

RWANDA / JUDGMENT

NAEB v. RNECO LTD

RS/INJUST/RCOM 00019/2024/SC

COURT

Supreme Court

DECIDED

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NAEB v. RNECO LTD

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Text

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NAEB v. RNECO LTD [Rwanda URUKIKO RW'IKIRENGA – RS/INJUST/RCOM 00019/2024/SC (Muhumuza, P.J., Kalihangabo na Kazungu, J.) 28 Ugushyingo 2025] Amategeko agenga amasezerano – Ukutubahiriza amasezerano – Kudakora igikorwa cyagombaga gukorwa (nko kudakora amasezerano) – Indishyi z'igihombo – Igihe habayeho kudakora igikorwa cyagombaga gukorwa, (nko kudakora amasezerano), uwarenganyijwe ntiyahabwa indishyi z'igihombo yagize kuko nyine icyo gikorwa kitabayeho, ahubwo ahabwa indishyi ku mahirwe yavukijwe yo kubyaza inyungu icyo gikorwa kitakozwe, izo ndishyi zikaba zitangwa mu bushishozi bw'Urukiko. Incamake y'ikibazo: NAEB na RNECO Ltd zagiranye amasezerano zumvikana gufatanya gukorana mu iguriro ry'indabo ryitwa NAEB flowers selling point muri gahunda yo kuzamura ubucuruzi bw'indabo mu rwego mpuzamahanga. Ayo masezerano yaje guseswa na NAEB, RNECO Ltd iyirega mu Rukiko rw'Ubucuruzi isaba indishyi zikomoka kuri iryo seswa ry'amasezerano itigeze imenyeshwa (notification) na NAEB. Impande zombi zakoze amasezerano y'ubwumvikane, RNECO Ltd ireka ikirego, ndetse zigaragaza muri ayo masezerano ko zizakora amasezerano mashya y'imikoranire ndetse NAEB yishyura 10.147.000 Frw akomoka ku gihombo cyatewe no gusesa amasezerano. Nyuma yuko iretse ikirego RNECO Ltd yasabye NAEB gukora amasezerano

mashya y'imikoranire nkuko impande zombi zari zabyumvikanye muri ayo masezerano y'ubwumvikane, ariko NAEB ku ruhande rwayo ikavuga ko bitari ihame (imperative), RNECO ibonye ko ayo masezerano atubahirijwe, yatanze ikirego mu Rukiko rw'Ubucuruzi irusaba gutegeka NAEB kwishyura igihombo yatejwe kingana na 328.081.020 Frw kubera kutubahiriza amasezerano y'ubwumvikane yo ku wa 21/09/2020. Urukiko rw'Ubucuruzi rwaciye urubanza rwemeza ko NAEB yagombaga kubahiriza amasezerano yo kwikiranura, igakorana na RNECO Ltd andi masezerano y'igihe cy'umwaka, kuba itarabikoze ikaba igomba guha RNECO Ltd indishyi zingana na 137.037.080 Frw akubiyemo 135.617.080 Frw akomoka ku gihombo gituruka mu bucuruzi bw'indabo mu gihe cy'umwaka; 300.000 Frw y'indishyi zo kwica amasezerano; 1.000.000 Frw y'igihembo cya Avoka; 100.000 Frw y'ikurikiranarubanza na 20.000 Frw y'ingwate y'amagarama. NAEB yajuririye mu Rukiko Rukuru rw'Ubucuruzi ivuga ko Urukiko rw'ubucuruzi rwaciye urubanza rugendeye ku masezerano yo ku wa 03/03/2017, nyamara rwirengagije ko ikibazo cyose kiyakomokaho cyakemuwe n'amasezerano y'ubwumvikane yo ku wa 21/09/2020. Urwo Rukiko rwaciye rwaciye urubanza rwemeza ko icyo amasezerano yo kwikiranura yo ku wa 21/09/2020 yari agamije, ari ugukemura mu bwumvikane ikibazo impande zombi zari zifitanye mu buryo bukubiye mu ngingo ebyiri (2) z'ayo masezerano iya mbere ikaba ko NAEB igomba kwishyura 10.147.000 Frw akomoka ku gihombo cyatewe no gusesa amasezerano, indi ikaba gukorana andi masezerano y'imikoranire, rwemeza ko ubujurire nta shingiro bufite, nta gihindutse ku mikirize y'urubanza rwajuririwe. NAEB yasabye ko urubanza rusubirwamo ku mpamvu z'akarengane, yandikira Perezida w'Urukiko rw'Ubujurire nawe amaze kubisuzuma, yandikira Perezida w'Urukiko rw'Ikirenga asaba ko rusubirwamo ku mpamvu z'akarengane, na we yohereza urubanza mu bwanditsi bw'Urukiko rw'Ikirenga kugirango ruzongere ruburanishwe. Mbere yuko urubanza ruburanishwa

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mu mizi, Urukiko rwasabye ababuranyi gukemurira ikibazo cyabo mu buhuza, ndetse barabyemera bahitamo Prof Masengo Fidele nk'umuhuza wabo, ariko ubuhuza ntibwakunda, kuko bananiwe kumvikana. Urubanza rwaburanishijwe mu mizi, mu miburanire ya NAEB ikavuga ko akarengane kayo gashingiye ku kuba Urukiko Rukuru rw'Ubucuruzi rutarasesenguye neza ibimenyetso yarushyikirije kuko iyo rubikora rwari kubona ko itari ikwiye gukorana na RNECO Ltd amasezerano mashya y'imikoranire. Ivuga kandi ko amasezerano yo kwikiranura bagiranye yari afite clauses 2 z'ingenzi, aho iya mbere yo kwishyura 10.147.000 Frw akomoka ku gihombo cyatewe no gusesa amasezerano yari imperative, naho iyuko hashobora gukorwa amasezerano mashya y'imikoranire ikaba ari suppletive bityo bitari gufatwa nk'igikorwa ntarengwa kigomba gukorwa byanze bikunze, ko ahubwo icyo iyo ngingo yavugaga kwari ugusuzuma niba koko hakongerwa gukorwa andi masezerano mashya, akaba ari nayo mpamvu hatigeze havugwa ko mu gihe hadasinywe andi masezerano, ubwumvikane buzata agaciro. Ikavuga ko amasezerano yo ku wa 03/03/2017 yagombaga kumara umwaka umwe, ahagarikwa habura amezi atatu (3) gusa ngo arangire, bityo ko bitari ihame kuyavugurura nk'uko ingingo ya 5.1 y'ayo masezerano yabiteganyaga. Yaburanye kandi ivuga ko nta gihombo yateje RNECO Ltd ku buryo cyari gutegekwa kwishyura indishyi zingana na 137.037.080 Frw. Uregwa (RNECO Ltd)

yireguye avuga ko amafaranga angana na 10.147.000 Frw NAEB yishyuye RNECO Ltd hamaze gukorwa amasezerano yo kwikiranura atari ubwishyu bw'uko yasheshe amasezerano yo ku wa 03/03/2017 mu buryo bunyuranyije n'amategeko, ahubwo ko yatanzwe mu rwego rwo kwishyura ibikorwa bya RNECO Ltd byari byangijwe bigaragara mu nyandiko igamije ubwumvikane. RNECO Ltd kandi ivuga ko ibyuko NAEB ivuga ko hari ingingo zigize amasezerano zimwe ziri imperative, izindi zikaba suppletive mu ikurikizwa ry'amasezerano ari ukwirengagiza ko iyubahirizwa ry'amasezerano yo ku wa 03/03/2017 n'ayo ku wa 21/09/2020, byari itegeko (imperative) nk'uko biteganywa n'ingingo ya 64 y' itegeko N° 45/2011 ryo ku wa 25/11/2011 rigenga amasezerano, bitaba ibyo hakubahirizwa ibiteganywa n'ingingo ya 81, iya 85, iya 86, iya 135, iya 137 ndetse n'iya 138 z'iryo tegeko. Isobanura ko ingingo yo gukora amasezerano mashya y'imikoranire iyo iza kuba idafite gaciro, hari kwandikwa ko umushinga impande zombi zari zifitanye urangiye; isoza ivuga ko NAEB itari ikwiye guhwaniriza amafaranga yishyuye n'ibyari byitezwe mu mushinga wose. RNECO Ltd ivuga kandi ko kuba amasezerano ya mbere n'ayo kwikiranura yaraseshwe byayiteye igihombo, ndetse n'icyizere yabonaga mu masezerano yo kwikiranura cyanatumye itangira kwisuganya kugirango ikomeze ibikorwa byayo by'ubucuruzi ariko icyo cyizere kikaba cyarayoyotse ubwo NAEB yayimenyeshaga ko amasezerano mashya y'imikoranire atazakorwa hagati y'izo mpande zombi, ibyo bikaba byaratumye igihombo cyiyongera. Incamake y'icyemezo: Igihe habayeho kudakora igikorwa cyagombaga gukorwa, (nko kudakora amasezerano), uwarenganyijwe ntiyahabwa indishyi z'igihombo yagize kuko nyine icyo gikorwa kitabayeho, ahubwo ahabwa indishyi ku mahirwe yavukijwe yo kubyaza inyungu icyo gikorwa kitakozwe, izo ndishyi zikaba zitangwa mu bushishozi bw'Urukiko. Ikirego gifite ishingiro kuri bimwe. Amategeko yashingiwe: Itegeko No 45/2011 ryo ku wa 25/11/2011 rigenga amasezerano, Ingingo ya 64, 66, 68, 80, 86,135,137, 138,139, n'iya 142;

