

RWANDA / JUDGMENT

MUBERANDINDA v NSABIMANA N'ABANDI

RC 00003/2024/SC

COURT

Supreme Court

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MUBERANDINDA v NSABIMANA N'ABANDI

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Text

Page 1

MUBERANDINDA v NSABIMANA N'ABANDI [Rwanda URUKIKO RW'IKIRENGA - RC 00003/2024/SC (Cyanzayire, P.J., Hitiyaremye, Kazungu, J.) 17 Mutarama 2025] Amategeko agenga imiburanishirize y'imanza – Ukuvuguruzanya kw'imanza – Habaho ukuvuguruzanya kw'imanza iyo hari ibyemezo bitandukanye by'inkiko bitagishoboye kujuririrwa kandi bidashobora kurangizwa icyarimwe, bitewe n'uko hari urubanza rwaciwe mbere ku mpamvu zimwe, ku kiburanwa kimwe, hagati y'ababuranyi bamwe kandi rwabaye ndakuka. Amategeko agenga imiburanishirize y'imanza – Ibyategetswe mu rubanza – Kamere ndakuka - Ibyategetswe mu rubanza ni byo bigira kamere yo kuba ndakuka, hamwe n'impamvu ibyo byemezo bishingiyeho utatandukanya na byo. Amategeko agenga imiburanishirize y'imanza – Ukuvuguruzanya kw'imanza – Uburyo bwo kumenya ko imanza zivuguruzanya - Kugira ngo umenye ko imanza zivuguruzanya, ureba icyaburanwaga cyaburanishijwe kigafatwaho icyemezo, ugasuzuma niba ikirego gishya kigamije gusaba icyemezo ku cyamaze kuburanishwa kandi kigafatwaho icyemezo mbere, ku buryo ikirego gishya kiramutse gihawe ishingiro byavuguruza icyemezo

cyagifashweho mbere. Incamake y'ikibazo: Kinonko yashakanye na Nyirarugira babyarana: Nsabimana, Muberandinda, Ayimboneye, Nyirahishamunda, Nyirashakubone na Haguma. Nyirashakubone yarapfuye ariko asiga umuzungura Nyiramyavu naho Haguma apfa atarashaka. Muberandinda yaje kurega se Kinonko mu Bunzi avuga ko yamwambuye ubutaka yamuhaye. Abunzi bavuze ko Kinonko agomba gusubiza Muberandinda ubutaka yamuhaye. Kinonko yaregeye uwo mwanzuro mu Rukiko rw'Ibanze rwa Nyamata avuga ko Muberandinda ashaka kumwambura ubutaka bw'umugore we Nyirarugira ndetse n'ubw'umuhungu we Haguma wapfuye. Urukiko rwavuze ko igice cy'ubutaka bumwe buburanwa ari ubwa Nyirarugira bityo ko Kinonko nta nyungu afite zo kubukurikirana, haburanishwa igice cy'ubutaka bwa Haguma, urwo rukiko rwemeza ko Kinonko yabuzungura. Muberandinda yajuririye icyo cyemezo mu Rukiko Rwisumbuye rwa Gasabo ariko ajuririra icyemezo kirebana n'ubutaka bwa Haguma gusa. Urwo rukiko rwemeje ko ku isambu y'uyu muvandimwe we wapfuye agumana aho se yamuhaye. Nsabimana umuvandimwe wa Muberandinda yatanze ikirego mu Bunzi asaba ko isambu y'umubyeyi wabo Nyirarugira abana be bese bayigabana. Abunzi bemeje ko iyo isambu igomba kugabanwa n'abana bese ba Nyirarugira kuko yari yarayihawe n'umugabo we Kinonko. Muberandinda yaregeye uwo mwanzuro mu Rukiko rw'Ibanze rwa Nyamata narwo rwemeza ko iyo sambu igomba kugabanwa abazungura ba Nyirarugira. Yajuririye icyo cyemezo mu Rukiko Rwisumbuye rwa Gasabo narwo rwemeza ko ubujurire bwe nta shingiro bufite, kuko atigeze ajuririra urubanza RC 0367/09/TB/NMTA rwemeje ko isambu iburanwa ubu ari iya Nyirarugira. Muberandinda yatanze ikirego mu Rukiko rw'Ikirenga avuga ko umwanzuro w'Abunzi wafashwe ku wa 04/9/2009 uvuguruzanya n'urubanza RCA 0005/12/TGI/GSBO rwaciye n'Urukiko Rwisumbuye rwa Gasabo ku wa 26/07/2013, asaba ko uru Rukiko rugaragaza ikigomba guhabwa agaciro. Urukiko rw'Ikirenga rwasuzumye ikibazo cyo kumenya niba umwanzuro w'Abunzi b'Akagari ka Kabeza wo ku wa 04/09/2009 uvuguruzanya n'urubanza RCA 0005/12/TGI/GSBO.

