yashyikirijwe urutonde rw'abakozi bagomba gusezererwa mu kazi, ko ahubwo arushyikirizwa ku mpamvu za statistiques, we akaba asanga binyuranyije n'ingingo ya 21 y'Itegeko No 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda. [10] Akomeza asobanura ko umugenzuzi w'umurimo amenyeshwa urwo rutonde, kugira ngo ashobore gutanga inama cyangwa ibitekerezo kuri iryo sezererwa, kandi ko ari ko umucamanza yabibonye mu rubanza rwa Mukasharangabo Pascasie na we wirukanywe na ADEPR umunsi umwe na Kayitesi Joselyne kandi ku mpamvu zimwe. Ashingiye ku ngingo ya 30, igika cya mbere n'icya gatatu y'Itegeko rigenga umurimo mu Rwanda ryavuzwe haruguru, asoza asaba Urukiko gutegeka ADEPR kumuha indishyi zingana n'umushahara w'amezi icyenda (9), ni ukuvuga amafaranga ibihumbi magana abiri na birindwi na mirongo icyenda na rimwe gukuba n'amezi icyenda $(207.091 \text{ Frw} \times 9 \text{ mois}) = \text{amafaranga miliyoni imwe, ibihumbi magana inani na mirongo itandatu na bitatu na magana inani na cumi n'icyenda (1.863.819 Frw)}$ kubera kwirukanwa mu kazi mu buryo binyuranyije n'amategako. [11] Uhagarariye ADEPR yiregura avuga ko Kayitesi Joselyne yasezerewe mu kazi mu buryo bukurikije amategako, bikaba byarakozwe ku mpamvu z'ubukungu, imyanya mishya ishyirwa ku isoko ntiyashobora kuzuza ibyasabwaga kugira ngo apiganwe. Avuga kandi ko aho umugenzuzi w'umurimo aherewe urutonde rw'abakozi bagombaga gusezererwa, nta cyo yarunenze, ngo abe yagaragaza ko hari amategako yishwe, kandi ko akurikije ibiteganywa n'ingingo ya 21, igika cya 3 y'Itegeko rigenga umurimo mu Rwanda, asanga ibyo ADEPR yakoze bitanyuranyije na yo. Asoza asaba Urukiko gutegeka Kayitesi Joselyne kwishyura ADEPR amafaranga y'ikurikiranarubanza n'igihembo cya Avoka. [12] Nyuma y'izo mpaka, Urukiko rurasanga hakwiye gusuzumwa ibibazo bikurikira:

- a. kumenya niba Kayitesi Joselyne yarasezerewe mu kazi mu buryo bunyuranyije n'amategeko;
 - b. kumenya niba Kayitesi Joselyne yahabwa indishyi zitandukanye asaba;
 - c. kumenya niba amafaranga ababuranyi basaba afite ishingiro. II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA
1. Kumenya niba Kayitesi Joselyne yarasezerewe mu kazi mu buryo bunyuranyije n'amategeko [13] Uhagarariye Kayitesi Joselyne asobanura ko ku wa 29/04/2021, ADEPR yahaye uwo ahagarariye ibaruwa isesa amasezerano y'umurimo kubera impamvu z'ubukungu n'ikoranabuhanga, ariko ntiyubahiriza ibiteganywa n'ingingo ya 21, igika cya kane, y'Itegeko rigenga umurimo mu Rwanda, kuko Kayitesi Joselyne yahawe ibaruwa ku itariki yavuzwe haruguru, urutonde rw'abakozi basezerewe rugashyikirizwa umugenzuzi w'umurimo ku wa 11/05/2021 kandi na rwo rwarakozwe hashingiwe ku rutonde rw'abakozi bahawe imperekeza basezererwa mu kazi rwakozwe ku wa 30/04/2021.