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Itegeko No 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso, Ingingo ya 4; 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. Imanza zifashishijwe: RS/INJUST/RC 00008/2021/SC; SOCOBICO vs ECOBANK RWANDA Plc n'abandi rwaciwe n'Urukiko rw'Ikirenga kuwa 19/04/2024. Urubanza I. IMITERERE Y'URUBANZA [1] Uru rubanza rukomoka ku masezerano yo ku wa 03/03/2017, yabaye hagati ya NAEB na RNECO Ltd, ubwo impande zombi zemeranyaga gufatanya gukorana mu iguriro ry'indabo ryitwa NAEB flowers selling point muri gahunda yo kuzamura ubucuruzi bw'indabo mu rwego mpuzamahanga. [2] Amasezerano ntiyaje gukomeza, bituma RNECO Ltd, iregera Urukiko rw'Ubucuruzi, isaba indishyi zikomoka ku kuba NAEB yarasheshe amasezerano nta nteguza ndetse nta n'ibisobanuro ibanje guhabwa. Ivuga ko ku wa 19/12/2017, NAEB yasenyeye amahema (tents) ndetse n'ahamurikirwaga ibikorwa (stands) bya RNECO Ltd isaba ko Urukiko rwategeka NAEB gusubiza indishyi zitandukanye. [3] Ku wa 21/09/2020, NAEB na RNECO Ltd bakoranye amasezerano agamije gukemura ikibazo mu bwumvikane hatitabajwe inkiko, maze RNECO Ltd yandikira Urukiko ivuga ko iretse ikirego kuko ikibazo yari ifitanye na NAEB bagikemuye mu bwumvikane, maze mu rubanza RCOM 00953/2020/TC rwaciwe ku wa 06/10/2020, Urukiko rw'Ubucuruzi rwakira icyo cyifuzo, rwanzura ko RNECO Ltd iretse ikirego.

[4] Hashingiwe kuri ayo masezerano y'ubwumvikane, NAEB yishyuye RNECO Ltd 10.147.000 Frw bari bumvikanye, ariko impande zombi ntizakorana amasezerano mashya nk'uko byari biteganyijwe muri ayo masezerano y'ubwumvikane. [5] Ku wa 28/10/2020, RNECO Ltd yandikiye NAEB iyisaba ko hakorwa amasezerano mashya y'imikoranire nk'uko babyemeranyijweho, ariko NAEB iyisubiza ko ayo masezerano atakiri ngombwa; bituma ihita iregera Urukiko rw'Ubucuruzi, isaba ko rwatega NAEB kwishyura igihombo yatejwe kingana na 328.081.020 Frw kubera kutubahiriza amasezerano y'ubwumvikane yo ku wa 21/09/2020. [6] Muri urwo rubanza, NAEB yatanze inzitizi isaba Urukiko kutakira ikirego cyatanze na RNECO Ltd kuko ibisabwa bisa neza n'ibyaburanywe mu rubanza RCOM 00953/2020/TC rwaciwe ku wa 06/10/2020, bityo ko kuba yararetse icyo kirego byumvikana ko yanyambuye n'ubundi burenganzira bwo kongera kukiregera. [7] Mu rubanza RCOM 00267/2021/TC rwaciwe ku wa 16/06/2021, Urukiko rw'Ubucuruzi rwasanze kuba RNECO Ltd yarasabye kureka ikirego Urukiko rukabiyemerera bivuze ko

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yiambuye uburenganzira bwo kongera gukurikirana icyo kirego; rwanzura ko ikirego cyayo kitakiriwe kuko ibyaregerwaga bifitanye isano n'ibyongeye kuregerwa, rutegeka RNECO Ltd guha NAEB 600.000 Frw y'indishyi z'ibyakozwe mu rubanza. [8] RNECO Ltd yajuriye mu Rukiko Rukuru rw'Ubucuruzi ivuga ko Urukiko rw'Ubucuruzi rwanze kwakira ikirego rwari rwashyikirijwe, rwirengagije ko cyari gishingiye ku kutubahiriza amasezerano yo kwikiranura RNECO Ltd yagiranye na NAEB ku wa 21/09/2020, kuko ari ubwa mbere cyari kiregwe. [9] Mu rubanza RCOMA 00508/2021/HCC rwaciwe ku wa 17/06/2022, Urukiko Rukuru rw'Ubucuruzi rwasanze icyaregerwaga mu rubanza RCOM 00267/2021/TC gitandukanye n'icyaregwe mu rubanza RCOM 00953/2020/TC kuko muri urwo rubanza haregwe kutubahiriza amasezerano yo kwikiranura, rutegeka ko urubanza RCOM 00267/2021/TC rusubira mu Rukiko rw'Ubucuruzi kugira ngo ruburanishwe mu mizi nta yindi ngwate y'amagarama itanzwe. [10] Urukiko rw'Ubucuruzi rwanditse ikirego rwari rwohererejwe kuri RCOM 01204/2022/TC. Mu myanzuro yatanze na RNECO Ltd, ivuga ko kuba NAEB itarubahirije amasezerano yo ku wa 21/09/2020, byayiteye igihombo, bityo ko Urukiko rwayigenera inyungu zingana na 328.081.020 Frw zibazwe kuwa ku wa 19/12/2017 kugeza ku wa 09/12/2020. Yanasabye kandi ko yagenerwa 3.000.000 Frw y'igihembo cya Avoka; 2.000.000 Frw y'indishyi zo kwica amasezerano; 500.000 Frw y'ikurikiranarubanza na 20.000 Frw y'ingwate y'amagarama. [11] NAEB yireguye ivuga ko nta masezerano yigeze isesa, ahubwo ko impande zombi zemeranyijwe ko NAEB igomba kwishyura RNECO Ltd 10.147.000 Frw y'igihombo yagize, ayo mafaranga akaba atarishyurwaga inyubako zari zasenywe nk'uko RNECO Ltd ibivugaga. NAEB ivugaga kandi ko kuba muri ayo masezerano hari ingingo ivugaga ko hagombaga gukorwa andi masezerano, bitari itegeko kuri yo (imperative), igasanga rero nta zindi ndishyi yakwishyura kuko ibyo bemeranyijweho mu masezerano yo ku wa 21/09/2020 byose yabikoze. [12] Mu rubanza RCOM 01204/2022/TC rwaciwe ku wa 28/02/2023, Urukiko rw'Ubucuruzi rwasanze NAEB yaragombaga kubahiriza amasezerano yo kwikiranura, igakorana na RNECO Ltd andi masezerano y'igihe cy'umwaka, kuba itarabikoze ikaba igomba guha RNECO Ltd indishyi zingana na 137.037.080 Frw akubiyemo 135.617.080 Frw akomoka ku gihombo gituruka mu

bucuruzi bw'indabo mu gihe cy'umwaka; 300.000 Frw y'indishyi zo kwica amasezerano; 1.000.000 Frw y'igihembo cya Avoka; 100.000 Frw y'ikurikiranarubanza na 20.000 Frw y'ingwate y'amagarama. [13] NAEB yajuririye Urukiko Rukuru rw'Ubucuruzi ivuga ko Urukiko rw'ubucuruzi rwaciye urubanza rugendeye ku masezerano yo ku wa 03/03/2017, nyamara rwirengagije ko ikibazo cyose kiyakomokaho cyakemuwe n'amasezerano y'ubwumvikane yo ku wa 21/09/2020. Yasabye kandi ko Urukiko rwategeka RNECO Ltd kuyisubiza amafaranga y'ibyo yatakaje mu rubanza. RNECO Ltd yireguye ivuga ko ubujurire bwa NAEB nta shingiro bufite, ko Urukiko rutibeshye, kuko rwasobanuye impamvu yatumye NAEB itanga amafaranga yari ateganyijwe mu masezerano. [14] Mu rubanza RCOMA 00180/2023/HCC rwaciye ku wa 10/05/2024, Urukiko Rukuru rw'Ubucuruzi rwasanze mu masezerano yo kwikiranura NAEB itaremeye kwishyura RNECO Ltd 10.147.000 Frw gusa, ahubwo yanyemeje ko hazakorwa n'andi masezerano y'imikoranire