Page 2

Urega avuga ko Urukiko rw'Ibanze rwa Nyamata rumaze guca urubanza RC 0367/09/TB/NMTA rukavuga ko ikirego cye kijyanye n'isambu ya Nyirarugira kitakiriwe, ibyo bivuze ko umwanzuro w'Abunzi wo ku wa 04/09/2009 wamweguriraga iyo sambu wagumye kandi wabaye itegeko; akaba asanga uvuguruzanya n'urubanza RCA 0005/12/TGI/GSBO rwaciye n'Urukiko Rwisumbuye rwa Gasabo, rwo rwayeguriye Nsabimana n'abavandimwe be. Nsabimana n'abavandimwe be basobanura ko nta byemezo bibiri bihari bivuguruzanya ku kiburanwa kimwe, ndetse ko n'ababuranyi atari bamwe. Bakomeza basobanura ko mu rubanza RC 0367/09/TB/NMTA Kinonko yaburanaga na Muberandinda aregera amasambu abiri, iya Nyirarugira n'iya Haguma wapfuye atarashaka; ikirego kirebana n'isambu ya Nyirarugira nticyakirwa naho icyarebaga isambu ya Haguma kirakirwa; ko kuba ikirego kitarakirwa bitavuze ko icyaburanwaga Muberandinda yagitsindiye, ko ahubwo Urukiko rwasobanuye ko uwatanze ikirego nta bubasha n'inyungu yari afite byo kuregera uwo mutungo wa Nyirarugira. Bakomeza bavuga ko no mu rubanza rwo gusaba kugabana uwo mutungo wa Nyirarugira, ababuranyi bari batandukanye ndetse n'impamvu z'ikiburanwa nazo zari zitandukanye n'izaburanweho mbere. Urukiko rwasanze muri izo manza urega avuga ko zivuguruzanya, ababuranyi atari bamwe kandi n'ibyo byemezo byombi

bidashingiye ku mpamvu zimwe ndetse n'ibirego muri izo manza atari bimwe. Incamake y'icyemezo: Habaho ukuvuguruzanya kw'imanza iyo hari ibyemezo bitandukanye by'inkiko bitagishoboye kujuririrwa kandi bidashobora kurangizwa icyarimwe, bitewe n'uko hari urubanza rwaciwe mbere ku mpamvu zimwe, ku kiburanwa kimwe, hagati y'ababuranyi bamwe kandi rwabaye ndakuka. Ikirego cyatanzwe, nta shingiro gifite. Amategako yashingiweho: Itegeko N° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso, ingingo ya 82. Imanza zifashishijwe: RC 00001/2023/SC, Rutayisire Jean de Dieu na Mukankurikiyimana Béatrice n'abandi, rwaciwe n'Urukiko rw'Ikirenga ku wa 22/12/2023. Inyandiko z'abahanga zifashishijwe: Albert FETTWEIS, Manuel de procédure civile, 2ème edition, Faculté de droit de Liège, 1987, N° 361. Urubanza I. IMITERERE Y'URUBANZA [1] Kinonko Félicien (Kinonko) yashakanye na Nyirarugira Verdiana (Nyirarugira) babyarana: Nsabimana Léonard (Nsabimana), Muberandinda Frederic (Muberandinda), Ayimboneye Laurence, Nyirahishamunda Phoibe, Nyirashakubone na Haguma. Nyirashakubone

