

RWANDA / JUDGMENT

MUGISHA v MUNYANA NSANZIMANA

RS/INJUST/RC 00005/2020/SC

COURT

Supreme Court

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MUGISHA v MUNYANA NSANZIMANA

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Text

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MUGISHA v MUNYANA NSANZIMANA [Rwanda URUKIKO RW'IKIRENGA – RS/INJUST/RC 00005/2020/SC (Cyanzayire, P.J. Nyirinkwaya, Hitiyaremye, Muhumuza na Karimunda) 30 Nyakanga 2021] Amategeko y'ububasha bw'inkiko – ububasha bw'Urukiko rwajuririwe – ubujuririre bwa kabiri – kuba hari ibibazo byabyukijwe bwa mbere mu bujurire bitarasuzumwe mu Rukiko rwabanje ntibyashingirwaho hasuzumwa niba umuburanyi yaratsinzwe ku mpamvu zimwe mu Nkiko zombi. Incamake y'ikibazo:Uru rubanza rwatangiye Munyana Nsanzimana arega Mugisha mu Rukiko Rwisumbuye rwa Gasabo ko yigabije umutungo wasizwe n'umubyeyi we Mukabideri witabye Imana bityo akaba asaba kuwusubizwa. Mugisha we asobanura ko uwo mutungo yawuguze kandi ko yiyandikishije kuri ubwo butaka ntihagira ubitambamira. Urukiko rushingiye kuri raporo y'ubuyobozi bw'inzego z'ibanze no ku batangabuhamya rwemeje ko inzu n'ubutaka biburaranwa ari ibya Munyana Nsanzimana. Mugisha yajuririye urwo rubanza mu Rukiko Rukuru avuga ko Urukiko rwabaje hari Imanza rwirengagije zabaye itegeko zemeza ko umutungo uburanwa ari uwe, avuga kandi ko urwo Rukiko rwirengagije ibimenyetso byanditse ahubwo ruha agaciro imvugo z'abatangabuhamya, yanavuze ko nta kimenyetso Munyana Nsanzimana yagaragaje cyuko ari mwene Mukabideri. Munyana Nsanzimana we avuga ko

ubujurire bwe nta shingiro bufite. Urukiko rwemeje ko ubujurire bwa Mugisha nta shingiro bufite kuko icyaburanwe mu manza avuga ntaho gihuriye nicyaburanwaga mu Rukiko Rukuru, naho kuba Urukiko Rwisumbuye rwarahaye agaciro imvugo z'abatangabuhamya kurusha inyandiko Urukiko rwemeje ko iryo Atari ikosa, naho ku bijyanye nuko Munyana Nsanzimana atagaragaje ikimenyetso cyuko ari mwene Mukabideri Urukiko rwavuze ko atabasha kuvuguruza ibimenyetso byatanzwe na Munyana Nsanzimana kuriyo ngingo. Mugisha yajuriye mu Rukiko rw'Ubugurire, Munyana Nsanzimana atanga inzitizi yo kutakira ubujurire bwa kabiri bwa Mugisha kuko yatsinzwe ku mpamvu zimwe mu nkiko za mbere. Urukiko rwemeje ko ubujurire bwa Mugisha butakiriwe kuko yatsinzwe mu nkiko zombi zabanje ku mpamvu zimwe. Mugisha yandikiye Perezida w'Urukiko rw'Ikirenga asaba ko urubanza rwaciwe n'Urukiko rw'Ubugurire rusubirwamo ku mpamvu z'akarengane. Perezida w'Urukiko rw'Ikirenga, amaze gusuzuma ubusabe bwe yemeje urwo rubanza rusubirwamo ku mpamvu z'akarengane. Abunganira Mugisha babwiye Urukiko ko urubanza basabye ko rwasubirwamo ku mpamvu z'akarengane, ari urubanza rwaciwe n'Urukiko Rukuru kuko urwaciwe n'Urukiko rw'Ubugurire rutigeze ruburanishwa mu mizi. Uhagarariye Munyana Nsanzimana avuga ko ibivugwa n'abarega atari byo kuko imyanzuro yabo igaragaza ko urubanza basaba ko rusubirwamo ku mpamvu z'akarengane ari urwaciwe n'Urukiko rw'Ubugurire.