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nk'ingurane yo kuba RNECO Ltd yaremeye kureka ikirego. Rwasanze kandi Urukiko rw'Ubucuruzi rutaribeshye ku miterere y'amasezerano yo kwikiranura yo ku wa 21/09/2020, ruvuga ko icyo ayo masezerano yari agamije ari ugukemura mu bwumvikane ikibazo impande zombi zari zifitanye muburyo bukubiye mu ngingo ebyiri (2) z'ayo masezerano iya mbere ikaba ko NAEB igomba kwishyura 10.147.000 Frw akomoka ku gihombo cyatewe no gusesa amasezerano, indi ikaba gukorana andi masezerano y'imikoranire. Rwasanze indishyi zatanze zarashingiye ku masezerano yo kwikiranura no kuri business plan yagaragazaga inyungu RNECO Ltd yari kubona mu masezerano mashya. [15] Urukiko Rukuru rw'Ubucuruzi rwanzuye ko ubujurire bwatanze na NAEB ndetse n'ubwuririye ku bundi bwatanze na RNECO Ltd nta shingiro bufite, rwemeza ko urubanza RCOM 01204/2022/TC rwaciye n'Urukiko rw'Ubucuruzi ku wa 28/02/2023 rudahindutse, rutegeka ko NAEB igomba kwishyura RNECO Ltd 500.000 Frw y'igihembo cya Avoka na 100.000 Frw y'ikurikiranarubanza. [16] Ku wa 08/06/2024, NAEB yandikiye Perezida w'Urukiko rw'Ubujurire isaba ko urubanza RCOMA 00180/2023/HCC rwaciye n'Urukiko Rukuru rw'Ubucuruzi ku wa 10/05/2024 rusubirwamo ku mpamvu z'akarengane. Perezida w'Urukiko rw'Ubujurire, amaze kubisuzuma yandikiye Perezida w'Urukiko rw'Ikirenga asaba ko urwo rubanza rusubirwamo, maze mu cyemezo No 242/CJ/2024 cyo ku wa 19/11/2024, yemeza ko rwoherezwa mu Bwanditsi bw'Urukiko rw'Ikirenga kugira ngo ruzongere ruburanishwe. [17] Urubanza rwaburanishijwe mu ruhame ku wa 08/04/2025, NAEB ihagarariwe na Me Habumuremyi Prosper, naho RNECO Ltd ihagarariwe n'umuyobozi wayo Habarurema Gustave, uyu nawe yunganiwe na Me Gashugi Heron. [18] Iburanisha rigitangira, urukiko rwabajije ababuranyi niba ikibazo bafitanye kitakemukira mu bwumvikane, maze barabyemera, banumvikana ku muhuza Prof. Masengo Fidèle. uru Rukiko rwarabibemereye, maze mu cyemezo cyo ku wa 08/04/2025, rwemeza ko mbere y'uko urubanza rukomeza mu mizi, ababuranyi babanza kujya mu buhuza. [19] Ku wa 07/05/2025, Prof. Masengo Fidèle yakoze raporo igaragaza ko impande zombi zitashoboye kumvikana, bityo ko ubuhuza ntacyo bwagezeho. Urubanza rwasubijwe mu bwanditsi bw'Urukiko kugira ngo iburanisha rikomeze mu mizi. [20] Mu iburanisha ryo ku wa 04/06/2025, habanje gusuzumwa ibijyanye no kuba RNECO Ltd isaba

indishyi zishingiye ku gusesa amasezerano mu buryo bunyuranyije n'amategeko, maze Urukiko rushingiye ku ngingo ya 56 igika cya mbere, iya 58 igika cya mbere z'Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko1 no ku mirongo yatanzwe mu manza

1 Iryo tegeko riteganyaga mu ngingo yaryo ya 56, igika cya mbere, ko ushak a ko urubanza rwe rusubirwamo ku mpamvu z'akarengane, abisaba urwego rubishinzwe mu nyandiko ikubiyemo impamvu ashingiraho mu gihe kitarenze iminsi mirongo itatu (30) uhereye ku munsu yamenyesherejwe imikirize yarwo, naho mu ngingo yaryo ya 58, igika cya mbere, rigateganyaga ko iyo umuburanyi abonye hari akarengane kagaragara mu rubanza rwe, yandikira Perezida w'Urukiko rukuriye urwaciye urubanza ku rwego rwa nyuma, akaba ariwe usuzuma ako karengane.

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zitandukanye2, rwemeza ko kuba RNECO Ltd itarigeze isaba ko urubanza rusubirwamo ku mpamvu z'akarengane, itanakwemererwa kugira ibyo isaba muri uru rubanza, iza ndishyi zikaba zitagomba gusuzumwa. [21] Iburanisha ryakomeje Urukiko rusuzuma ibibazo rwashyikirijwe, maze rirapfundikirwa, ababuranyi bamenyeshwa ko urubanza ruzasomwa ku wa 25/07/2025, ariko ntirwasomwa kubera indi mirimo y'Urukiko, isomwa ryimurirwa ku wa 14/09/2025. Uwo munsu, Urukiko rwafashe icyemezo cyo gutegeka ababuranyi gutanga inyandiko zitandukanye zigaragaza imiterere y'ubucuruzi bw'indabo ndetse n'ibyo RNECO Ltd yacuruye mu gihe amasezerano y'ubufatanye yari ataraseswa, maze ku wa 14/10/2025, iburanisha ryongera gupfundurwa kugira ngo ababuranyi bagire icyo bazivugaho. [22] Ababuranyi bagiye impaka ku bibazo bikurikira: 1) Kumenya niba amasezerano yo kwikiranura yo ku wa 21/09/2020 yabaye hagati ya NAEB na RNECO Ltd yarasesenguwe mu buryo bunyuranyije n'amategeko ; 2) Kumenya niba hari igihombo NAEB yateje RNECO Ltd. II. ISESENGURWA RY'IBIBAZO BIGIZE URUBANZA

1. Kumenya niba amasezerano yo kwikiranura yo ku wa 21/09/2020 yabaye hagati ya NAEB na RNECO Ltd yarasesenguwe mu buryo bunyuranyije n'amategeko [23] Me Habumuremyi Prosper uburanira NAEB avuga ko akarengane kayo gashingiye ku kuba Urukiko Rukuru rw'Ubucuruzi rutarasesenguye uko bikwiye ibimenyetso rwashyikirijwe kuko iyo rubikora rwari kubona ko NAEB itari itegetswe gukorana amasezerano mashya y'imikoranire na sosiyete RNECO Ltd. Agaragaza inyandiko y'ibiganiro byahuje NAEB na RNECO Ltd byari bigamije gukemura ikibazo mu bwumvikane ndetse n'amasezerano yo ku wa 21/09/2020 bitasesenguwe uko bikwiriye. [24] Asobanura ko Urukiko Rukuru rw'Ubucuruzi rutabonye ko mu masezerano harimo ingingo ebyiri zifite imiterere n'uburemere bitandukanye, ko ingingo ya mbere ari iya 2.1 ifite imiterere yo kuba ari ihame (clause impérative) igize igikorwa NAEB yagombaga gukora ku buryo budasubirwaho cyo kwishyura RNECO Ltd 10.147.000 Frw ahwanye n'agaciro k'ibyo yari yarakoze n'ibyo yahombye kubera gusesa amasezerano yo ku wa 03/03/2017, ndetse ko kugira ngo ayo masezerano agire agaciro, NAEB yagombaga kwishyura ayo mafaranga bitarenze tariki ya 01/10/2020 nk'uko biteganyijwe mu ngingo ya 2.2, icyo gihe ubwumvikane bukaba bwarahise bugira agaciro. [25] Akomeza asobanura ko mu ngingo ya 2.3 y'ayo masezerano, harimo igikorwa impande zombi

zemeranyijweho ko gishobora gukorwa ariko kinategetswe (clause supplétive). Avuga ko icyo impande zombi zemeranyijwe muri icyo ngingo, ari uko hakorwa amasezerano agenga (aspiration) imikoranire mu rwego rwo gukomeza umushinga wo guteza imbere ubucuruzi

2 Zimwe muri izo manza ni urubanza RS/INJUST/RSOC 00001/2018/SC rwaciwe ku wa 02/07/2021, haburana Banki y'Abaturage y'u Rwanda na Ukwibishaka; urubanza N° RS/INJUST/RC 00002/2018/SC rwaciwe ku wa 21/02/2020, haburana Uwimana Marine na Kagitare Dancille; urubanza N° RS/INJUST/RC

