

RWANDA / JUDGMENT

MURENZI v. D'OFFICE

RS/RECT/RCOM 00001/2025/CA

COURT

Court of Appeal

DECIDED

19 March 2025

CASE / FILE NUMBER

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MURENZI v. D'OFFICE

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Text

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MURENZI v. D'OFFICE [Rwanda URUKIKO RW'UBUJURIRE – RS/RECT/RCOM 00001/2025/CA (Kamere, P.J.) 19 Werurwe 2025] Amategeko agenga imiburanshirize y'imanza z'imbonezamubano – Gukosoza urubanza – Ikirego gikosora cyangwa gisobanura urubanza kiburanishwa nk'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe. Urubanza rukosora urundi, rukosora gusa amakosa y'imyandikire. Incamake y'ikibazo: Nyuma yuko Murenzi atanze ikirego mu Rukiko rw'Ubujurire asaba urwo Rukiko gukemura impaka zavutse mu irangizwa ry'icyemezo cya Perezida w'Urukiko cyemeza ubwumvikane mu rubanza RCOMAA 00005/2022/CA rwari rugeze mu gihe cy'inama ntegururubanza, rwacye urwo rubanza ariko mu cyemezo cyarwo hagaragaramo amakosa yatumye kandi Murenzi aregera ko akosorwa asaba ko ahanditse Rwemeje ko ubwumvikane abanyamigabane ba sosiyeti INTERHOUSE Ltd bagezeho ku wa 17/01/2015....” Byakosorwa hakandikwa ko ubwumvikane bwagezweho ku wa 17/01/2025. Iburanisha ry'urwo rubanza ryabereye mu nama y'abacamanza (Chambre du conseil) hasuzumwa ikirego cyatanze rwifashishije inyandiko zikubiyemo ibisobanuro bitabaye ngombwa guhamagara ababuranyi. Incamake y'icyemezo: Ikirego gikosora cyangwa gisobanura urubanza kiburanishwa nk'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe. Urubanza

rukosora urundi, rukosora gusa amakosa y'imyandikire. Ikirego gusaba gukosora urubanza gifite ishingiro. Amategako yashingiweho: Itegeko N° 22/2018 ryo ku wa 29/04/2018, ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 140. Nta manza zifashishijwe

Urubanza I. IMITERERE Y'URUBANZA [1] Murenzi Donatien yatanze ikirego mu Rukiko rw'Ubujurire cyandikwa kuri RCOM 00009/2022/CA, asaba Urukiko gukemura impaka zitandukanye zavutse mu irangizwa ry'icyemezo cya Perezida w'Urukiko no 001/2022/PCA/COM cyo ku wa 22/04/2022 cyemeza ubwumvikane mu rubanza RCOMAA 00005/2022/CA rwari rugeze mu gihe cy'inama ntegarurubanza.

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[2] Urukiko rw'Ubujurire rutangiye kuburanisha urubanza RCOM 00009/2022/CA, rurushyira mu bwumvikane bw'ababuranyi ubwabo babifashijwemo n'Abavoka babo ngo bakemure ikibazo bari bafitanye. Nyuma yo kubona ko ababuranyi bananiwe kwiyumvikanisha ubwabo, urubanza rushyirwa mu buhuza bukoze n'umucamanza wari uyoboye inteko iburanisha, maze ku wa 17/01/2025 ababuranyi n'umuhuza bashyira umukono ku nyandiko y'ubwumvikane isoza impaka ababuranyi bari bafitanye, urubanza rucibwa ku wa 29/01/2025. [3] Ku wa 19/02/2025 Murenzi Donatien yatanze ikirego gikosoza urubanza RCOM 00009/2022/CA cyandikwa kuri RS/RECT/RCOM 00001/2025/CA, asobanura ko nyuma y'aho urwo rubanza ruciriwe, muri kopi hagaragayemo ikosa rijyanye n'imyandikire y'amatariki ubwumvikane hagati y'ababuranyi bwakorewe, aho mu cyemezo cyarwo mu gika cya 13 (dispositif) Urukiko: "Rwemeje ko ubwumvikane abanyamigabane ba sosiyeti INTERHOUSE Ltd bagezeho ku wa 17/01/2015...." aho kwandika ko ubwumvikane bwagezweho ku wa 17/01/2025. [4] Murenzi Donatien arasaba Urukiko ko iyo nenge y'itariki yakosorwa maze itariki ikandikwa neza ahanditswe 2015 hakandikwa 2025. [5] Iburanisha ry'urubanza ryabereye mu nama y'Abacamanza (Chambre du Conseil) ku wa 19/03/2025 saa yine, Urukiko rusuzuma ikirego cyatanzwe na Murenzi Donatien rwifashishije inyandiko zikubiyemo ibisobanuro byatanzwe bitabaye ngombwa guhamagara ababuranyi, hashingiwe ku biteganywa mu gika cya mbere cy'ingingo ya 140 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, isomwa ry'urubanza rishyirwa uwo munsu ku I saa munani (14h00), ari na cyo gihe rusomeweho. II. IKIBAZO KIRI MU RUBANZA N'ISESENGURA RYACYO