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Urukiko rwibukije kugira ngo rube rwasuzuma akarengane kavugwa mu rubanza rwaciwe bwa nyuma n'Urukiko Rukuru rukajuririrwa bwa kabiri mu Rukiko rw'Ubugurire ntirwakirwe, hagomba kuba hagaragajwe amakosa yakozwe n'Urukiko rw'Ubugurire rwanga kwakira ubwo bujurire. Incamake y'icyemezo: 1. Mu gusuzuma niba umuburanyi yaratsinzwe mu nkiko zabanje ku mpamvu zimwe, harebwa icyaburanwaga n'imitekerereze ya buri rukiko mu kugaragaza impamvu zashingiweho, kugira ngo rugere ku cyemezo rwafashe. Bityo kuba hari ibibazo byabyukijwe bwa mbere mu bujurire bitarasuzumwe mu Rukiko rwabanje ntibyashingirwaho hasuzumwa niba umuburanyi yaratsinzwe ku mpamvu zimwe mu Nkiko zombi. Ikirego cyo gusubirishamo urubanza ku mpamvu z'akarengane nta shingiro gifite. Amategeko yakoreshejwe: Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'Inkiko ingingo ya 52 Imanza zifashishijwe: RS/REV/INJUST/CIV 0023/16/CS, rwaciwe kuwa 27/09/2019 haburana RUTABAYIRO, Kamanzi et al. na MUKAKABANO Charlotte RS/REV/INJUST/RP 00002/2019/SC, rwaciwe kuwa 23/12/2020 haburana HABIMANA Innocent n'Ubushinjacyaha N° RS/INJUST/RCOM 00002/2020/SC rwaciwe ku wa 29/9/2020 haburana Road Solutions Pavement Products Vs MAIL CO Ltd. N° RS/INJUST/RCOM 00003/2020/SC rwaciwe ku wa 27/11/2020 haburana SANLAM Assurance Générales Plc (yahoze yitwa SORAS Assurance Générales Plc) Vs UNIVERSITY OF RWANDA (UR) N° RS/INJUST/RP 00002/2019/SC rwaciwe ku wa 23/12/2020 haburana Ubushinjacyaha Bukuru Vs HABIMANA Innocent N° RS/INJUST/RCOM 00005/2020/SC rwaciwe ku wa 27/11/2020 haburana BPR ATLAS MARA Ltd na NKUSI Evariste Urubanza I. IMITERERE Y'URUBANZA [1] Munyana Nsanzimana Diane avuga ko nyina Mukabideri Marianne yapfuye muri Jenocide yakorewe Abatutsi mu mwaka wa 1994, asiga ikibanza kirimo inzu yari yaraguze, gihereye mu Mudugudu wa Nezerwa, Akagari ka Kibenga, Umurenge wa Ndera, Akarere ka Gasabo. Avuga ko mu mwaka

wa 2012, yagarutse mu Rwanda agasanga ikibanza cy'umubyeyi we cyarigabijwe na Mugisha Erneste, uyu we ariko akavuga ko uwo mutungo yawuguze n'umuryango wa Mukama