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kurutanga mbere bifite akamaro karuta impamvu za statistiques, akaba asanga ibyo rwakoze binyuranye n'umurongo watanze mu rubanza RSOCAA 0014/12/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 18/01/2013 haburana Musoni Rwigimba Désiré na Banki ya Kigali. [15] Uhagarariye ADEPR yiregura avuga ko Kayitesi Joselyne yasezerewe mu kazi ku mpamvu z'ubukungu n'ikoranabuhanga kandi ko atashoboye kuza mu ipiganwa ry' imyanya mishya yashyizwe ku isoko kubera ko atari yujuje ibisabwa, bigatuma amasezerano y'umurimo aseswa hakubahirizwa ibyo amategeko ateganywa mu kumusezerera. Ku byerekeye kuba uhagarariye urega avuga ko ingingo ya 21 y'Itegeko rigenga umurimo mu Rwanda itubahirijwe, avuga ko uretse kubivuga gusa, atabasha kugaragaza niba hari umukozi wasigaye mu kazi kandi Kayitesi Joselyne yaramurushaga uburambe cyangwa amashuri ndetse ko atagaragaza itegeko rigenga igihe ntarengwa cyo kuba umugenzuzi w'umurimo yashyikirijwe urutonde rw'abakozi bagomba gusezererwa. [16] Ku byerekeye umurongo watanze n'Urukiko rw'Ubujurire ku kibazo kirebana n'igihe cyo gushyikiriza umugenzuzi w'umurimo urutonde rw'abakozi bagomba gusezererwa mu kazi, avuga ko uwo murongo awuzi, ko ariko watanze nyuma y'uko ADEPR isezerera Kayitesi Joselyne ndetse n'inkiko zibanza zaramaze gufata ibyemezo, ko rero nta mategeko zirengagije. Naho ku birebana n'uwatanze n'Urukiko rw'Ikirenga, avuga ko akurikije uko amategeko asumbana (hiérarchie des normes), asanga umurongo watanze n'urwo Rukiko utari kuba hejuru y'Itegeko kuko ryo ritavugaga igihe ntarengwa cyo kuba umugenzuzi w'umurimo yashyikirijwe urutonde rw'abakozi bagomba gusezererwa mu kazi, ko ariko aho Urukiko rw'Ubujurire rushingiye kuri uwo murongo watanze n'Urukiko rw'Ikirenga, asanga iyo mirongo ikwiye kujya yubahirizwa. UKO URUKIKO RUBIBONA [17] Impaka kuri iyi ngingo zishingiye ku kumenya niba kuba umukoresha yamenyesha Umugenzuzi w'Umurimo urutonde rw'abakozi bagomba gusezererwa baramaze gusezererwa mu kazi byaba binyuranyije n'ingingo ya 211 y'Itegeko No 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda. [18] Impaka nk'izi zakemuwe mu rubanza RS/INJUST/RSOC 00010/2022/CA haburana Mukandayisenga Gentile na Unguka Bank Plc rwaciwe n'Urukiko rw'Ubujurire ku wa 24/11/2023. Muri urwo rubanza, uhagarariye urega

yavugaga ko kuba Unguka Bank Plc yaramenyeshye umugenzuzi w'umurimo urutonde rw'abakozi bagomba gusezererwa mu kazi ku munsu umwe n'uwo bahereweho amabaruwa abasezerera bifatwa ko basezerewe mu kazi mu buryo bunyuranyije n'amategeko na ho uruhande rwa Unguka Bank Plc rukavuga ko gushyikiriza umugenzuzi w'umurimo urwo rutonde bihagije kuko nta cyo ategakw kurukoraho, Urukiko rwifashishije umurongo wafashwe mu rubanza RS/INJUST/RSOC 00011/2022/CA, haburana Nyirabwiza Justine na Unguka Bank Plc n'urubanza RS/INJUST/RSOC 00009/2022/CA, haburana Uwineza Alliance na Unguka Bank Plc, zaciwe n'Urukiko rw'Ubujurire ku wa 20/04/2023, rwanzura ko kuba urwo rutonde rutarahawe umugenzuzi w'umurimo mbere y'uko umukozi asezererwa kugira ngo agenzure niba ruhuje n'ibiteganywa n'Itegeko, rusanga yarasezerewe mu buryo bunyuranyije n'Itegeko².

1 Ingingo ya 21, igika cya 3 y'Itegeko No 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda iteganya ibikurikira: umukoresha nyuma yo kubigaragariza abahagarariye abakozi mu kigo, ashobora gusezerera umukozi umwe cyangwa benshi bitewe no guhuza imirimo isa, kvanaho cyangwa kuvugurura imikorere y'ikigo kubera impamvu z'ubukungu cyangwa guhindura ikoranabuhanga ryakoreshwaga hagamijwe kugira ngo ikigo kirusheho guhigana kandi akabimenyesha mu nyandiko umugenzuzi w'umurimo ubifitiye ububasha" Ibikubiye muri iyi ngingo kandi bihura neza n'ibiteganywa n'ingingo