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bw'indabo, bityo ko bitari gufatwa nk'igikorwa ntarengwa kigomba gukorwa byanze bikunze, ko ahubwo icyo icyo ngingo yavugaga kwari ugusuzuma niba koko hakongera gukorwa andi masezerano mashya, akaba ari nayo mpamvu hatigeze havugwa ko mu gihe hadasinywe andi masezerano, ubwumvikane buzata agaciro. Yongeraho kandi ko amasezerano yo ku wa 03/03/2017 yagombaga kumara umwaka umwe, ahagarikwa habura amezi atatu (3) gusa ngo arangire, bityo ko bitari ihame kuyavugurura nk'uko ingingo ya 5.13 y'ayo masezerano yabiteganyaga. [26] Avuga ko ibaruwa yo ku wa 09/12/2020, NAEB yandikiye RNECO Ltd, igaragaza ko impamvu hatasinywe amasezerano mashya ari uko NAEB Flowers Selling Point wari umushinga w'agateganyo, nyuma uza kwaguka uba Kigali wholesale Market for Fresh Produce ujyanwa mu cyanya cy'inganda i Masoro; kandi ko NAEB yemereye RNECO Ltd gukomeza gukorana nayo ubucuruzi bw'indabo muri NAEB Flowers Selling Point, ibyo bikaba bishimangira ko NAEB yakomeje gushyigikira umushinga wa RNECO Ltd bitabaye ngombwa ko hasinywe andi masezerano mashya y'imikoranire. [27] Habarurema Gustave uhagarariye RNECO Ltd na Me Gashugi Heron umwunganira bireguye bavuga ko 10.147.000 Frw atari ubwishyu bw'uko NAEB yasheshe amasezerano yo ku wa 03/03/2017 mu buryo bunyuranyije n'amategeko, ahubwo ko yatanze mu rwego rwo kwishyura ibikorwa bya RNECO Ltd byari byangijwe bigaragara mu nyandiko igamije ubwumvikane. Bongeraho ko NAEB yari izi neza agaciro k'ikiregerwa, bakaba batiyumvisha ukuntu 328.081.020 Frw yaregerwaga icyo gihe yasimbuzwa 10.147.000 Frw, kandi mu byukuri nta Rukiko na rumwe RNECO Ltd yigeze itangamo ikirego isaba 10.147.000 Frw. [28] Bavuga ko kuba NAEB ivuga ko hari ingingo z'amasezerano zari ihame (imperative) n'izitari ihame (Suppletive) mu ikurikizwa ry'amasezerano ari ukwirengagiza ko iyubahirizwa ry'amasezerano yo ku wa 03/03/2017 n'ayo ku wa 21/09/2020, byari itegeko (imperative) nk'uko biteganywa n'ingingo ya 64 y' itegeko N° 45/2011 ryo ku wa 25/11/2011 rigenga amasezerano, bitaba ibyo hakubahirizwa ibiteganywa n'ingingo ya 81, iya 85, iya 86, iya 135, iya 137 ndetse n'iya 138 z'iryo tegeko. Basobanura ko icyo ingingo ya 2.3 y'amasezerano yo ku wa 21/09/2020 iza kuba idafite gaciro, hari kwandikwa ko umushinga impande zombi zari zifitanye urangiye; bagasanga rero icyo NAEB yakoze ari ugufatirana RNECO Ltd, ibizeza ko igiye kubaha umushinga, ariko ntibikore. [29] Bagaragaza ko NAEB idakwiriye kwirengagiza inyungu z'umushinga w'ubucuruzi yakoreye amasezerano, kuko n'uyu munsu ukibyara inyungu aho wajyanywe, bityo akaba ari yo mpamvu NAEB idakwiriye guhwanisha amafaranga yishyuye n'ibyari byitezwe ku mushinga wose. Bongeraho ko ibaruwa yo ku wa 09/12/2020, NAEB yayanditse nk'urwitwazo kuko aho RNECO Ltd yakoreraga hatakiri ahantu ho gukorera kubera ko ibikorwa remezo byari

byarashyizwe byaje kuvanwaho, ibindi bikaba byarashaje. UKO URUKIKO RUBIBONA:

3 Iyo ngingo iteganya ko “Impande zombi zemeranyijwe ko aya masezerano afite agaciro k'Umwaka Umwe (l) ugizwe n'amezi atandatu y'igeragezwa abarwa nyuma y'uko aya masezerano ashyizweho umukono n'impande zombi. Aya masezerano ashobora kongerwa mu byumvikanyweho n'impande zombi mu nyandiko.”

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[30] Impaka muri uru rubanza zishingiye ku kumenya uburyo hagomba kumvikana ingingo ya 2.3 y'amasezerano yo kwikiranura yiswe “Inyandiko igamije gukemura ikibazo mu bwumvikane hatitabajwe inkiko” yakozwe hagati ya NAEB na RNECO Ltd ku wa 21/09/2020, kuko impande zombi zitemeranya ku biyikubiyemo. NAEB ivuga ko itari ifite ishingano zo kuyishyira mu bikorwa, mu gihe RNECO Ltd ivuga ko nayo yagombaga gushyirwa mu bikorwa. Urukiko rurasanga ikibazo cy'ingenzi gikwiye gusuzumwa ari ikijyanye no kumenya niba iyo ngingo ya 2.3 yaragombaga gushyirwa mu bikorwa byanze bikunze ku buryo kutabikora byakwitwa kwica amasezerano. [31] Ingingo ya 64 y'Itegeko No 45/2011 ryo ku wa 25/11/2011 rigenga amasezerano iteganya ko “amasezerano akozwe ku buryo bukurikije amategeko aba itegeko ku bayagiranye. Ashobora guseswa ari uko babyumvikanyeho cyangwa ku mpamvu zemewe n'amategeko. Agomba kubahirizwa nta buriganya.” [32] Ingingo ya 66 y'itegeko rimaze kuvugwa iteganya ko “gusesengura amasezerano cyangwa imwe mu ngingo zayo (ari) ugusobanura icyo ayo masezerano agamije n'icyasezeranyijwe.” [33] Ingingo ya 68 y'iryo tegeko iteganya mu gika cya mbere ko “imvugo n'indi myitwarire bigamije amasezerano bisesengurwa hakurikijwe uko ibintu biteye, kandi iyo ikigamijwe cy'ibanze ku mpande zigirana amasezerano gishobora kumenyekana neza, byitabwaho. Igika cya 2 giteganya ko “inyandiko y'amasezerano isesengurwa uko yakabaye. Izindi nyandiko zijyanye n'amasezerano zisesengurirwa hamwe.” [34] Ibijyanye no gusesengura (interpretation) amasezerano, umuhanga mu mategeko wo mu Bufaransa witwa Bertrand Fages asobanura mu gitabo “Droit des obligations” ko gusesengura amasezerano ari ukugaragaza ikigamijwe mu ngingo y'amasezerano iteye urujijo, ituzuye cyangwa ivuguruzanya n'indi ngingo cyangwa indi nyandiko ijyanye n'amasezerano⁴. Igatabo cy'urwunge rw'amategeko mbonezamubano y'Ubufaransa gitanga uburyo butandukanye bwo gusesengura amasezerano bukurikira:

- a. Gushakisha icyo abagiranye amasezerano bari bagamije: (interprétation subjective) harebwa mu ntangiriro y'amasezerano isobanura icyo agamije (préambule), mu nyandiko zakozwe mbere y'amasezerano, ndetse no mu myitwarire y'impande zombi mu gushyira mu bikorwa amasezerano;
- b. Kureba uko umuntu ushyira mu gaciro yabigenza: (interpretation objective), harebwa uko ubusanze bikorwa mu bijyanye n'impamvu y'amasezerano;
- c. Kureba ibituma amasezerano akomeza kumvikana neza (la cohérence), ingingo zimwe zisesengurwa hashingiwe ku zindi no gusesengura andi masezerano ajyanye n'ayongayo;

- d. Uburyo butuma amasezerano agira umumaro, ugahitamo imyumvire ituma ingingo igira icyo imara aho guhitamo imyumvire itayiha agaciro;

4 “L’interprétation est l’opération qui conciste à dégager le sens et la portée d’une disposition contractuelle ambiguë, imprécise ou en contradiction avec une autre clause du contrat ou un autre document contractuel”. Bertrand Fages: Droit des obligations, LGDG, 11^e édition, 2021-2022, P230

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- e. Mu gihe habayeho gushidikanya, guhitamo inyungu z’uberewemo umwenda iyo amasezerano yari yarumvikanyweho cyangwa iz’ubereyemo undi umwenda igihe amasezerano yateguwe gusa n’uberewemo umwenda.
- f. Kubahiriza ihame ry’ubwisanzure mu gukora amasezerano ingingo zishobora kubangamira ubwo burenganzira zigasesengurwa mu buryo butagutse (restrictive)⁵. [35] Abahanga Francois Terré, Philippe Simler n’abandi, nabo bagaruka kuri ubu buryo mu gitabo cyabo “Les obligations”, bagasobanura ko mu gusesengura amasezerano uburyo bwa mbere n’ubwa kabiri bihurizwa hamwe kuko bwuzuzanya. Bavuga ko mu gihe bidashoboka kumenya icyo abagiranye amasezerano bari bagamije, hakoreshwa gushyira mu gaciro (directives de principe) hanyuma ibi bikunganirwa n’ubundi buryo bwagaragajwe mu gika kibanziriza iki⁶. [36] Urukiko rw’Ikirenga rw’Ubujuje rwo muri Afurika y’Epfo narwo rwagarutse ku bijyanye no gusesengura amasezerano cyangwa indi nyandiko y’amategako mu rubanza Natal Joint Municipal Pension Fund v Endumeni Municipality⁷ rwanagarutseweho mu rubanza Shakawa Hunting & Game Lodge (Pty) Ltd v Askari Adventures, aho Urukiko rwavuze ko gusesengura ari