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Abias, nawe wari warawuguze n'umuryango wa Ruhama Raphaël, kandi ko yiyandikishije kuri ubwo butaka ntihagira ubitambamira. [2] Munyana Nsanzimana Diane yaregeye Urukiko Rwisumbuye rwa Gasabo asaba gusubizwa umutungo w'umubyeyi we wigabijwe na Mugisha Erneste, bityo ibyangombwa bimwanditseho bigateshwa agaciro. [3] Mu rubanza RC00233/2016/TGI/GSBO rwaciwe ku wa 16/01/2018, Urukiko rwasanze uwitwa Kibuye ahamya ko ubutaka buburanwa bwari ubwa Mukabideri Marianne kuko yari yarabuguze na Ruhama Raphaël, naho Mujawayezu Cécile na Nyirarukundo, baturiyeye inzu n'ikibanza biburanwa, bavuga ko byari bituyemo Mukabideri Marianne, rwemeza ko ikirego cya Munyana Nsanzimana Diane gifite ishingiro kuri bimwe, rutegeka Mugisha Erneste kumusubiza inzu iri mu kibanza kingana na 50m/40m akomora ku mubyeyi we Mukabideri Marianne yafatanyije n'isambu ye, akamuha na 500.000Frw y'igihembo cya Avoka. [4] Mugisha Erneste yajuririyeye urwo rubanza mu Rukiko Rukuru, atanga impamvu zikurikira: Kuba Urukiko Rwisumbuye rwarirengagije imanza RAD 0044/11/TGI/GSBO na RADA 0075/13/HC/KIG yaburanye mu Rukiko Rukuru zemeje ko isambu iburanwa ari iye (Mugisha Erneste); Kuba Urukiko Rwisumbuye rwarahaye agaciro ibimenyetso by'abatangabuhamya rukabisumbisha iby'inyandiko kandi bitari ku rwego rumwe kuko ibimenyetso by'inyandiko biruta ibindi bimenyetso byose bitangwa mu Nkiko; Kuba nta kimenyetso Munyana Nsanzimana Diane yatanze cy'uko ari mwene Mukabideri Marianne. Mugisha Erneste yanasabye ko Urukiko rwahamagaza mu rubanza abamugurishije umutungo uburanwa. [5] Mu rubanza RCA00057/2018/HC/KIG rwaciwe ku wa 30/11/2018, Urukiko Rukuru rwasanze mu manza z'ubutegetsi Mugisha Erneste aburanisha, yarasabaga ivanwaho ry'icyemezo cy'ubuyobozi cyafashwe mu buryo bunyuranyije n'amategeko, naho muri uru rubanza hakaba haburanwa umutungo ugizwe n'inzu n'ikibanza, bityo ko izi manza ntaho zihuriye; naho ku bijyanye no guhamagaza abagiye bagurisha umutungo uburanwa, aribo Ruhama Raphaël wagurishije Mukama Abias, uyu nawe akagurisha Mugisha Erneste, rusanga Mugisha Erneste atagaragaza imyirondoro yabo. [6] Urukiko rwasanze kandi Mugisha Erneste atanyomoza icyemezo cya CICR, n'urubanza rwa "adoption" bihamya ko Munyana Nsanzimana Diane ari mwene Mukabideri Marianne na Mirimo Gaspard, rusanga Jenocide yakorewe Abatutsi yarabaye Munyana Nsanzimana Diane afite imyaka itandatu y'amavuko, ahungira muri Suède aho yabonye umuryango umurera (adoption). Kubera ko hagati aho Mugisha Erneste yahawe ibyangombwa by'ubutaka buburanwa, rushingiye ku murongo watanze n'Urukiko rw'Ikirenga mu rubanza Harerimana Emmanuel yaburanaga na Sebukayire Tharcisse,¹ rwasobanuye ko mu gihe hari abatangabuhamya bagaragaza ko uwahawe ibyangombwa 1 Reba urubanza n° RCAA 0018/13/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 24/12/2014.