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[19] Ku byerekeranye n'ibyo uhagarariye ADEPR avuga ko urubanza rwaciwe n'Urukiko rw'Ikirenga rudakwiye gushingirwaho kubera ko rutari hejuru y'Itegeko, Urukiko rurasanga nta shingiro bifite kuko Urukiko rw'Ikirenga rwatanze uwo murongo hagamijwe gusobanura ingingo ya 34 y'Itegeko No 13/2009 ryo ku wa 27/05/2009 rigenga umurimo mu Rwanda, iyi ngingo ikaba yarateraga urujijo ku birebana no kumenya igihe gikwiye cyo gushyikiriza umugenzuzi w'umurimo urutonde rw'abakozi bagomba gusezererwa, rukaba rero rwarasobanuye ko urwo rutonde rukwiye kujya rushyikirizwa uwo mugenzuzi mbere y'uko abakozi basezererwa mu kazi, ibi kandi byo gusobanura ingingo z'itegeko bikaba byari mu bubasha bw'Urukiko rw'Ikirenga³. [20] Ku byerekeranye n'ibyo uhagarariye ADEPR avuga ko Itorero ahagarariye ryubahirije ibiteganywa n'ingingo ya 21 y'Itegeko rigenga umurimo mu Rwanda ryavuzwe haruguru kubera ko imirongo yatanze n'Urukiko rw'Ubujurire yatangajwe nyuma y'uko Kayitesi Joselyne asezerwa mu kazi, Urukiko rurasanga na byo nta shingiro bifite, kubera ko mu gihe yirukanwaga, Urukiko rw'Ikirenga rwari rwararangije gutanga umurongo mu rubanza RSOC 0014/12/CS kuko rwaciwe ku wa 18/01/2013, na ho ibyo avuga ko kuba Urukiko rw'Ubujurire na rwo rwarashingiye kuri uwo murongo watanze n'Urukiko rw'Ikirenga, asanga ukwiye kujya wubahirizwa, Urukiko rurasanga umurongo watanze n'Urukiko rw'Ikirenga ubwawo wihagije kugira ngo ukurikizwe n'abo birebana, bitabaye ngombwa gutegereza ko Urukiko rw'Ubujurire ruwifashisha mu byemezo byarwo. [21] Koko rero, kimwe no muri izo manza, muri uru rubanza nabwo, urutonde rw'abakozi bagomba gusezererwa rwahawe umugenzuzi w'umurimo nyuma y'uko Kayitesi Joselyne asezerewe mu kazi, ibi impande zombi zikaba zibyemeranyaho, bivuze ko rutashyikirijwe umugenzuzi w'umurimo mbere y'uko asezererwa mu kazi. Urukiko rukaba

rusanga ibyo binyuranye n'ibiteganywa n'ingingo ya 21 y'Itegeko No 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda nk'uko byasobanuwe mu manza zaciwe zavuzwe haruguru, zemeje ko kumenyesha umugenzuzi w'umurimo urutonde atari umuhango, ko ahubwo agomba kurumenyeshwa mbere y'igihe kugira ngo agire umwanya uhagije wo kugenzura niba amategeko n'amabwiriza byarubahirijwe. [22] Hashingiwe ku bisobanuro byatanze ku murongo wafashwe mu manza zasuzumye ikibazo gisa n'iki, uru Rukiko rurasanga Kayitesi Joselyne yarirukanwe mu kazi mu buryo bunyuranyije n'amategeko; bityo kuri iyi ngingo, ikirego cyeye kikaba gifite ishingiro.

2. Kumenya niba Kayitesi Joselyne yahabwa indishyi zitandukanye asaba
 - a. Ibyerekeye indishyi zo gusezererwa mu kazi mu buryo bunyuranyije n'amategeko [23] Uhagarariye Kayitesi Joselyne avuga ko kuba ADEPR yaramusezereye mu kazi mu buryo bunyuranyije n'amategeko, ikwiye kumuha indishyi zishingiye kuri iryo yirukanwa zingana n'umushahara yahembwaga ku kwezi gukuba amezi icyenda (9), ni ukuvuga amafaranga ibihumbi magana abiri na birindwi na mirongo icyenda na rimwe (207.091 Frw) x amezi icyenda (9) = amafaranga miliyoni imwe, ibihumbi magana inani na mirongo itandatu na bitatu na magana inani na cumi n'icyenda (1.863.819 Frw). Basobanura ko izo ndishyi zigomba kubarirwa ku mezi icyenda, kubera ko yatangiye akazi muri ADEPR mu mwaka wa 2008 akagahagarika ku wa 29/04/2021 nk'uko bigaragazwa

Uwineza Alliance na Unguka Bank Plc rwaciwe n'Urukiko rw'Ubujurire ku wa 20/04/2023, igika cya 37 n'urubanza RS/INJUST/RSOC 00011/2022/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 20/04/2023 haburana Nyirabwiza Justine na Unguka Bank Plc, igika cya 27. 3 Ingingo ya 47, igika cya 6 y'Itegeko Ngenga No 03/2012/OL ryo ku wa 13/06/2012 rigenga imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga, ryakoreshwaga igihe urubanza RSOCAA 0014/12/CS rwacibwaga iteganya ko imanza n'ibyemezo by'Urukiko rw'Ikirenga bigomba kubahirizwa n'izindi nkiko zose zo mu gihugu Na none kandimu gika cya 47 cy'urubanza

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n'icyemezo cy'imirimo yahawe n'ubuyobozi bw'iryo torero kandi ko amakosa yavuzwe ari muri icyo cyemezo, iryo torero ryavuze ko ikosa ririmo rishingiye ku itariki yanditswe ko ari yo yahagarikiyeho akazi. [24] Uhagarariye ADEPR yiregura kuri iyi ngingo avuga ko n'ubwo Itorero ahagarariye ritemera ko Kayitesi Joselyne yasezerewe mu buryo bunyuranyije n'amategeko, ariko ko mu gihe Urukiko rwabibona ukundi, yabarirwa indishyi hashingiwe ku burambe bw'imyaka itatu (3) kubera ko amasezerano y'umurimo bagiranye yatangiraga ku wa 01/10/2018 akaba yarangiye muri 2021. UKO URUKIKO RUBIBONA [25] Impaka kuri iyi ngingo zishingiye ku kumenya niba Kayitesi Joselyne yahabwa indishyi zikomoka ku kwirukanwa mu kazi mu buryo bunyuranyije n'amategeko. [26] Ingingo ya 30, igika cya gatatu, y'Itegeko No 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda iteganya ko "Icyakora iyo umukozi afite uburambe ku kazi burenze imyaka icumi (10) ku mukoresha umwe, indishyi ntizishobora kurenga umushahara ahabwa w'amezi icyenda (9)4. [27] Impaka nk'izi zakemuwe mu rubanza RS/INJUST/RSOC 00011/2022/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 20/04/2023, haburana Nyirabwiza Justine