Page 3

yarapfuye ariko asiga umuzungura Nyiramyavu Séraphine, nawe ugaragara muri iyi dosiye. Haguma we yapfuye atarashaka. [2] Muberandinda niwe watangije imanza, arega se Kinonko imbere ya Komite y'Abunzi b'Akagari ka Kabeza (Abunzi), mu kwezi kwa cyenda mu mwaka 2009, avuga ko yamwambuye ubutaka yamuhaye; asobanura ko ubwo butaka bugizwe n'ibice bibiri: igice kimwe kiri mu Kagari ka Kabeza, ikindi kiri mu Kagari ka Nyabagendwa, hose ni mu Murenge wa Rilima mu Karere ka Bugesera. [3] Ku itariki ya 04/9/2009, mu mwanzuro wabo, Abunzi bavuze ko Kinonko agomba gusubiza Muberandinda "ahantu he nk'uko yari yarahamuhaye". [4] Kinonko ntianyuzwe n'iki cyemezo, maze ku itariki ya 15/09/2009 arega1 Muberandinda mu Rukiko rw'Ibanze rwa Nyamata avuga ko ashaka kumutwara ubutaka bw'umugore we Nyirarugira n'ubw'umuhungu we Haguma wapfuye atarashaka, ikirego cye cyandikwa kuri No RC 0367/09/TB/NMTA. [5] Ku wa 13/7/2010, Urukiko rwaciye urubanza rwemeza ko ikirego cye kitakiriwe ku birebana n'isambu ya Nyirarugira. Rwasobanuye ko Kinonko nta nyungu n'ububasha afite byo kuyiregera [mu rwego rw'amategako], ruvuga ko iyi isambu yakurikiranwa nawe ubwe (Nyirarugira) cyangwa abana be. Rwemeje ariko ko ku byerekeye isambu ya Haguma, ikirego cye gifite ishingiro, ruvuga ko yamuzungura ahataragurishijwe. [6] Muberandinda yajuririye uru rubanza mu Rukiko Rwisumbuye rwa Gasabo, ariko ajuririra gusa ibirebana n'isambu ya Haguma, ubwo bujurire buhabwa No RCA 0194/10/TGI/GSBO, maze ku itariki ya 15/11/2011, Urukiko ruca urubanza rwemeza ko ku isambu y'uuyu muvandinwe we wapfuye agumana aho se yamuhaye. [7] Nyuma y'izi manza za Muberandinda n'umubyeyi we Kinonko - mu Bunzi no mu Nkiko

- Nsabimana yatangije urundi rubanza, ku wa 24/08/2010, arega Muberandinda mu Bunzi b'Akagari ka Kabeza asaba we noneho ko isambu y'umubyeyi wabo Nyirarugira ivugwa mu gika cya 5 cy'uru rubanza, ihabwa abana be bose bakayigiraho uburenganzira bungana aho kwiharirwa n'umwe gusa (Muberandinda). [8] Ku wa 21/9/2010, Abunzi bafashe icyemezo cy'uko iyo sambu ari iya Nyirarugira, kandi abazungura be bose bagomba kubonaho umunani. Iki cyemezo cyashingiye ku buhamya bw'abantu bari bazi uko Kinonko yahaye

buri mugore we isambu igomba kumutunga we n'abana yabyaye. [9] Muberandinda ntiyishimiye uyu mwanzuro w'Abunzi, maze arega Nsabimana mu Rukiko rw'Ibanze rwa Nyamata nawe asaba ko icyemezo cy'abunzi gihinduka, ikirego gihabwa No RC 0278/11/TB/NMTA. Yavugaga ko we (Nsabimana) na bashiki be bashaka kumuhuguza isambu se yamuhaye. Nsabimana yagobokesheje mu rubanza abo bavandimwe babo b'abakobwa. [10] Ku itariki ya 19/12/2011, Urukiko rwemeje ko isambu iburanwa ari iya Nyirarugira yahawe n'umugabo we, abazungura be bose bakaba bagomba kuyigabana mu buryo bungana. Urukiko