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atagombaga kubihabwa ku butaka butari ubwe, ibyo byangombwa bitarutishwa imvugo z'abatangabuhamya. Urukiko rwanzuye ko ubujurire bwa Mugisha Erneste nta shingiro bufite, ategakwa kwishyura Munyana Nsanzimana Diane 250.000Frw y'ikurikiranarubanza n'igihembo cya Avoka. [7] Mugisha Erneste yajuriye mu Rukiko rw'Ubujurire, Munyana Nsanzimana Diane atanga inzitizi yo kutakira ubujurire bwa kabiri bwa Mugisha Erneste kuko yatsinzwe ku mpamvu zimwe mu nkiko za mbere. [8] Mu rubanza RCAA00014/2019/CA rwaciwe ku wa 17/01/2019, Urukiko rw'Ubujurire rwasanze ingingo y'ingenzi yaburanywe mu nkiko zombi zabanje ari ijyanye no kumenya nyiri inzu n'ikibanza biburanwa, Mugisha Erneste akaba yaratsinzwe no kuba hari raporo y'ubuyobozi ishimangirwa n'imvugo z'abatangabuhamya, byemeza ko umutungo Munyana Nsanzimana Diane aburana wari uw'umubyeyi we Mukabideri Marianne, rwemeza ko ubujurire bwa Mugisha Erneste butakiriwe kuko yatsinzwe mu nkiko zombi zabanje ku mpamvu zimwe. [9] Mugisha Erneste yandikiye Perezida w'Urukiko rw'Ikirenga asaba ko urubanza RCAA00014/2019/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 17/01/2020 rwasubirwamo ku mpamvu z'akarengane. Perezida w'Urukiko rw'Ikirenga, amaze gusuzuma ubusabe bwa MUGISHA Erneste, yafashe icyemezo N° 262/CJ/2020 ko urubanza RCAA00014/2019/CA rusubirwamo ku mpamvu z'akarengane, ruhabwa numero RS/INJUST/RC 00005/2020/SC. [10] Iburanisha ryabereye mu ruhamwe ku wa 11/01/2021, Mugisha Erneste yunganiwe na Me Barahira Eric hamwe na Me Bizimana Shoshi Jean Claude, Munyana Nsanzimana Diane ahagarariwe na Me Nyiraneza Marie Grace. [11] Mu iburanisha, Me Bizimana Shoshi Jean Claude wunganira Mugisha Erneste yamenyesheje Urukiko ko urubanza basabye ko rwasubirwamo ku mpamvu z'akarengane, ari urubanza RCA00057/2018/HC/KIG rwaciwe n'Urukiko Rukuru kuko urwaciwe n'Urukiko rw'Ubujurire rutigeze ruburanishwa mu mizi yarwo, avuga ko kuba haravuzwe ko urubanza rusabirwa gusubirishwamo ku mpamvu z'akarengane ari urwaciwe n'Urukiko rw'Ubujurire asanga ari ikosa ryakozwe. [12] Kuri iki kibazo, Me Nyiraneza Marie Grace uhagarariye Munyana Nsanzimana Diane avuga ko ibivugwa n'abarega atari byo kuko imyanzuro yabo igaragaza ko urubanza baregera ari urwaciwe n'Urukiko rw'Ubujurire, anavuga ko na Perezida w'Urukiko rw'Ikirenga yemeje ko urubanza rusubirishwamo ku mpamvu z'akarengane ari urwaciwe n'Urukiko rw'Ubujurire, ko ibyo binyuranye n'ibyo uwareze n'abamwunganira bavuga. [13] Nyuma y'impaka kuri iki kibazo, Urukiko rwibukije Me Bizimana Shoshi Jean Claude ibigaragara mu busabe bashyikirije Urukiko batanga ikirego ko urubanza basabye ko rusubirwamo ku mpamvu z'akarengane ari urwaciwe n'Urukiko rw'Ubujurire runibutsa umurongo rwafashe mu zindi manza2, ko kugira ngo rube rwasuzuma 2 Zimwe mu ri izo manza ni nka: -RS/REV/INJUST/CIV 0023/16/CS, rwaciwe kuwa 27/09/2019 haburana RUTABAYIRO, Kamanzi et al. na MUKAKABANO Charlotte

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akarengane kavugwa mu rubanza rwaciwe bwa nyuma n'Urukiko Rukuru rukajuririrwa bwa kabiri mu Rukiko rw'Ubujurire ntirwakirwe, hagomba kuba hagaragajwe amakosa yakozwe n'Urukiko rw'Ubujurire rwanga kwakira ubwo bujurire; bityo hakaba hagomba gusuzumwa urubanza rwaciwe n'Urukiko rw'Ubujurire. [14] [15] Iburanisha ryarakomeje, ababuranyi