na Unguka Bank Plc. Muri urwo rubanza, Urukiko rwasanze Nyirabwiza Justine yarirukanwe mu kazi mu buryo bunyuranyije n'amategeko, rumugenera indishyi zituruka kuri iryo yirukanwa ritemewe, hashingiwe ku kuba yarakoreye Unguka Bank Plc imyaka irenga icumi (10), izo ndishyi zabazwe hagendewe ku mushahara yatahanaga mu rugo buri kwezi, gukuba amezi icyenda5. [28] Muri uru rubanza, icyemezo cy'imirimo cyatanzwe n'ubuyobozi bw'Itorero ADEPR kigaragaza ko Kayitesi Joselyne yakoreye iryo Torero kuva ku wa 03/01/2008 kugeza ku wa 30/04/2020 (n'ubwo muri icyo cyemezo handitsemo ko yayikoreye kugeza ku wa 30/04/2020, ababuranyi bemeranya ko habayeho kwibeshya ku itariki, ko yahagaritse kuyikorera ku wa 30/04/2021), bikaba byumvikanisha ko yakoreye iryo Torero mu gihe cy'imyaka irenga icumi; bityo indishyi zo kwirukanwa binyuranyije n'amategeko zikaba zigomba kubarwa mu gihe kingana n'amezi icyenda (9) nk'uko zabazwe mu rubanza rwa Nyirabwiza Justine na Unguka Bank Plc. [29] Ku byerekeranye no kuba uhagarariye Kayitesi Joselyne avuga ko buri kwezi uwo ahagarariye yacyuraga mu rugo umushahara ungana n'amafaranga ibihumbi magana abiri na birindwi na mirongo icyenda na rimwe (207.091 Frw), Urukiko rurasanga nta kimenyetso gifatika yarugaragariye kigaragaza ko ayo mafaranga ari yo yacyuraga mu rugo koko, mu gihe inyandiko yiswe "Employer's certificate addressed to Bank of Kigali assigning salary & Benefits" yatanzwe n'Umushumba w'Itorero ADEPR ry'Akarere ka Nyarugenge ku wa 13/02/2020 igihe Kayitesi Joselyne yashakaga gusaba inguzanyo muri Bank of Kigali, igaragaza ko yahembwaga umushahara mbumbe (gross salary) ungana n'amafaranga ibihumbi magana abiri na mirongo inani na bitanu na magana acyenda na mirongo itatu n'abiri (285.932 Frw), agacyura mu rugo umushahara (net salary) ungana n'amafaranga ibihumbi ijana na mirongo icyenda n'umunani n'ijana na makubyabiri n'ane (198.124 Frw). [30] Urukiko rero rurasanga Kayitesi Joselyne agomba guhabwa indishyi zituruka ku kwirukanwa mu kazi mu buryo bunyuranyije n'amategeko zibariwe ku mushahara ungana n'amafaranga ibihumbi ijana na mirongo icyenda n'umunani n'ijana na makumyabiri n'ane (198.124 Frw) gukuba amezi

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icyenda (x 9) = amafaranga miliyoni imwe, ibihumbi magana arindwi na mirongo inani na bitatu n'ijana na cumi n'atandatu (1.783.116 Frw). [31] Ku byerekeranye n'ibyo uhagarariye ADEPR avuga ko Urukiko rusanze Kayitesi Joselyne yarirukanwe binyuranyije n'amategeko, indishyi zabarirwa ku myaka itatu (3) ngo kubera ko yasezerewe mu kazi mu mwaka wa 2021 afite amasezerano y'umurimo yashyizweho umukono ku wa 01/10/2018, Urukiko rurasanga nta shingiro byahabwa kubera ko ayo masezerano avuga ataruta ibyo ubuyobozi bwa ADEPR bwemeje mu cyemezo bwahaye Kayitesi Joselyne gihamya imirimo yakoreye iryo Torero.