1 Yareze asaba ko icyemezo cy'Abunzi gihinduka.

Page 4

rwasobanuye ko Muberandinda nta bimenyetso yagaragaje bivuguruza ibyari byatanze na Nsabimana. [11] Muberandinda ntiyishimiye nanone iyi mikirize, maze ajuririra mu Rukiko Rwisumbuye rwa Gasabo ikirego cye cyandikwa kuri No RCA 0005/12/TGI/GSBO, akomeza kuburana avuga ko isambu iburanwa ari iye. [12] Ku wa 26/7/2013, Urukiko rwaciye urubanza rwemeza ko ubujurire bwa Muberandinda nta shingiro bufite, kuko atigeze ajuririra urubanza No RC 0367/09/TB/NMTA rwaciye ku itariki ya 13/07/2009 rwemeje ko isambu iburanwa ubu ari iya Nyirarugira. Urukiko rwanemeje ko isambu iburanwa igomba kugurishwa aho kuyicamo ibipande, abazungura ba Nyirarugira bakagabana amafaranga. [13] Muberandinda Frederic yakoze ubujurire bwa kabiri mu Rukiko Rukuru bwandikwa kuri No RCAA 0195/13/HC/KIG. Ku itariki ya 24/1/2014, urwo Rukiko rwemeje ko ubujurire bwe butari mu bubasha bwawo, bityo ikirego nticyakirwa. [14] Nyuma y'ibyemezo by'Abunzi n'ianza byavuzwe, Muberandinda yandikiye Urukiko rw'Ubugurire avuga ko umwanzuro w'Abunzi wafashwe ku wa 04/9/2009 uvuguruzanya n'urubanza No RCA 0005/12/TGI/GSBO rwaciye n'Urukiko Rwisumbuye rwa Gasabo ku wa 26/07/2013, asaba ko urwo Rukiko ruvuga ikigomba guhabwa agaciro. Urukiko rw'Ubugurire rwohereje icyo kirego mu Bwanditsi bw'Urukiko rw'Ikirenga, kirandikwa gihabwa No RC 00003/2024/SC. [15] Urubanza rwahamagawe ku wa 07/10/2024, ababuranyi bose bitabye ariko Nyirahishamunda Phoibe adafite Avoka, bituma rusubikwa rwimurirwa ku wa 02/12/2024. [16] Uwo munsu urubanza rwaburanishijwe mu ruhame, Muberandinda Frederic yunganiwe na Me Ntagungira Théogène; Nsabimana Léonard yunganiwe na Me Hakizimana Albert; Nyirahishamunda Phoibe, Ayimboneye Laurence na Nyiramyavu Séraphine bahagarariwe na Me Rwimo Clotilde, maze Urukiko rusuzuma ikibazo cyo kumenya niba umwanzuro w'Abunzi wo ku wa 04/09/2009 uvuguruzanya n'urubanza RCA 0005/12/TGI/GSBO rwaciye n'Urukiko Rwisumbuye rwa Gasabo ku wa 26/07/2013, hamwe n'indishyi. II. IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO 1. Kumenya niba umwanzuro w'Abunzi b'Akagari ka Kabeza wo ku wa 04/09/2009 uvuguruzanya n'urubanza RCA 0005/12/TGI/GSBO rwaciye n'Urukiko Rwisumbuye rwa Gasabo ku wa 26/07/2013 [17] Muberandinda Frédéric na Me Ntagungira Théogène umwunganira, bavuga ko Urukiko rw'Ibanze rwa Nyamata rumaze guca urubanza RC 0367/09/TB/NMTA rukavuga ko ikirego cye kijyanye n'isambu ya Nyirarugira kitakiriwe, ibyo bivuze ko umwanzuro w'Abunzi wo ku wa 04/09/2009 wamweguriraga iyo isambu wagumyeheho kandi wabaye itegeko; bakaba basanga