bamenyeshwa ko urubanza ruzasomwa ku wa 29/01/2021, ariko kuri uwo munsu ntirwasomwa kubera ingamba zo kwirinda icyorezo cya Covid-19, ababuranyi babwirwa ko itariki ruzasomerwaho bazayimenyeshwa. [16] Mu gihe Urukiko rwari rwiherereye rwasanze muri dosiye hari aho Mugisha Erneste avuga ko yasabye ko abamugurishije umutungo uburanwa bahamagazwa mu rubanza ariko akabyangirwa ; rufata icyemezo mu rubanza rubanziriza urundi rwaciwe ku wa 12/2/2021, ko Urukiko rw'Ubujurire rwagombaga gusuzuma ubusabe bwa Mugisha Erneste, rwemeza ko urubanza ruzakomeza hasuzumwa ubwo busabe ku munsu ababuranyi bazamenyeshwa n'Ubwanditsi bw'Urukiko. [17] Urubanza rwongeye kuburanishwa ku wa 06/04/2021, ababuranyi bahagarariwe cyangwa bunganiwe nka mbere, Mugisha Erneste n'abamwunganira bavugaga ko bashingiye ku ngingo ya gatanu (5) y'Itegeko ry'ubutaka no ku ngingo ya 118 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018, ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi afite uburenganzira ku butaka yaguze, kandi ko uwaguze afite uburenganzira bwo gusaba ko uwamugurishije aza mu rubanza nk'umwishingizi mu gihe hari icyo yabazwa ku mutungo yagurishije. Me Nyiraneza Marie Grace, uburanira Munyana Nsanzimana Diane yavuze ko ibisabwa na Mugisha Erneste nta shingiro bifite kubera ko muri uru rubanza nta mwishingizi urimo. [18] Iburanisha ryarapfundikiwe, ababuranyi bamenyeshwa ko urubanza ruzasomwa ku wa 30/4/2021. Hagati aho, umwe mu bacamanza bagize inteko yahinduriwe imirimo, bityo hashingiwe ku biteganywa n'ingingo ya 132, igika cya 5 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, iburanisha ryongera gupfundurwa ku wa 31/5/2021. Ababuranyi bamenyeshwe ko icyemezo ku bijyanye no kumenya niba ubujurire bwa Mugisha Erneste bwaragombaga kwakirwa n'Urukiko rw'Ubujurire n'icyo kumenya niba abamugurishije bagomba guhamagazwa muri uru rubanza bizafatirwa mu rubanza rumwe, isomwa ryarwo rishyirwa ku wa 23/7/2021, mu gihe kirenze ukwezi kubera impamvu Urukiko rwasobanuriye ababuranyi. Uwo munsu ntirwashoboye gusomwa kubera ko umwe mu bacamanza yari mu butumwa bw'akazi, isomwa ryarwo ryimurirwa ku wa 30/7/2021. - RS/REV/INJUST/RP 00002/2019/SC, rwaciwe kuwa 23/12/2020 haburana HABIMANA Innocent n'Ubushinjacyaha

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II. IBIBAZO BIGIZE RUBANZA N'ISESENGURA RYABYO A. Kumenya niba hari ikosa Urukiko rw'Ubujurire rwakoze rwemeza ko MUGISHA Erneste yatsinzwe mu rwego rwa mbere n'urwa kabiri ku mpamvu zimwe. [19] Me Bizimana Shoshi Jean Claude na Me Barahira Eric bunganira Mugisha Erneste, bavugaga ko mu Rukiko Rwisumbuye hasuzumwe ingingo eshatu, naho mu Rukiko Rukuru, hasuzumwa ingingo eshanu harimo kuba Munyana Nsanzimana Diane atagaragaza umwirondoro we, kuba atagaragaza inkomoko y'umutungo aburana hamwe no kuba harirengagijwe imanza zaciwe n'izindi nkiko, bavugaga ko batangajwe n'uko Urukiko rw'Ubujurire rwanzuye ruvugaga ko Mugisha Erneste yatsinzwe ku mpamvu zimwe kandi ibyasuzumwe ndetse n'ibyanzuweho mu nkiko zabanje atari bimwe, basaba ko hakwemezwa ko habayeho akarengane. [20] Me Nyiraneza Marie Grace, uhagarariye Munyana Nsanzimana Diane avugaga ko ibivugwa n'abunganira Mugisha Erneste ko mu rubanza rwaciwe n'Urukiko Rwisumbuye hasuzumwe ibibazo bitatu atari ko biri kuko hasuzumwe ikibazo kimwe kijyanye no kumenya nyir'inzu

n'ikibanza biburanwa, Urukiko Rukuru narwo rubishimangira rwemeza ko nta kosa Urukiko Rwisumbuye rwakoze kuko rwashingiye ku byavuye mw'iperereza ryagaragaje ko ahaburanwa hari aha MUKABIDERI Marianne. UKO URUKIKO RUBIBONA [21] Ingingo ya 52, igika cya 3, y'Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'Inkiko, iteganya ko "...Ubujurire bwa kabiri budashobora kwakirwa ku muburanyi watsinzwe mu nkiko zombi hashingiwe ku mpamvu zimwe". [22] Urukiko rurasanga nk'uko rwabyemeje mu zindi manza, mu gusuzuma niba umuburanyi yaratsinzwe mu nkiko zabanje ku mpamvu zimwe, harebwa icyaburanwaga n'imitekerereze ya buri rukiko mu kugaragaza impamvu zashingiweho, kugira ngo rugere ku cyemezo rwafashe, hitawe ku kureba niba ingingo zaburanywe mbere arizo zagarutsweho mu bujurire kandi inkiko zombi zazishubijeho mu buryo bumwe. [23] Dosiye y'urubanza igaragaza ko mu Rukiko Rwisumbuye rwa Gasabo, icyari cyaregewe cyanasuzumwe ari ingingo imwe yo kumenya nyir'inzu n'ikibanza biburanwa hagati ya Munyana Nsanzimana Diane na Mugisha Erneste. Urukiko rwafashe icyemezo rushingiye kuri raporo y'Ubuyobozi bw'Umudugudu yo ku wa 05/04/2012, no ku mvugo z'abatangabuhamya babajijwe mu iperereza ryakozwe n'Urukiko aho ikiburanwa gihereye. Urukiko rwasobanuye ko ababajijwe 3-Reba urubanza RS/INJUST/RCOM 00002/2020/SC rwaciwe ku wa 29/9/2020 haburana Road Solutions Pavement Products Vs MAIL CO Ltd. -Reba urubanza RS/INJUST/RCOM 00003/2020/SC rwaciwe ku wa 27/11/2020 haburana SANLAM Assurance Générales Plc (yahoze yitwa SORAS Assurance Générales Plc) Vs UNIVERSITY OF RWANDA (UR) -Reba urubanza RS/INJUST/RP 00002/2019/SC rwaciwe ku wa 23/12/2020 haburana Ubushinjacyaha Bukuru Vs Habimana Innocent.