- b. Ibyerekeye amafaranga y'integuza Kayitesi Joselyne avuga ko ADEPR itamuhaye [32] Uhagarariye Kayitesi Joselyne avuga ko ashingiye ku ngingo ya 25 y'Itegeko rigenga umurimo mu Rwanda yavuzwe haruguru, asaba Urukiko rw'Ubujurire gutegeka ADEPR guha uwo ahagarariye amafaranga y'integuza atahawe ahwanye n'umushahara w'ukwezi kumwe (1), ni ukuvuga amafaranga ibihumbi magana abiri na birindwi na mirongo icyenda na rimwe (207.091 Frw). [33] Uhagarariye ADEPR yiregura kuri iyi ngingo asaba uru Rukiko kudasuzuma ikibazo cy'amafaranga y'integuza Kayitesi Joselyne asaba kuri uru rwego

kubera ko kitigeze gisuzumwa mu manza zabanje, akaba atavuga ko yarenganyijwe ku kibazo kitasuzumwe mu nkiko zabanje. UKO URUKIKO RUBIBONA [34] Impaka kuri iyi ngingo zishingiye ku kumenya niba mu gihe ikibazo cy'amafaranga y'integuza kitigeze kigibwaho impaka mu rubanza rusubirwamo ku mpamvu z'akarengane, cyakwakirwa kigasuzumwa kuri uru rwego. [35] Ikibazo nk'iki cyasuzumwe mu rubanza RS/INJUST/RC 00030/2022/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 30/11/2023, haburana Codenya Multiservices Ltd na Nzeyimana Fred na Munyakarambi Charles. Muri urwo rubanza, Codenya Multiservices Ltd yasabaga Urukiko gutanga igihano gihatira kwishyura, rumaze kubona ko icyo kibazo kitigeze kivugwaho mu rubanza rwasubirwagamo ku mpamvu z'akarengane, rwanzura kutakira ngo rusuzume icyo kibazo. [36] Muri uru rubanza, bigaragara ko ikibazo cy'amafaranga y'integuza kitigeze kigibwaho impaka mu rubanza RSOCA 00074/2022/H/KIG ari na rwo rusubirwamo ku mpamvu z'akarengane; bityo iki kibazo kikaba kitagomba kwakirwa ngo gisuzumwe kuri uru rwego.

- c. Ibyerekeye amafaranga y'ibitarane ku mushahara [37] Uhagarariye Kayitesi Joselyne asaba Urukiko gutegeka ADEPR guha uwo ahagarariye amafaranga yagiye abura ku mushahara kuko yagiye ahembwa utuzuye, yose hamwe angana n'amafaranga miliyoni imwe, ibihumbi ijana na mirongo itandatu n'icyenda n'ijana na mirongo icyenda n'ane (1.169.194 Frw), ngo bikaba bigaragazwa n'icyemezo cy'umushahara ADEPR yahaye Banki ya Kigali ubwo yari igiye kumuha inguzanyo. [38] Uhagarariye ADEPR avuga ko amafaranga Kayitesi Joselyne asaba nta shingiro afite kubera ko yamenyeshejwe imyanzuro y'inama rusange ya ADEPR yo ku wa 23/05/2020, yemezaga igabanuka ry'imishahara y'abakozi kubera Covid 19.

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UKO URUKIKO RUBIBONA [39] Ingingo ya 3, y'Itegeko No 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana. [40] Dosiye y'urubanza irimo ibaruwa yo ku wa 21/05/2020 n'iyi ku wa 16/10/2020, Umushumba w'Itorero ADEPR ry'Akarere ka Nyarugenge yandikiye Umuyobozi Mukuru wa Banki ya Kigali, amusaba kuba ahagarikiye inguzanyo umukozi witwa Kayitesi Joselyne, kubera ko habaye ikibazo cy'ubukungu buke bwatewe na Covid-19, ntashobore kubona umushahara uri mu masezerano. Muri ayo mabarurwa, uwo muyobozi asobanura ko Kayitesi Joselyne yari asigaye ahabwa amafaranga yo kumufasha n'umuryango we gusa, agasoza avuga ko umukozi asabira guhagarikira inguzanyo yazongera kwishyura yatangiye guhembwa umushahara we uri mu masezerano y'akazi. Harimo kandi imbonerahamwe yakozwe na Kayitesi Joselyne avuga ko igaragaza ibitarane by'imishahara ADEPR imufitiye. [41] Hari kandi imyanzuro y'inama rusange ya ADEPR yateranye ku wa 23/05/2020, aho ingingo ya kabiri y'ibyari ku murongo w'ibygwa yarebanaga no kwiga ku mishahara y'abakozi muri iki gihe cya Covid-19, maze hafatwa umwanzuro wa kabiri n'uwa gatatu iteye itya: -

2. Amafaranga asigaye azahembwa abakozi, asaranganywe hakurikijwe ibyinjiye ku ijanisha ringana, hagendewe ku gihembo gisanzwe cya buri mukozi kuri buri rwego rw'umurimo; -