Page 5

uvuguruzanya n'urubanza RCA 0005/12/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo, rwo rwayeguriye Nsabimana². [18] Nsabimana Léonard na Me Hakizimana Albert umwunganira bavuga ko nta byemezo bibiri bihari bivuguruzanya ku kiburanwa kimwe, ndetse ko n'ababuranyi atari bamwe. Bakomeza basobanura ko mu rubanza No RC 0367/09/TB/NMTA Kinonko yaburanaga na Muberandinda aregera amasambu abiri, iya Nyirarugira n'iya Haguma wapfuye atarashaka; ikirego kirebana n'isambu ya Nyirarugira nticyakirwa naho icyarebaga isambu ya Haguma kirakirwa; ko kuba ikirego kitarakiriwe bitavuze ko icyaburanwaga Muberandinda yagitsindiye, ko ahubwo Urukiko rwasobanuye ko uwatanze ikirego nta bubasha n'inyungu yari afite byo kuregera uwo mutungo. [19] Basobanura nanone ko ku itariki ya 24/08/2010, Nsabimana Léonard yareze Muberandinda Frédéric mu Bunzi, asaba uburenganzira bungana ku bazungura bose b'umubyeyi wabo (Nyirarugira) ku mutungo yasize, aho kwiharirwa n'umwe gusa. Bakomeje bavuga ko muri iki kirego ababuranyi atari bamwe no mu cyari cyatanzwe muri 2009 aho Muberandinda Frédéric yaburanaga na se Kinonko, basoba bavuga ko nta vuguruzanya babona mu byemezo bivugwa, ko ahubwo basanga Muberandinda Frédéric yitiranyaga ibintu. [20] Me Rwimo Clotilde uhagarariye Nyirahishamunda Phoebe, Ayimboneye Laurence na Nyiramyavu Séraphine, yaburanye avuga ko icyemezo cy'Abunzi cyo ku wa 04/09/2009 n'urubanza RCA0005/12/TGI/GSBO bitavuguruzanya, kuko ikibazo cyari cyashyikirijwe Abunzi cyari hagati ya Muberandinda na Kinonko, Nsabimana akigaragaramo nk'uwari uhagarariye se mu rubanza ; naho urubanza rwaciwe n'Urukiko Rwisumbuye rwa Gasabo rwari hagati ya Muberandinda n'abavandimwe be, bityo ababuranyi muri izi manza akaba atari bamwe. Yongeyeho kandi ko ikiburanwa mu manza zombi atari kimwe kuko icyemezo cy'Abunzi cyafashwe ku kirego cya Muberandinda waregaga se gushaka kumwambura ubutaka yamuhaye, mu gihe mu rubanza rwaciwe n'Urukiko Rwisumbuye, Nsabimana na bashiki be baregeraga umunani wabo ku isambu ya Nyirarugira, bityo ibi bikaba irindi tandukanyirizo hagati y'izi manza zombi. [21] Yasoje avuga ko ibisobanuro bimaze gutangwa bigaragaza ko izi manza zombi zishingiye ku mpamvu zitandukanye; bityo ko nta vuguruzanya abona hagati y'imanza zaregowe. Uko Urukiko rubibona [22] Ingingo ya 823 y'Itegeko N° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso, igira iti: « Icyemezo cyabaye ndakuka ntigisubirwamo kandi imbaraga zacyo zigarukira ku cyakiranuwe gusa. Kugira ngo icyemezo kibe ari ndakuka hagomba kuba hujujwe ibi bikurikira: a) Ikintu cyafashweho icyemezo kigomba kuba kimwe; b) Ikibazo kigomba kuba gishingiye ku mpamvu imwe;

2 Mu byukuri iyi sambu ntabwo yeguriwe Nsabimana wenyine, ahubwo urukiko rwavuze ko ifitweho uburenganzira n'abavandimwe bose ba Muberandinda, reba igika cya 12 cy'urubanza. 3 Ingingo ya 96 y'iri Tegeko ivuga ko ritangira gukurikizwa ku munsu ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda, iyi Gazeti ikaba yaratangajwe ku wa 27/6/2024.