5 “(...) (i) l’interprétation subjective concistant à rechercher la volonté des parties – ce qui peut notamment le conduire à tenir compte du préambule du contrat, de documents extérieurs à l’acte, de la période de pourparles et du comportement ultérieur des parties (...) (ii) l’interprétation objective concistant à se reporter au standard de la personne raisonnable placée dans la même situation – ce qui peut le pousser à se demander ce qui fait le plus sens commercialement (most common sense), à se référer au bon sens des affaires (business common sense) ou encore à tenir compte des usages et pratiques de la branche d’activité concernée (industry practice); (...) (iii) assurer la cohérence de l’acte tout entier en interprétant les clauses les unes par rapport aux autres et celle de l’opération économique en interprétant les différents contrats qui y concourent; (iv) privilégier l’utilité en choisissant, lorsqu’une clause est susceptible de deux sens, de retenir celui qui lui confère un effet plutôt que celui qui ne lui fait produire aucun; (...) (v) décider en cas de doute d’interpréter le contrat en faveur du créancier lorsque le contrat est de gré à gré et en faveur du débiteur lorsqu’il est d’adhésion; (vi) garantir le primat de la liberté contractuelle et plus largement des droits fondamentaux en obtenant pur l’interprétation restrictive des clauses qui y portent atteinte”. Id. Pp 231-232 6 “le droit positif ne retient pas l’une ou l’autre de ces méthodes à titre exclusive. Il les combine. Et de fait, elles sont complémentaires. Procédant de la volonté des parties, le contenu du contrat doit d’abord être

définie par référence à celle-ci, c'est dire que l'interprétation explicative s'inspirera prioritairement de la méthode subjective et à titre subsidiaire de la méthode objective, celle-ci privilégiant alors l'appel à la raison ainsi qu'à l'équité". Francois Terrée, Philippe Simler, Yves Lequette, Francois Chenede: Les obligations, Edition Dalloz, 12e ed. 2018, P685 7 "Interpretation is the process of attributing meaning to the words used in a document, be it legislation, some other statutory instrument, or contract, having regard to the context provided by reading the particular provision or provisions in the light of the document as a whole and the circumstances attendant upon its coming into existence. Whatever the nature of the document, consideration must be given to the language used in the light of the ordinary rules of grammar and syntax; the context in which the provision appears; the apparent purpose to which it is directed and the material known to those responsible for its production." Natal Joint Municipal Pension Fund v Endumeni Municipality

Paragraph

18. <https://www.saflii.org/za/cases/ZASCA/2012/13.pdf>

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uburyo bwo guha igisobanuro amagambo ari mu nyandiko hitawe ku nyandiko yose n'impamvu zatumye ibaho kandi hitawe ku myumvire isanzwe y'amagambo yakoreshejwe.

Rwanabigarutseho mu rubanza Bothma-Batho Transport (Edms) Bpk v S Bothma & Seun Transport (Edms) (Bpk), ruvuga ko n'ubwo amagambo ari yo abagirana amasezerano bakoresha mu kugaragaza icyo bagamije mu masezerano, isesengura ryayo ntirihagararira gusa ku gisobanuro cy'amagambo bakoresheje ubwayo, ahubwo hagomba kureberwa mu rwego rugari rw'ibigize ubwumvikane bwatumye habaho ayo masezerano⁸ [37] Ibiteganywa n'Itegeko bisesenguriwe hamwe n'ibyo abahanga n'imanza byagarutsewo bigaragaza ibi bikurikira:

- a. Gusesengura ingingo y'amasezerano iteye urujijo, ituzuye cyangwa ivuguruzanya n'indi ngingo cyangwa indi nyandiko, ni uburyo bwo guha igisobanuro amagambo ari mu nyandiko hitawe ku nyandiko yose iyo ngingo irimo ndetse n'izindi zayibanjirije ziganisha kuri ayo masezerano, n'impamvu zatumye iyo ngingo ibaho kandi hitawe ku myumvire isanzwe y'amagambo yakoreshejwe;
- b. Isesengura ry'amagambo yakoreshejwe mu masezerano ntirihagararira gusa ku gisobanuro cy'amagambo bakoresheje ubwayo, ahubwo hagomba kureberwa mu rwego rugari rw'ibigize ubwumvikane bwatumye habaho ayo masezerano. [38] Muri uru rubanza, amagambo agomba gusesengurwa ni akubiye mu nyandiko igamije gukemura ikibazo mu bwumvikane hatitabajwe inkiko yashyizweho umukono ku wa 21/09/2020. Ayo magambo agaragara mu ngingo ya 2.3 ivuga ibi bikurikira: "Impande zombi zemeranyijwe ko hakorwa amasezerano mashya yagenga imikoranire mu rwego rwo gukomeza umushinga wo guteza imbere ubucuruzi bw'indabo". [39] Dosiye y'urubanza irimo inyandiko igaragaza ibiganiro NAEB yagiranye na RNECO Ltd bigamije gukemura ikibazo mu bwumvikane igaragaramo amagambo akurikira: "NAEB ifite ubushake bwo kongera gukora amasezerano mashya

agamije kunoza no gukomeza umushinga wa NAEB Flowers Selling Point”. [40] Urukiko rurasanga ibyo ababuranyi batumvikanaho ari amagambo “hakorwa amasezerano mashya yagenga imikoranire” NAEB ivuga ko akwiriye gusomwa mu buryo bukurikira: “haakorwa amasezerano mashya yaagenga imikoranire” ikavuga ko ibi bivuze ko byashoboraga

8 “While the starting point remains the words of the document, which are the only relevant medium through which the parties have expressed their contractual intentions, the process of interpretation does not stop at a perceived literal meaning of those words, but considers them in the light of all relevant and admissible context, including the circumstances in which the document came into being. The former distinction between permissible background and surrounding circumstances, was never very clear and has since fallen away. Interpretation is no longer a process that occurs in stages but is 'essentially one unitary exercise” paragraph 12. Bothma-Batho Transport (Edms) Bpk v S Bothma & Seun Transport (Edms) (Bpk) 2014 (2) SA 494 (SCA), chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.saflii.org/za/cases/ZASCA/2013/17

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gukorwa cyangwa ntibikorwe; mu gihe RNECO Ltd yo ivuga ko byagombaga gukorwa nk’uko n’izindi ngingo z’amasezerano zari itegeko. [41] Urukiko rurasanga nta kigaragaza uburyo ayo magambo agomba kumvikana, ndetse bitanashoboka kumenya icyo abagiranye amasezerano bari bagamije muri iyo ngingo kuko batayumvikanaho, akaba ari yo mpamvu mu kugerageza kuyisesengura ari ngombwa kureba impamvu yakozwe, ndetse n’icyo umuntu ushyira mu gaciro yakora, ku buryo amasezerano agira agaciro kayo. [42] Urukiko rurasanga aya masezerano yarakozwe mu rwego rwo gukemura ikibazo cy’amasezerano y’imikoranire yari yasheshwe na NAEB itabyumvikanyeho na RNECO Ltd bigatuma iyirega, ikanabisabira indishyi. Rurasanga kandi mu byo ayo masezerano yari ashingiyeho harimo inyandiko igaragaza ko habazwe 10.147.000 Frw yahawe RNECO Ltd, mu buryo bukurikira: amahema: 6.000.000 Frw; étagères: 400.000 Frw; gravier: 480.000 Frw; trainings: 1.247.000 Frw; igihembo cy’umunyamategeko: 2.000.000 Frw; igarama ry’Urukiko: 20.000 Frw, yose hamwe akaba 10.147.000 Frw. Aya mafaranga kandi ni nayo agaruka mu masezerano mu ngingo ya 2.1 ivuga ko NAEB izayishyura RNECO Ltd mu rwego rwo gushumbusha igihombo RNECO yagize gituruka ku gusesa amasezerano. [43] Rurasanga na none muri iyo nyandiko hagaragaramo amagambo avuga ko NAEB ifite ubushake bwo kongera gukora amasezerano mashya agamije kunoza no gukomeza umushinga wa NAEB Flowers Selling Point. Biragaragara ko iyi nyandiko yakozwe mu rwego rwo gutegura amasezerano y’ubwumvikane, kandi ibyari biyikubiyemo ni byo byaherewe hakorwa ayo masezerano. Urukiko rurasanga kuba aya magambo yaragarutseho mu masezerano yashyizweho umukono n’impande zombi, bigaragaza ko bari bumvikanye ko iyo ngingo ishyirwa mu masezerano. [44] Urukiko rurasanga ingingo ya 2.3 igaragara mu masezerano yo gukemura ikibazo mu bwumvikane ari yo yatumye RNECO Ltd yemera gusinya amasezerano yo gukemura ikibazo mu bwumvikane, kuko icyatumye irega ari iseswa ry’amasezerano yifuzaga gukomeza. Birumvikana rero ko yemeye kureka ikirego kubera ko NAEB yari yemeye ko bagirana andi masezerano. [45] Rurasanga kandi iyo NAEB iba idateganya gukora ayo masezerano itari