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bose bemeje ko Mukabideri Marianne, nyina wa Munyana Nsanzimana Diane yari ahatuye afite inzu yaguze n'uwitwa Ruhama Raphaël, ikaba iri ku mutwe w'isambu ya Mugisha Erneste; bemeza kandi ko iyo nzu igihari, iyo berekanye ikaba ari nayo Mugisha Erneste yeretse Urukiko avuga ko yayisanyye kuko ngo yari yaraseniyutse. [24] Mu rubanza rwaciwe n'Urukiko Rukuru mu rwego rw'ubujurire, Urukiko rwasuzumye ibimenyetso byemeza nyir'umutungo uburanwa, rusanga ibyo Mugisha Erneste avuga ko Urukiko Rwisumbuye rwashingiye ku mvugo z'abatangabuhamya nyamara hari ibimenyetso byanditse atari ikosa, kuko iyo bigaragaye ko umuntu yabonye ibyemezo by'ubutaka, ariko ubwo butaka ari ubw'abandi, izo nyandiko ziteshwa agaciro. Urukiko rwashingiye ku murongo watanze n'Urukiko rw'Ikirenga mu rubanza RCAA0018/13/CS rwaciwe ku wa 24/12/2014 haburana Harerimana Emmanuel na Sebukayire Tharcisse, rwemeza ko kuba abatangabuhamya babajijwe mu iperereza ryakozwe n'Urukiko baremeje ko ahaburanwa ari aha Mukabideri Marianne, nyina wa Munyana Nsanzimana Diane, bisonanuye ko Mugisha Erneste yaguze n'utari nyir'umutungo bityo ibyangombwa Mugisha Erneste aburanisha agaragaza ko ari we nyir'umutungo bikaba bikwiye guteshwa agaciro. [25] Urukiko Rukuru rwasuzumye n'izindi ngingo zitari zasuzumwe n'Urukiko Rwisumbuye, zabyukijwe bwa mbere mu bujurire, arizo: Kuba hari urubanza rw'ubutegetsi RADA 0047/13/HC/KIG rwemeje ko nyiri ikibanza ari Mugisha; Kuba Urukiko Rwisumbuye rwarirengagije ko nta kimenyetso kigaragaza ko Munyana Nsanzimana Diane ari umwana wa Mukabideri; N'ubusabe bwa Mugisha Erneste bwo gutumiza mu rubanza umuryango wa Mukama Abias n'uwa Ruhama