Page 6

- c) Ababuranyi cyangwa abafitanye ikibazo bagomba gukomeza kuba bamwe kandi bikaba bisaba ikemurwa ryacyo mu bubasha bari basanganywe mbere ». [23] Mu rubanza RC 00001/2023/SC rwaciwe ku itariki ya 22/12/2023, haburana Rutayisire Jean de Dieu na Mukankurikiyimana Béatrice n'abandi, uru Rukiko rwemeje ko « haba ukuvuguruzanya kw'imanza iyo hari ibyemezo bitandukanye by'inkiko bitagishoboye kujuririrwa kandi bidashobora kurangizwa icyarimwe; ibyo byemezo biramutse bigumyeho, byagira ingaruka z'uko ababuranyi batabona ubutabera bakeneye; kugira ngo izo mpungenge ziveho, inkiko zaregwe ko hari imanza zivuguruzanya zigomba gusuzuma urubanza cyangwa imanza zikwiye kuvaho kugira ngo hubahirizwe uburenganzira bw'ababuranyi »4. [24] Umuhanga mu mategeko, Albert Fettweis, Manuel de procédure civile, 2ème edition, Faculté de droit de Liège, 1987, n° 361, avuga nawe ko kugira ngo urubanza rube ndakuka rugomba kuzuza ibintu bitatu: a) Ikiregerwa cyangwa se igisabwa Urukiko kigomba kuba kimwe; b) Ikiregerwa kigomba kuba gishingiye ku mpamvu zimwe, izi mpamvu zikarebwa hashingiwe ku itegeko ryakoreshejwe n'umucamanza waciye urubanza rwa mbere; c) Ababuranyi bagomba kuba ari bamwe mu bubasha bari basanganywe. [25] Akomeza avuga ko kugira ngo umenye ko imanza zivuguruzanya bisaba kugereranya ibyemezo byafashwe mu rubanza rwa mbere n'ibisabwa mu kirego gishya5. Mu yandi magambo asobanura ko kugira ngo umenye ko imanza zivuguruzanya, ureba icyaburanwaga cyaburanishijwe kigafatwaho icyemezo, ugasuzuma niba ikirego gishya kigamije gusaba icyemezo ku cyamaze kuburanishwa kandi kigafatwaho icyemezo mbere, ku buryo ikirego gishya kiramutse gihawe ishingiro byavuguruza icyemezo cyagifashweho mbere6. [26] Dosiye ababuranyi bashyikirije uru Rukiko irimo: (i) Icyemezo cy'Abunzi b'Akagari ka Kabeza cyo ku wa 04/09/2009 cyanditse gitya : « Abunzi rero dusanze yararenganyije [barashaka kuvuga Kinonko] Fredariko, ko agomba kumusubiza ahantu he7 yari yaramuhaye » ; (ii) Urubanza RCA 0005/12/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ku itariki ya 26/7/2013, hasuzumwa ubujurire bw'urubanza RC 0278/11/TB/NMTA bwakozwe na Muberandinda, Urukiko rwemeje ko ikirego cye nta shingiro gifite, ko urubanza rwajuririwe rudahindutse [...] ko isambu iburanwa [...] igomba kugurishwa abazungura ba Nyirarugira bakagabana amafaranga [...];

4 Reba paji 14, paragraphe 28 y'urwo rubanza. 5 « Ceci revient à dire qu'il faut [...] comparer l'étendue du jugement précédent et les éléments constitutifs de la nouvelle demande ». 6 « [...] Il faut rechercher ce qui a été antérieurement contesté et jugé, en fait et en droit, vérifier si la nouvelle demande tend à obtenir une décision sur une question litigieuse qui après avoir été soumise à un débat a été tranchée par un acte juridictionnel antérieur, en manière telle que la prétention nouvelle, si elle est admise, serait de nature à contredire ce qui a été certainement jugé » 7Aha hantu havugwa ni isambu ya Nyirarugira, Kinonko yari yaramuhaye igihe yageneraga buri mugore we umutungo ugomba kumutunga n'abana babyaranye.