kwemera gushyira mu masezerano yo gukemura ikibazo ingingo idateganya gushyira mu bikorwa kandi idafite icyo imaze mu masezerano. Rurasanga rero hashingiwe ku mahame y'isesengura ry'amasezerano yagaragajwe haruguru, ingingo ya 2.3 ivuga ko "impande zombi zemeranyijwe ko hakorwa amasezerano mashya yagenga imikoranire mu rwego rwo gukomeza umushinga wo guteza imbere ubucuruzi bw'indabo" igomba kumvikana nk'ingingo ifite uburemere nk'ubw'izindi ngingo zose zigize ayo masezerano, ikaba yaragombaga kubahirizwa nk'uko ingingo ya 64 y'Itegeko rigenga amasezerano ibiteganya. [46] Urukiko rurasanga kuba NAEB ivuga ko yari yamenyesheje RNECO Ltd ko amasezerano y'imikoranire atakiri ngombwa kuko ishobora gukomeza gukorera muri Flowers Selling Point bigaragaza ko yahisemo kudashyira mu bikorwa iyo ngingo, ititaye ku kuba iyo ngingo yari itegeko nk'izindi zose.

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- [47] Hakurikijwe ibimaze gusobanurwa, Urukiko rurasanga nta kosa ryabayeho mu gusesengura ingingo ya 2.3 ivuga ko "Impande zombi zemeranyijwe ko hakorwa amasezerano mashya yagenga imikoranire mu rwego rwo gukomeza umushinga wo guteza imbere ubucuruzi bw'indabo", iyi ngingo ikaba yaragombaga kubahirizwa n'impande zose zagiranye amasezerano.
2. Kumenya niba hari igihombo NAEB yateje RNECO Ltd [48] Uburanira NAEB avuga ko nta gihombo ikigo ahagarariye cyateje RNECO Ltd ku buryo cyari gutegekwa kwishyura indishyi zingana na 135.617.080 Frw kuko: a. Ushingiye ku miterere y'amasezerano yabaye hagati ya NAEB na RNECO Ltd yari amasezerano y'imikoranire kuruta uko yari amasezerano agamije ishoramari, bityo ko RNECO Ltd itavugaga ko yagize igihombo kingana na 135,617,080 Frw kandi nyamara NAEB yarayiteye inkunga ubwo yahabwaga amezi atandatu (6) yo kutishyura ubukode bw'aho yacururizaga; b. Urukiko Rukuru rw'Ubucuruzi rutasesenguye neza inyandiko yateganyaga 135.617.080 Frw nk'inyungu (business plan) kuko iyo rubikora rwari kubona ko icyakozwe cyari icyegeranyo RNECO Ltd yakoze itanga ishusho y'umusaruro n'imikoranire hagati yayo na NAEB; c. NAEB yahagaritse amasezerano y'imikoranire hasigaye amezi 3 ngo arangire, mu gusuzuma igihombo, bikaba byaragombaga gushingira kuri ayo mezi 3 aho gushingira ku mwaka wose, cyane ko bitari ihame ko azongerwa; d. Kuba mu ibaruwa yo ku wa 09/12/2020, NAEB yaremereye RNECO Ltd ko bakomeza gukorana mu rwego rwo guteza imbere ubucuruzi bw'indabo binyuze muri NAEB Flowers Selling Point ari icyerekana ko nta gihombo NAEB yateye RNECO Ltd ku buryo yari gutegekwa kwishyura indishyi za 135,617,080 Frw. [49] Avuga ko umushinga NAEB yari ifitanye na RNECO Ltd utari ushingiyeye ku guteza imbere ubuhinzi bw'indabo gusa ahubwo ko wari umushinga mugari ugamije guteza imbere indabo, imboga n'imbuto (fresh produce); ari nayo mpamvu zari kujya zicururizwa muri NAEB kugira ngo zikomeze zibungabungirwe ubuziranenge bwazo. [50] Asobanura kandi ko kuba NAEB yarahaye RNECO Ltd ahantu ho gukorera (stand), ikongeraho no kuyisonera amezi 6 itishyura ubukode, icyo gikorwa ubwacyo kigaragaza ko nta nyungu n'imwe NAEB yari ifite yo kubuza RNECO Ltd gukomeza imirimo yakoraga, ahubwo ko icyo NAEB yaharaniraga iteka ari uguteza imbere ndetse no kubungabunga ubuziranenge bw'indabo. [51] Habarurema Gustave uhagarariye RNECO Ltd

ndetse n'umwunganizi we Me Gashugi Heron bireguye bavuga ko kuba amasezerano yo ku wa 03/03/2017 yarasheshwe kandi akaba atarongerera kubaho kugeza ubu, ndetse no kuba n'amasezerano yo kwikiranura yo ku wa 21/09/2020 nayo atarubahirijwe, byateye RNECO Ltd igihombo giturutse ku ndabo zari mu bishanga yari yahawe n'Akarere ka Kicukiro; koperative bari bafitanye amasezerano y'imikoranire; ndetse n'ibyatakajwe ku bakozi bari mu mahugurwa yo gufata neza indabo, bakanayifasha mu iguriro rya NAEB Flowers Selling Point ryari riherereye i Gikondo.

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- [52] Bakomeza bavuga ko nyuma y'icyizere RNECO Ltd yakomoraga ku masezerano yo ku wa 21/09/2020, yatangiye kwisuganya kugira ngo ikomeze ubucuruzi ariko itungurwa no kubona ibaruwa yo ku wa 09/12/2020, NAEB iyimenyesha ko nta yandi masezerano azakorwa kubera ko umushinga waguriwe mu cyanya cy'inganda i Masoro, igihombo gikomeza kwiyongera.
- [53] Bagaragaza ko NAEB yahombeje RNECO Ltd bidasubirwaho, Urukiko rw'Ikirenga rukaba rudakwiriye guha agaciro ibivugwa na NAEB by'uko imikoranire yakomeje kuko no mu ibaruwa yayo yo ku wa 09/12/2020 yabishimangiye ivuga ko kuva icyo gihe nta mirimo yongeye gukorerwa muri NAEB Flowers Selling Point. Yongeraho ko igihombo sosiyete aburanira yagize ari icyerekeranye n'iseswa ry'amasezerano ryabaye mu buryo bunyuranyije n'amategeko, kandi ko ibivugwa na NAEB by'uko nta shoramari RNECO Ltd yakoze atari ukuri kuko imibare yo mu kwezi kwa Gicurasi 2017 igaragara muri business plan yerekana ko RNECO Ltd yakoze ishoramari mu buhinzi bw'indabo n'uburyo yacuruzaga n'inyungu yabonaga. [54] Basoza kuri iyi ngingo bavuga ko kuba NAEB iburana ivuga ko igihombo cyabarirwa ku mezi 3, isanga icyo kibazo kitakwakirwa kuko kizamuwe bwa mbere mu rubanza rusabirwa gusubirwamo ku mpamvu z'akarengane. Bagaragaza ko RNECO Ltd yarenganye kandi ko ifite uburenganzira bwo kwerekana ko NAEB yayiteje igihombo, bityo ko no mu kugena indishyi zigikomokaho hagomba gushingirwa kuri business plan. UKO URUKIKO RUBIBONA: [55] Nk'uko byasobanuwe mu bika bibanziriza iki, NAEB ntiyashyize mu bikorwa imwe mu ngingo y'amasezerano y'ubwumvikane, ikaba yarishe amasezerano yari yagiranye na RNECO Ltd. Hagomba gusuzumwa niba hari igihombo RNECO Ltd yaba yaratejwe no kwica ayo masezerano y'ubwumvikane ku buryo yabihereye indishyi, ndetse n'uburyo zabarwa ziramutse zihari. [56] Ingingo ya 80 y'itegeko N°45/2011 ryo ku wa 25/11/2011 rigenga amasezerano iteganya mu gika cyayo cya kabiri ko iyo igihe cyo gukora ibisabwa mu masezerano kigeze, kutabikora bifatwa nko kwica amasezerano, naho iya 86 ikavuga ko iyo amasezerano yishwe mu buryo bukabije biturutse ku kudakora ibisabwa mu masezerano bitanga uburenganzira bwo gusaba indishyi ku bitakozwe byose mu gihe izo ndishyi zikuraho inshingano zisigaye z'uruhande rwarenganye. Ingingo ya 137 nayo ivuga ko uruhande rwarenganyijwe rufite uburenganzira bwo kubona indishyi zitanzwe n'urundi ruhande rutubahirije ibisabwa mu masezerano. [57] Ku bijyanye n'ibitangirwa indishyi ndetse n'uko zibarwa, Ingingo ya 135 y'iryo Tegeko ku bijyanye n'Inyungu zirengerwa iteganya ibi bikurikira: "Inyungu z'uwahawe isezeranya zitangirwa indishyi ni izi zikurikira: 1° inyungu yari itegerejwe, ari yo nyungu yo kubona urwunguko ruturuka ku masezerano