3. Inama yasabye ko abakozi basinya inyandiko igaragaza ko bemeye izi ngamba zijyanye n'ihungabana ry'ubukungu ryatewe na Covid-19. [42] Urukiko rurasanga ADEPR yemera koko ko umushahara Kayitesi Joselyne yahembwaga mbere y'icyorezo cya Covid-19 wahindutse kubera ibibazo by'ihungabana ry'ubukungu, kandi ko icyemezo cyo guhindura imishahara cyafashwe n'Inama rusange ya ADEPR yateranye ku wa 23/05/2020, abakozi bamenyeshwa iyo myanzuro. [43] Ku byerekeranye n'ibyo Kayitesi Joselyne yagaragaje mu mbonerahamwe y'imishahara yakoze, avuga ko yatahanaga mu rugo umushahara ungana n'amafaranga ibihumbi magana abiri na birindwi na mirongo icyenda na rimwe (207.091 Frw), Urukiko rurasanga nta shingiro byahabwa kuko nk'uko byasobanuwe haruguru, mu nyandiko yo ku wa 13/02/2020, Umushumba w'Itorero ADEPR ry'Akarere ka Nyarugenge yagaragaje ko Kayitesi Joselyne ahembwaga umushahara mbumbe ungana n'amafaranga ibihumbi magana abiri na mirongo inani na bitanu na magana acyenda na mirongo itatu n'abiri (285.932 Frw), agatahana mu rugo umushahara ungana n'amafaranga ibihumbi ijana na mirongo icyenda n'umunani n'ijana na makumyabiri n'ane (198.124 Frw). [44] Urukiko rurasanga kuba ubuyobozi bw'Itorero ADEPR bwarafashe icyemezo cyo guhindura imishahara y'abakozi kubera impamvu z'ubukungu, Kayitesi Joselyne akemera guhembwaga amafaranga yagenewe kandi ntihagire andi masezerano agirana n'umukoresha ku ruhande ngo bumvikane ko amafaranga abura kugira ngo umushahara yari asanzwe ahembwaga ube wuzuye afatwa nk'ikirarane, atahindukira ngo avuge ko ADEPR imufitiye ibirarane by'imishahara, cyane ko harebwe ibikubiye mu mabarurwa Umuyobozi w'Itorerero ry'Akarere ka Nyarugenge yandikiye Umuyobozi Mukuru wa Banki ya Kigali yavuzwe haruguru, nta gitekerezo kiyakubiyemo cyaba cyumvikanisha ko ADEPR yari ifite gahunda yo kuzaha Kayitesi Joselyne amafaranga atarabonetse ku mushahara mu gihe icyorezo cya Covid-19 kizaba cyarangiyeye, bityo Kayitesi Joselyne akaba atagomba guhabwa amafaranga y'ibirarane ku mushahara asaba.

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- [45] Uhagarariye Kayitesi Joselyne asaba ko ADEPR iha uwo ahagarariye amafaranga y'insimburakiruhuko cy'umwaka wa 2020 atahawe kandi yaragisabye, ahwanye n'umushahara w'ukwezi kumwe, ni ukuvuga amafaranga ibihumbi magana abiri na birindwi na mirongo icyenda na rimwe (207.091 Frw). [46] Uhagarariye ADEPR avuga ko Kayitesi Joselyne akwiye kugaragaza ibaruwa yandikiye umukoresha asaba ikiruhuko cy'umwaka wa 2020 hanyuma ntagihabwe, kubera ko ikiruhuko gisabirwa mu nyandiko, ko rero mu gihe adashobora kugaragaza ikimenyetso gifatika, iyi ngingo nta shingiro yahabwa. UKO URUKIKO RUBIBONA [47] Ingingo ya 49, igika cya mbere y'Itegeko No 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda iteganya ko iyo habaye iseswa cyangwa irangira ry'amasezerano y'umurimo mbere y'uko umukozi ajya mu kiruhuko cy'umwaka yari afitiye uburenganzira, ahabwa amafaranga asimburira ikiruhuko cy'umwaka yagombaga kuzabona. [48] Ingingo ya 50 y'Itegeko rimaze kuvugwa iteganya ko uburenganzira bwo gusaba ikiruhuko cy'umwaka buzima mu gihe cy'imyaka ibiri (2) ibarwa uherye ku itariki umukozi yagiriye uburenganzira bwo kukijyamo. [49] Izi ngingo z'itegeko zifatiwe hamwe,

zumvikanisha ko iyo umukozi asezererwe mu kazi bitewe n'iseswa ry'amasezerano cyangwa arangiye mbere y'uko afata ikiruhuko cy'umwaka yari afiteho uburenganzira, ahabwa amafaranga asimbura icyo kiruhuko kandi ko ikiruhuko cy'umwaka kizima mu gihe cy'imyaka ibiri (2). [50] Dosiye y'urubanza irimo ibaruwa Kayitesi Joselyne yandikiye umukoresha ku wa 17/11/2020 imugeraho ku wa 22/11/2020, asaba ikiruhuko cy'umwaka wa 2020 yifuzaga gutangira kuwa ku wa 25/11/2020 kugeza ku wa 25/12/2020, ADEPR ikaba itagaragaza ko yakimwemereye cyangwa niba yaramuhakaniye kandi ukurikije ibisobanuro bitangwa n'uyihagarariye mu rubanza, byumvikanisha ko icyo kiruhuko nta cyo yahawe. [51] Urukiko rero rurasanga amasezerano y'umurimo Kayitesi Joselyne yari afitanye na ADEPR yaraseshwe uburenganzira yari afite ku kiruhuko cy'umwaka wa 2020 butarazima; bityo, ADEPR ikaba igomba kumuha amafaranga y'insimburakiruhuko ahwanye n'umushahara yamuhembaga ku kwezi nk'uko wagaragajwe mu nyandiko yo ku wa 13/02/2020, Umukuru w'Itorero ADEPR ry'Akarere ka Nyarugenge yandikiye Umuyobozi Mukuru wa Banki ya Kigali, ni ukuvuga amafaranga ibihumbi ijana na mirongo icyenda n'umunani n'ijana na makumyabiri n'ane (198.124 Frw).