Raphael bamugurishije umutungo uburanwa. [26] Uru Rukiko rurasanga ingingo nyamukuru yasuzumwe haba mu Rukiko Rwisumbuye ndetse no mu Rukiko Rukuru, ari ukumenya nyir'umutungo uburanwa. N'ubwo inkiko zombi zitakoresheje amagambo amwe mu gusesengura ibimenyetso byaburanishwaga, bigaragarira uru Rukiko ko Mugisha Erneste yatsinzwe no kuba hari ibimenyetso bigizwe na raporo y'Ubuyobozi bw'Umudugudu yemeje ko inzu n'isambu biburanwa ari ibya Mukabideri Marianne nyina wa Munyana Nsanzimana Diane, ibyo bikaba byarashimangiwe n'imvugo z'abatangabuhamya bemeje ko Mukabideri Marianne yari atuye ahaburanwa. [27] Uru Rukiko rusanga Urukiko rw'Ubujurire rwarasobanuye ko kuba hari ibindi bibazo Urukiko Rukuru rwasuzumye rukabifataho umwanzuro bitarasuzumwe n'Urukiko Rwisumbuye, bitashingirwaho nk'impamvu itandukanya ibisobanuro by'inkiko zombi, kuko bidakuraho ko Mugisha Erneste yatsinzwe no kuba hari ibimenyetso byemeza ko umutungo Munyana Nsanzimana Diane aburana wari uw'umubyeyi we Mukabideri Marianne. Ibi bikaba bihura n'ibyemejwe n'Urukiko rw'Ikirenga mu rundi rubanza ko ibibazo byabyukijwe bwa mbere mu bujurire bidashobora gushingirwaho hasuzumwa niba umuburanyi yaratsinzwe ku mpamvu zimwe4. 4 Urubanza RS/INJUST/RCOM 00005/2020/SC rwaciwe ku wa 27/11/2020 haburana BPR ATLAS MARA Ltd na NKUSI Evariste.

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[28] Uru Rukiko rusanga rero, nta kosa Urukiko rw'Ubujurire rwakoze rwemeza ko Mugisha Erneste yatsinzwe mu rwego rwa mbere n'urwa kabiri ku mpamvu zimwe, bityo ubujurire bwe bwa kabiri bukaba butaragombaga kwakirwa. [29] Ku bijyanye n'ibyo ababuranira Mugisha Erneste bagarutseho muri uru Rukiko by'uko abamugurishije umutungo uburanwa bahamagazwa muri uru rubanza, uru Rukiko rurasanga mu gihe nta kosa Urukiko rw'Ubujurire rwakoze ubwo rwemezaga ko Mugisha Ernest yatsinzwe ku mpamvu zimwe mu Rukiko Rwisumbuye no mu Rukiko Rukuru, bikaba bituma rutari bwinjire mu mizi y'urubanza, nta mpamvu yo kubahamagaza. B. Kumenya niba indishyi zisabwa zifite ishingiro [30] Mugisha Erneste n'abamwunganira basaba Urukiko rw'Ikirenga gutegeka Munyana Nsanzimana Diane kwishyura Mugisha Erneste 5.500.000Frw y'ikurikiranarubanza n'igihembo cya Avoka, kubera ko yamushoye mu manza zidafite ishingiro. [31] Me Nyiraneza Marie Grace, uhagarariye Munyana Nsanzimana Diane, avuga ko asanga urega ntacyo yatakaje muri uru rubanza kurusha ibyo Munyana Nsanzimana Diane yatakaje cyane ko bigaragara ko ikibanza n'inzu Mugisha Erneste ariwe ubikoresha, agasaba Urukiko gutegeka Mugisha Erneste guha Munyana Nsanzimana Diane 1.000.000Frw y'ikurikiranarubanza n'igihembo cya Avoka. UKO URUKIKO RUBIBONA [32] Urukiko rurasanga indishyi zisabwa na Mugisha Erneste ntazo akwiye guhabwa kubera ko ntacyo atsindiye muri uru rubanza. [33] Urukiko rusanga indishyi Munyana Nsanzimana Diane asaba yazihabwa kuko ariwe utsinze kandi hakaba hari ibyo yatanze akurikirana urubanza ndetse agashaka n'umuburanira, ariko kubera ko 1.000.000Frw y'ikurikiranarubanza n'igihembo cya Avoka asaba ari menshi kandi akaba atayatangira ibisobanuro, Urukiko rumugeneye mu bushishozi bwarwo 300.000Frw y'ikurikiranarubanza na 500.000Frw y'igihembo cya Avoka, yose hamwe akaba 800.000 Frw. III. ICYEMEZO CY'URUKIKO [34] Rwemeje ko ikirego cyo

gusubirishamo ku mpamvu z'akarengane urubanza n° RCAA 00014/2019/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 17/01/2020, cyatanzwe na Mugisha Erneste nta shingiro gifite; [35] Rwemeje ko nta karengane kari muri urwo rubanza; [36] Rutegetse Mugisha Erneste guha Munyana Nsanzimana Diane amafaranga ibihumbi magana inani (800.000 Frw) akubiyemo ay'ikurikiranarubanza n'ay'igihembo cya Avoka.

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