nk'uko yayiteganyaga iyo amasezerano aza kubahirizwa; 2° inyungu ku birebana n'icyizere, ari yo nyungu yo gusubizwa mu mwanya yari kuba arimo iyo ataza kwizera amasezerano; 3° inyungu yo gusubizwa ibyo yatakaje, ari yo nyungu yo gusubizwa ibyo yahaye urundi ruhande byose". [58] Ku byerekeye ibishingirwaho mu kubara indishyi, ingingo ya 138 yo iteganya ko uruhande rurengana rufite uburenganzira ku ndishyi zishingiye ku nyungu rwateganyaga zibarwa hakurikijwe: 1° itakazagaciro ku ruhande rwarenganyijwe rishingiye ku byo urundi ruhande

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rwiyemeje bitewe n'uko byabuze cyangwa se bidahagije; 2° ikindi gihombo cyose gitewe no kutubahiriza amasezerano, n'ikindi gihombo cyose cyashamikiraho; 3° ibyakoresheya byose cyangwa ikindi gihombo uruhande rutubahirije amasezerano rwirinze kubera kudakora igisabwa. Naho ingingo ya 139 igateganya ko "uruhande rwarenganyijwe rufite uburenganzira ku ndishyi zishingiye ku cyizere ko amasezerano azabaho, zikubiyemo ibyakoreshejwe mu gutegura no mu gushyira mu bikorwa amasezerano, ukuyemo ibyo uruhande rwishe amasezerano rugaragaje ko n'ubundi bitari kubaho n'iyi amasezerano aza gushyirwa mu bikorwa". [59] Ingingo ya 142 yo iteganya ko nta ndishyi zishobora gutangwa ku gihombo kiri hejuru y'icyo uruhande rwarenganyijwe rushobora kugaragaza nta gushidikanya. [60] Hifashishijwe abahanga mu mategeko mu kumva icyo izi ngingo zisobanuye, umuhanga Bertrand Fages avuga mu gitabo "Droit des obligations" ko kugira ngo hatangwe indishyi zishingiye ku kwica amasezerano, hagomba ibintu bitatu ari byo kuba (i) hari inshingano y'amasezerano itubahirijwe, kuba (ii) hari icyo byangirije uruhande rwarenganye (dommage) no kuba (iii) kutubahiriza inshingano ari yo ntandaro yo kwangirizwa⁹. Asobanura ko kugira ngo habeho uburyozwe, uko kwangirizwa kugomba kuba kudashidikanywaho (dommage certain), ni ukuvuga ko bigomba kuba byamaze kubaho cyangwa bizabaho. Avuga ko ibi bitandukanye no kuvuga ko bishobora kubaho (dommage hypothetique), kuko iki cya nyuma kidashobora gutangirwa indishyi. Asobanura ko indishyi zitangwa iyo kutubahiriza inshingano byateje itakaza ry'amahirwe yumvikana kandi yari afitiwe uburenganzira n'ubwo yaba ari make. Avuga kandi ko indishyi zishingira ku mahirwe yatakajwe, ariko zidashingira ku byo umuntu yateganyaga kunguka iyo ayo mahirwe ashirwa mu bikorwa¹⁰. [61] Ku bijyanye n'uko izo ndishyi zibarwa, uyu muhanga avuga ko umubare w'indishyi zitangwa ugenwa mu bushishozi bw'abacamanza, zikaba zigomba kwita ku kababaro umuntu yagize iyo gahari, ndetse no ku gihombo yagize, kigizwe n'ibyo yaba yatakaje (damnum emergens) cyangwa ibyo atashoboye kunguka (lucrum cessans) kubera ko amasezerano atashyizwe mu bikorwa¹¹. Ibi ni nako bivugwa na François Terré na bagenzi be mu gitabo "Droit civil, les

⁹ "La responsabilité contractuelle suppose la réunion de trois conditions: l'inexécution d'une obligation contractuelle, un dommage et un lien de causalité entre les deux" Bertrand Fages: Droit des obligations. LGDJ, 11e édition, 2021 – 2022, P272 ¹⁰ "Il n'y a de responsabilité contractuelle que si le dommage est certain, c'est à dire que si l'on a la certitude qu'il s'est déjà réalisé (préjudice actuel) ou qu'il se réalisera un jour (préjudice futur). Le dommage certain s'oppose ainsi au dommage éventuel qui est trop hypothétique pour être réparé. Lorsqu'il est

établi que l'inexécution du contrat a provoqué une perte de chance et que cette chance était raisonnable et légitime, le créancier peut demander à être indemnisé. En effet, dans la mesure où elle est avérée, cette perte fût-elle minime, constitue en elle-même un préjudice certain et donc réparable. Dans ce cas, la réparation doit être mesurée à la chance perdue et ne peut être égale à l'avantage qu'aurait procuré cette chance si elle s'était réalisée". Idem. 279-280

11 "Le montant des dommages-intérêts relevant de l'appréciation souveraine des juges du fond, qui sont néanmoins tenus de l'évaluer à la date de leur décision. Ce montant doit permettre de compenser le préjudice éprouvé par le créancier: le préjudice moral s'il existe, mais surtout le préjudice économique, lequel tient à la fois à la perte subie (*damnum emergens*) et au gain manqué (*lucrum cessans*) du fait de l'inexécution du contrat". idem pp 281-282

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obligations"¹². Aba bongeraho ko indishyi zitangwa zigomba kuba zihwanye n'ibyo uwarenganyijwe yangirijwe koko nta kirenzeho, kuko ibyaba birenzeho byaba bitubahirije amategeko¹³. [62] Umuhanga Alain Benabent we, mu gitabo "Droit des obligations" avuga ko uwarenganyijwe afite inshingano yo kwirinda no kugabanya uko bishoboka kose igihombo yagira, akaba ari yo mpamvu indishyi yagenerwa zigarukira gusa ku gihombo kidashobora kwirindwa. Avuga ko iri hame ryitwa "mitigation", rikaba rikomoka mu mategeko y'Ubwongereza, ariko rikaba rinateganywa mu masezerano mpuzamahanga nk'ingingo ya 9:505 y'amahame ya UNIDROIT ndetse n'ingingo ya 77 y'amasezerano mpuzamahanga y'i Vienne yo mu 1980¹⁴. [63] Mu rubanza Chicago Coliseum Club v. Dempsey, 265 Ill. App. 542 (1932) rwaciwe n'Urukiko rw'Ubujurire rwo muri State ya Illinois muri Leta Zunze Ubumwe za Amerika, Urukiko rwavuze ko indishyi zo kutubahiriza amasezerano zigomba kugaragazwa hashingiwe ku bimenyetso bitanzwe mu buryo buteganywa n'amategeko agenga itangwa ry'ibimenyetso no ku kuba nta gushidikanya guhari¹⁵. [64] Mu rubanza RCOMAA 0008/05/CS16, Urukiko rw'Ikirenga rwavuze ko kuba abajuriye batarabonye inguzanyo hatafatwa ko hari igihombo bagize kuko nyine nta mafaranga babonye, ahubwo ko hafatwa ko bavukijwe amahirwe yo kuyabyaza inyungu (perte d'une chance). [65] Ibimaze kuvugwa bigaragaza ibi bikurikira:

- a. Ukutubahiriza amasezerano byabaye intandaro yo kwangirizwa mu buryo budashidikanywaho, bishobora gutera igihombo cyagwa itakaza ry'amahirwe yumvikana kandi yari afitiwe uburenganzira.