- e. Ibyerekeye indishyi zo kudahabwa icyemezo cy'imirimo gikosoye [52] Uhagarariye Kayitesi Joselyne asaba Urukiko gutegeka ADEPR guha uwo ahagarariye indishyi zo kudahabwa icyemezo cy'imirimo gikosoye kuko icyo yahawe cyanditsemo ko yarangije imirimo ku wa 30/04/2020 nyamara yarayirangije ku wa 30/04/2021. [53] Uhagarariye ADEPR yiregura avuga ko Kayitesi Joselyne adakwiye guhabwa indishyi zo kuba Itorero ahagarariye ryananze gukosora amakosa ari mu cyemezo cy'imirimo yakoze mu gihe atagaragaza ko yasabye ko ayo makosa akosorwa ntibikorwe.

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- [54] Dosiye y'urubanza irimo inyandiko yo ku wa 03/08/2021, Kayitesi Joselyne yandikiye ubuyobozi bwa ADEPR ayisaba gukosora icyemezo cy'imirimo yahawe. Uretse ko ADEPR itagize icyo iyivugaho, Kayitesi Joselyne nta bwo yagaragaje amakosa agomba gukosorwa. [55] Urukiko rurasanga, ADEPR idakwiye gutanga indishyi z'uko icyemezo yatanze cyaba kirimo amakosa, kuko yari yagitanze, Kayitesi Joselyne asaba ko gikosorwa ariko ntagaragaze ikigomba gukosorwa, bityo ikibazo kirebana no kuba Kayitesi Joselyne yagenerwa indishyi zo guhabwa icyemezo kidakosoye, kikaba nta shingiro gifite.
- f. Ibyerekeye amafaranga y'imisanzu ya RSSB [56] Uhagarariye Kayitesi Joselyne asaba ko ADEPR itangira uwo ahagarariye amafaranga y'imisanzu y'ubwiteganyirize ijyanye n'umushahara w'ukuri yagombaga kujya ahembwa ungana n'amafaranga ibihumbi magana abiri na birindwi na mirongo icyenda na rimwe (207.091 Frw) kubera ko kuwa mu kwezi k'Ugushyingo 2019 kugeza mu kwezi kwa Mata 2021, yagiye ahembwa umushahara utuzuye kandi uhindagurika. [57] Uhagarariye ADEPR yiregura avuga ko Itorero ahagarariye ryatangiye Kayitesi Joselyne imisanzu y'ubwiteganyirize yose, ko ariko mu gihe yaramuka agaragaje ibimenyetso byemeza ko hari iyo atatangiwe, yiteguye kuyitanga. UKO URUKIKO RUBIBONA [58] Ingingo ya 3 y'Itegeko No 15/2004 ryo ku wa 12/06/2004 ryerekeye

ibimenyetso mu manza n'itangwa ryayo iteganya ko "Buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana. [59] Dosiye y'urubanza irimo inyandiko yatanzwe n'Ikigo cy'Igihugu cy'Ubwiteganyirize (RSSB), igaragaza ingano y'umushahara ADEPR yagiye ihemba Kayitesi Joselyne kuva mu kwezi kw'Ukwakira 2018 kugeza mu kwezi kwa Mata 2021, uwo mushahara ukaba waragiye uhindagurika nk'uko Kayitesi Joselyne abivuga, ADEPR na yo ikemeza ko byatewe n'ingaruka ku bukungu zatewe n'icyorezo cya Covid-19. [60] Urukiko rurasanga nk'uko byasobanuwe mu bika bibanza, ADEPR yarageze aho ifata icyemezo cyo kujya iha abakozi bayo amafaranga yo kubafasha kubaho n'imiryango yabo, kuko itari igishoboye kubahemba umushahara wumvikanyweho mu masezerano y'umurimo kandi abo bakozi barabyemera, kuba rero umushahara ADEPR yahembaga Kayitesi Joselyne muri ibyo bihe bigoye ari wo yahereyeho imutangira imisanzu muri RSSB, akaba adakwiye gusaba ko imwishyurira imisanzu ihwanye n'umushahara nyakuri yagombaga kuba yarahembwe kandi byarabaye byumvikanyweho n'umukoresha n'umukozi ku mpamvu zumvikana.