Page 7

iii) Urubanza RC0278/11/TB/NMTA rwaciwe n'Urukiko rw'Ibanze rwa Nyamata ku wa 19/12/2011, haburana Muberandinda na Nsabimana n'abandi bavandimwe babo, rwemeje ko isambu baburanaga ari iya Nyirarugira igomba kugabanwa n'abana yasize bose ku buryo bungana. [27] Urukiko rurasanga ikigaragara aruko nyuma y'icyemezo cy'Abunzi Muberandinda aburanisha, hakurikiyeho imanza zagikuyeho ku buryo budashidikanywaho kandi budasubirwaho, izo manza zivuga mu buryo bweruye ko isambu aregera ari iya Nyirarugira, igomba kugabanwa n'abana be nawe arimo. Izo manza ni: a) Urubanza No RC 0367/09/TB/NMTA8 rwaciwe n'Urukiko rw'Ibanze rwa Nyamata ku wa 13/7/2010, rwemeje ko isambu ari iya Nyirarugira, reba ibika bya 13 na 18 bya rwo; b) Urubanza No RCA 0194/10/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ku wa 15/07/2011, ruvuga ko Muberandinda agumana aho se yamuhaye ku isambu ya Haguma, byumvikanisha ko kubyerekereye isambu ya Nyirarugira nta cyahindutse yakomeje kuba iye, reba igika cya 1 (imiterere y'urubanza), igika cya 9; c) Urubanza No RC 0278/11/TB/NMTA rwaciwe n'Urukiko rw'Ibanze rwa Nyamata ku wa 19/12/2011, ruvuga ko isambu ari iya Nyirarugira, reba igika cya 12; d) Urubanza No RCA 0005/12/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ku itariki ya 26/7/2013, ruvuga ko iyo sambu ari iya Nyirarugira, reba igika cya 10 kigaruka ku manza twavuze haruguru muri a) na b). [28] A.Fettweis mu gitabo cye twabonye haruguru avuga ko ibyategetswe mu rubanza aribyo bigira kamere yo kuba ndakuka, hamwe n'impamvu ibyo byemezo bishingiyeho utatandukanya na byo9 . [29] Urukiko rushingiye ku ngingo ya 82 y'Itegeko N° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso, ku cyemezo cyafashwe mu rubanza RC 0001/2023/SC rwaciwe ku itariki ya 22/12/2023, haburana Rutayisire Jean de Dieu na Mukankurikiyimana Béatrice n'abandi, ku bitekerezo by'abahanga mu mategeko hamwe n'ibyemezo by'inkiko byagaragajwe mu gika cya 27 cy'urubanza, rurasanga nta vuguruzanya riri hagati y'icyemezo cy'Abunzi b'Akagari ka Kabeza cyo ku wa 04/09/2009 n'urubanza RCA 0005/12/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ku itariki ya 26/7/2013, ibyo rukabishingira ku mpamvu zikurikira: i. Ababuranyi si bamwe. Mu cyemezo cy'Abunzi ababuranyi ni Muberandinda na Kinonko; naho mu rubanza rw'Urukiko Rwisumbuye rwa Gasabo bakaba Muberandinda na Nsabimana, Nyiramyavu Séraphine, Nyirahishamunda Phoïbe na Ayimboneye Laurence. ii. Ibi byemezo byombi ntabwo bishingiye ku mpamvu zimwe. Icyemezo cy'Abunzi cyari gishingiye ku mpano y'ubutaka Muberandinda yavugaga ko se yaba yaramuhaye ku

8 Nubwo Urukiko rutakiriye ikirego cya Kinonko ariko rwavuze ko isambu yaburanaga na Muberandinda, ku bireba isambu ya Nyirarugira, itari iye ahubwo ari iya Nyirarugira igomba gukurikiranwa n'abana be. Ubwo Muberandinda akaba yarayitsindiwe icyo gihe. 9 « L'autorité de la chose jugée ne s'attache qu'au dispositif du jugement. [...] elle s'étend cependant aux motifs inséparables du dispositif, à ceux qui constituent son soutien nécessaire ».