Kumenya niba hari ikosa ry'imyandikire y'itariki rigomba gukosorwa mu rubanza RCOM 00009/2022/CA [6] Murenzi Donatien avuga ko mu ncarubanza hagaragayemo ikosa rijyanye n'imyandikire y'amatariki ubwumvikane bw'ababuranyi bwakorewe, aho mu cyemezo cy'Urukiko mu gika cya 13 (Dispositif) Urukiko: "Rwemeje ko ubwumvikane abanyamigabane ba sosiyeti INTERHOUSE Ltd bagezeho ku wa 17/01/2015...." aho kwandika ko ubwumvikane bwagezweho ku wa 17/01/2025. Bityo arasaba Urukiko ko iyo nenge y'itariki yakosorwa maze itariki ikandikwa neza ahanditse 2015 hakandikwa 2025. UKO URUKIKO RUBIBONA [7] Ingingo ya 140, mu gika

cyayo cya mbere, y'Itegeko N° 22/2018 ryo ku wa 29/04/2018, ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, iteganya ibi bikurikira: "Ikirego gikosora cyangwa gisobanura urubanza kiburanishwa nk'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe. Urubanza rukosora urundi, rukosora gusa amakosa y'imyandikire".

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[8] Ku birebana n'uru rubanza, Urukiko rurasanga koko harabayeho ikosa ry'imyandikire y'umwaka ubwumvikane bwabereyemo mu buhuza, aho Urukiko rwanditse mu gika cya 13 cy'urubanza ko abanyamigabane ba sosiyeti INTERHOUSE Ltd bageze ku bwumvikane ku wa 17/01/2015, aho kwandika ku wa 17/01/2025 nk'uko rwari rwabisobanuye haruguru mu gice cy'urubanza cyerekeye "Uko Urukiko rubibona" (motivation). Bityo rero iryo kosa rikaba rigomba gukosorwa, maze mu gika cya 13 cy'urubanza ahanditse ku wa 17/01/2015 hakandikwa ku wa 17/01/2025. [9] Hashingiwe ku bisobanuro bimaze gutangwa, Urukiko rurasanga ikirego cya Murenzi Donatien gisaba gukosora urubanza rwavuzwe haruguru gifite ishingiro, bityo uru rubanza RS/RECT/RCOM 00001/2025/CA rukaba rugomba kuzuza urubanza RCOM 00009/2022/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 29/01/2025. III. ICYEMEZO CY'URUKIKO [10] Rwemeje ko ikirego gisaba gukosora urubanza RCOM 00009/2022/CA cyatanzwe na Murenzi Donatien gifite ishingiro; [11] RWEMEJE ko mu gace ka 13 ku rupapuro rwa 5 rw'urubanza RCOM 00009/2022/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 29/01/2025 ahanditswe "ku wa 17/01/2015" ari ikosa ry'imyandikire ku birebana n'umwaka, rigomba gukosorwa bikaba "ku wa 17/01/2025" ; [12] Rwemeje ko uru rubanza RS/RECT/RCOM 00001/2025/CA rwuzuza urubanza RCOM 00009/2023/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 29/01/2025.

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