3. Kumenya niba amafaranga y'indishyi z'akababaro, ay'ikurikiranarubanza n'igihembo cya Avoka ababuranyi basaba afite ishingiye [61] Uhagarariye Kayitesi Joselyne asaba Urukiko rw'Ubujurire gutegeka ADEPR kumuha indishyi z'akababaro zingana n'amafaranga miliyoni eshanu (5.000.000 Frw) kubera gushorwa mu manza bikamugiraho ingaruka zo kudashobora kwishyurira abana amashuri, no kubura ibitunga umuryango. Asaba kandi kumusubiza amafaranga miliyoni imwe n'ibihumbi magana atanu (1.500.000 Frw) ahwanye n'igihembo cya Avoka mu Rukiko Rwisumbuye, mu Rukiko Rukuru no mu Rukiko rw'Ubujurire, amafaranga ibihumbi magana atanu (500.000 Frw) y'ikurikiranarubanza n'amafaranga

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- [62] Uhagarariye ADEPR yiregura avuga ko amafaranga Kayitesi Joselyne asaba adakwiye kuyahabwa kubera ko ari we wishoye mu manza zitari ngombwa, akaba rero agomba kwirengera ingaruka zazo. Asaba ahubwo Urukiko gutegeka Kayitesi Joselyne guha ADEPR amafaranga miliyoni imwe (1.000.000 Frw) y'ikurikiranarubanza n'amafaranga miliyoni ebyiri (2.000.000 Frw) y'igihembo cya Avoka. UKO URUKIKO RUBIBONA [63] Impaka kuri iyi ngingo zishingiye ku kumenya niba ababuranyi bahabwa amafaranga basaba muri uru rubanza, harimo ay'indishyi, ay'ikurikiranarubanza n'igihembo cya Avoka. [64] Ibyerekeye amafaranga y'ibyagiye ku rubanza mu gihe buri muburanyi afite bimwe atsindira n'ibindi atsindirwa ku kiburanwa cy'ibanze byafashweho umurongo n'uru Rukiko ugaragara nko mu rubanza RS/INJUST/RSOC 00010/2022/CA rwaciye n'Urukiko rw'Ubujurire ku wa 24/11/2023, haburana Mukandayisenga Gentile na Unguka Bank Plc. Muri urwo rubanza buri muburanyi yasabaga Urukiko gutegeka uwo baburana kumwishyura amafaranga y'ibyakoreshejwe mu rubanza, ariko Urukiko rubonye ko mu ngingo zasuzumwe hari izo buri ruhanda rwatsindiye izindi rukazitsindirwa, rwanzuye ko buri muburanyi agomba kwirengera ibyo yatakaje mu rubanza. [65] Muri uru rubanza, bigaragara ko Kayitesi Joselyne yatsindiye gusa amafaranga y'indishyi zo kwirukanwa ku kazi mu buryo bunyuranyije n'amategeko n'amafaranga y'insimburakiruhuko, naho izindi ngingo zose azatsindirwa, bivuze ko mu kuzireguraho ADEPR ari yo yazitsindiye. [66] Kubera izo

mpamvu, kuba Kayitesi Joselyne na ADEPR hari ingingo buri wese yatsindiye hakagira n'izo atsindirwa, Urukiko rurasanga nta ruhande rukwiye kugenerwa amafaranga y'ikurikiranarubanza n'igihembo cya Avoka hashingiwe ku murongo watanzwe ugaragara mu rubanza rwavuzwe haruguru. [67] Urukiko rurasanga amafaranga y'indishyi z'akababaro Kayitesi Joselyne asaba avuga ko ashingiye ku kuba yarabuze uko atunga umuryango we atagomba kuyahabwa kubera ko nta kimenyetso cyangwa se igisobanuro yagaragaje cy'uko ADEPR yaba ari yo ifite inshingano yo kumutunga igihe cyose we n'umuryango we. III. ICYEMEZO CY'URUKIKO [68] Rwemeje ko ikirego cyatanzwe na Kayitesi Joselyne cyo gusubirishamo ku mpamvu z'akarengane urubanza RSOCA 00074/2022/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 20/10/2022, gifite ishingiro kuri bimwe. [69] Rwemeje ko ADEPR yasezereye Kayitesi Joselyne mu kazi mu buryo budakurikije amategeko. [70] Rutegetse ADEPR guha Kayitesi Joselyne amafaranga miliyoni imwe, ibihumbi magana arindwi na mirongo inani na bitatu n'ijana na cumi n'atandatu (1.783.116 Frw) y'indishyi zo gusezererwa ku kazi mu buryo bunyuranyije n'amategeko. [71] Rutegetse ADEPR guha Kayitesi Joselyne amafaranga ibihumbi ijana na mirongo icyenda n'umunani n'ijana na makumyabiri n'ane (198.124 Frw) y'insimburakiruhuko cy'umwaka wa 2020 atahawe

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[72] Rutegetse ko amafaranga ibihumbi magana arindwi na mirongo cyenda (790.000 Frw) Urukiko Rukuru rwategetse Kayitesi Joselyne guha ADEPR mu rubanza RSOCA 00074/2022/HC/KIG avanwaho. [73] Rwemeje ko nta ndishyi z'akababaro, amafaranga y'ikurikiranarubanza n'igihembo cya Avoka bigomba gutangwa.

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