Page 8

isambu ya Nyirarugira, mu gihe urubanza rwaciwe n'Urukiko Rwisumbuye rwa Gasabo rushingiye ku izungura ry'umutungo wa Nyirarugira. iii. Muri izi manza ibirego si bimwe. Mu cyemezo cy'Abunzi Muberandinda yakurikiranaga isambu yita iye se ashaka kumuhuguza, naho mu rubanza rw'Urukiko Rwisumbuye rwa Gasabo, abavandimwe be baregeraga iminani yabo mu mutungo w'umubyeyi wabo bose. [30] Hashingiwe ku bisobanuro byose bimaze gutangwa, Urukiko rurasanga umwanzuro w'Abunzi b'Akagari ka Kabeza wo ku wa 04/09/2009 utavuguruzanya n'urubanza No RCA 0005/12/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ku wa 26/07/2013. 2. Kumenya niba hari indishyi zikwiye gutangwa muri uru rubanza [31] Muberandinda Frederic yunganiwe na Me Ntagungira Théogène, asaba indishyi z'akababaro zingana na 10.000.000 Frw zakwishyurwa na Nsabimana Léonard kuko yaburanye urubanza azi neza ko hari urundi Muberandinda yatsinzemo se Kinonko, ko kandi Nsabimana yategewe kumwishyura 1.000.000 Frw y'ikurikiranarubanza na 1.000.000 Frw y'igihembo cya Avoka kuko ari we watumye ajya mu manza kandi azi neza ko ubutaka yabuburanye yanabutsindiye. [32] Nsabimana Léonard yunganiwe na Me Hakizimana Albert avuga ko izo ndishyi zidakwiye kuko Muberandinda ariwe wishoye mu manza, ko ahubwo we asaba indishyi zingana na 2.300.000 Frw akubiyemo 1.000.000 Frw yo gushorwa mu manza z'amaherere, 1.000.000 Frw y'igihembo cya Avoka na 300.000 Frw y'ikurikiranarubanza. [33] Me Rwimo Clotilde uhagarariye Nyiramyavu, Nyirahishamunda na Ayimboneye avuga ko ntacyo avuga ku ndishyi, kuko abo ahagarariye ntazo basabwe, nabo bakaba ntazo basaba. Uko Urukiko rubibona [34] Ingingo ya 111 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets, nk'uko ryahinduwe kugeza ubu, iteganya ko ikirego cy'amafaranga y'ikurikiranarubanza ari ikirego gishamikira ku kirego cy'iremezo kigamije kwishyura ibyakoreshejwe mu rubanza. [35] Urukiko rusanga indishyi zisabwa na Muberandinda Frederic ntazo akwiye guhabwa kuko ntacyo atsindiye mu rubanza. Rusanga ariko Nsabimana mu ndishyi asaba, izo gushorwa mu manza adakwiye kuzigenerwa kuko atigeze agaragariza Urukiko ko Muberandinda agana inkiko icyo yari agamije kwari ukumushora mu manza gusa. Ku birebana n'amafaranga y'ikurikiranarubanza n'igihembo cy'Avoka asaba, Urukiko rusanga agomba kuyahabwa kuko ari mu batsinze urubanza. Rurasanga ariko 1.000.000 Frw asaba akabije kuba menshi, bityo mu bushishozi bwarwo Urukiko rukaba rumugeneye 500.000 Frw y'igihembo cy'Avoka hamwe na 300.000 Frw y'ikurikiranarubanza, yose hamwe akaba 800.000 Frw. III. ICYEMEZO CY'URUKIKO

Page 9

[36] Rwemeje ko ikirego cyatanze na Muberandinda Frederic gisaba kwemeza ko umwanzuro w'Abunzi b'Akagari ka Kabeza wo ku wa 04/09/2009 uvuguruzanya n'urubanza No RCA 0005/12/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ku wa 26/7/2013, nta shingiro gifite; [37] Rwemeje ko nta vuguruzanya riri hagati y'umwanzuro w'Abunzi b'Akagari ka Kabeza wo ku wa 04/09/2009 n'urubanza No RCA 0005/12/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ku wa 26/7/2013; [38] Rutegetse Muberandinda Frederic kwishyura Nsabimana Léonard 800.000 Frw akubiyemo ay'ikurikiranarubanza n'igihembo

cya Avoka.

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