¹² François Terré, Philippe Simler, Yves Lequette et François Chénéde: Droit civil, les obligations, éd. Dalloz, 12^e édition 2019, P 930 ¹³ "L'indemnité doit représenter aussi exactement que possible le dommage réel subi par le créancier, mais ne doit rien comprendre de plus. Tout ce qui serait accordé au delà constituerait un bénéfice illégal pour le créancier" Idem. P23 ¹⁴ "Le droit anglais connaît depuis longtemps, sous le nom de 'mitigation' le devoir pour le créancier de réduire autant qu'il le peut le dommage don't le débiteur devra l'indemniser. (...) d'où le plafonnement des dommages-intérêts à la part de préjudice que le créancier ne pouvait éviter ou minimiser". Alain Bénabent: Droit des obligations, éd. LGDJ, 19^e édition, mise à jour au 6 juin 2021, P354 ¹⁵ "Compensation for damages for a breach of contract must be established by evidence from which

a court or jury are able to ascertain the extent of such damages by the usual rules of evidence and to a reasonable degree of certainty. We are of the opinion that the performance in question is not susceptible of proof sufficient to satisfy the requirements and that the damages, if any, are purely speculative” *htt Chicago Coliseum Club v. Dempsey*, 265 Ill. App. 542 (1932) Mar 16, 1932 · Illinois Appellate Court · Gen. No. 35,276 265 Ill. App. 542ps://www.law.cornell.edu/wex/reliance_damages 16 Urubanza No RCOMAA 0008/05/CS rwaciwe n’Urukiko rw’Ikirenga ku wa 06/06/2008 haburana KAMPIRE Claire na SIBOMANA Eugene baburana na Banque de Kigali SA

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- b. Iyo byateye igihombo kidashidikanywaho (dommage certain), cyamaze kubaho cyangwa kizabaho nk’inkurikizi yo kutubahiriza amasezerano, bituma uwarenganyijwe ahabwa indishyi z’igihombo yatewe n’uko kutubahiriza amasezerano, zikubiyemo: i. inyungu yateganyaga kubona; ii. ibyo yatakaje ategura cyangwa ashyira mu bikorwa amasezerano atarubahirijwe; iii. ibyo yatakaje yirinda cyangwa agabanya ingaruka z’uko kutubahiriza amasezerano;
- c. Igihe habayeho kudakora igikorwa cyagombaga gukorwa, (nko kudakora amasezerano), uwarenganyijwe ntiyahabwa indishyi z’igihombo yagize kuko nyine icyo gikorwa kitabayeho, ahubwo ahabwa indishyi ku mahirwe yavukijwe yo kubyaza inyungu icyo gikorwa kitakozwe, izo ndishyi zikaba zitangwa mu bushishozi bw’Urukiko;
- d. Indishyi zitangwa zigomba kuba zihwanye n’ibyo uwarenganyijwe yangirijwe koko nta kirenzeho, kuko ibyaba birenzeho byaba bitubahirije amategeko;
- e. Uwarenganyijwe afite inshingano yo kwirinda no kugabanya uko bishoboka kose igihombo yagira, akaba ari yo mpamvu indishyi yagenerwa zigarukira gusa ku gihombo kidashobora kwirindwa;
- f. Uregera indishyi z’igihombo zikomoka ku kutubahiriza amasezerano agomba kubitangira ibimenyetso bigaragaza mu buryo budashidikanywaho icyo gihombo n’uko akibara mu buryo bufatika. [66] Muri uru rubanza, Urukiko rurasanga indishyi RNECO Ltd isaba ari izishingiye ku gihombo yaba yaratewe no kudasinya andi masezerano y’imikoranire hakaba hagomba gusuzumwa niba gihari, ingano yacyo n’uko kibarwa, ibyo RNECO Ltd ikaba igomba kubitangira ibimenyetso bidashidikanywaho. [67] Urukiko rurasanga ikimenyetso RNECO Ltd yatanze imanza zibanza (urwaciwe n’Urukiko rw’Ubucuruzi n’urwaciwe n’Urukiko Rukuru rw’Ubucuruzi) zashingiyeho zimugenera indishyi zikomoka ku gihombo ari inyandiko RNECO Ltd yise “business plan” igaragara ko yashyizweho umukono ku wa 26/08/2017 na Habarurema Gustave. Rurasanga izi manza zitarasuzumye iyo nyandiko mbere yo kuyishingiraho kuko iyo zibikora zari kuyigiraho ugushidikanya kubera impamvu zikurikira:

- a. Umutwe wayo wa 7 witwa “ingano y'umusaruro w'indabo wakiriwe muri NAEB flowers selling point n'uburyo wacurujwe”, agace ka A. kakavuga ibyacurujwe mu kwezi kwa gatanu bifite agaciro ka 6.254.500 Frw n'inyungu ya 2.476.600 Frw, ibi bikaba binyuranye n'ibyo yivugiye yacurujwe muri uko kwezi kwa gatanu bingana na 210.000 Frw nk'uko bigaragara muri raporo y'imikoranire yo ku wa 15/05/2017 RNECO Ltd yahaye NAEB;

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- b. Ibivugwa mu gace ka B. kitwa “indabo chambre froide yari kujya yakira” nabwo bigaragaza ko iyi nyandiko atari business plan kuko kavuga ibyari gukorwa, ubu buryo akaba atari bwo bwanditswemo ibindi bice bigize inyandiko, ibi bikaba bitera gukemanga ko iyi yaba ari business plan kuko isa n'iyateguwe mu rwego rw'urubanza, n'ubwo itariki yanditse ko ari bwo yakozweho iri mbere y'iseswa ry'amasezerano;
- c. Ibiyikubiyemo binyuranye n'ibyo RNECO Ltd yivugiye mu ibaruwa yayo yo ku wa 29/12/2016 yandikiye NAEB isaba aho gucururiza indabo, igaragaza ko iramutse ihahawe umusaruro wacuruzwa waba ungana na 1.221.000 Frw ku kwezi;
- d. Gutanga business plan ubwabyo ntibihagije ngo iherweho mu kubara igihombo RNECO Ltd yaba yaratewe no kudasinga amasezerano mashya y'ubufatanye, kuko ibiyikubiyemo biba ari ibyifuzo by'ubuyiteguye gusa, bishobora guhinduka kubera uburyo yashyizwe mu bikorwa cyangwa imiterere y'isoko, bikaba byatuma idashyirwa mu bikorwa uko yakabaye (100%). N'iyi iza kuba idakemangwa, ntishobora gushingirwaho habarwa igihombo. Hagomba gutangwa ibindi bimenyetso bigaragaza mu buryo budashidikanywaho igihombo n'ingano yacyo. [68] Urukiko rurasanga iyi nyandiko itaragombaga gushingirwaho mu kubara indishyi z'igihombo RNECO Ltd ivuga ko yagize kubera ko ibiyikubiyemo bishidikanywaho kandi bikaba bivuguruzwa n'izindi nyandiko yikoreye ubwayo, izi ndishyi zikaba zigomba kongera gusuzumwa. [69] Urukiko rwasesenguye inyandiko zatanze n'ababuranyi zari kugaragaza igihombo rusanga:
- a. Ibaruwa yo ku wa 29/12/2016 RNECO Ltd yandikiye NAEB isaba site yo gucururizaho indabo, yometseho incamake y'umushinga igaragaza ko iramutse ihawe iyo site yajya icuruza 1.221.000 Frw ku kwezi. Ibi byari ibyifuzo bya RNECO Ltd, ntabwo ari ikimenyetso cy'igihombo yatewe;
- b. Raporo RNECO Ltd yahaye NAEB yo ku wa 15/05/2017, igaragaza ko kuva batangira bari bamaze gucuruza 210.000 Frw. Uretse kuba bivugwa muri iyi raporo, nta nyandiko z'ibaruramari ziyiherekeje zigaragaza ko koko ari byo byacurujwe;
- c. Inyandiko RNECO Ltd yita imenyekanisha ry'imisoro rya 10/01/2017-31/12/2017 ryakozwe ku wa 20/09/2019 itaragaza ko hari ibyacurujwe, ahubwo yitwa “tax acknowledgement”, ariko igaragaza ko RNECO Ltd igomba kwishyura 200.000 Frw y'ibihano by'ubukererwe, kimwe n'iy'umwaka wa 2019 yakozwe ku wa 18/03/2020 nayo itagaragaza ko hari ibyacurujwe. Izi zombi ntizigaragaza ko hari ibyo RNECO Ltd yacurujwe byashingirwaho habarwa igihombo;

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- d. Amasezerano RNECO Ltd yagiranye na TUYISENGE SANGWA Innocent ku wa 13/02/2017, agaragaza ko uyu yayishyuye 1.000.000 Frw, ariko aya yakozwe mbere yo kugirana amasezerano na NAEB; n'andi yagiranye n'amakoperative atatu atandukanye, atagaragaza ko hari ubwishyu bugomba guhabwa RNECO Ltd;
- e. Inyandiko ya COPEDU Ltd igaragaza ibikorera kuri konti ya RNECO Ltd (bank statement) igaragaza ko hagati ya 01/03/2017 na 24/7/2017, hanyujijweho 2.055.000 Frw hanakurwaho 1.652.600 Frw bikozwe na Habarurema Gustave ubwe, ariko bikaba bitagaragaza ko byakozwe mu rwego rw'ubucuruzi bw'indabo, kuko atari ho yishyurirwaga mu bucuruzi cyangwa ngo ayikoreshe yishyura abo bakorana (expenses). [70] Ugereranyije inyungu za 135.617.080 Frw RNECO Ltd ivuga yari kunguka mu gihe cy'umwaka, biboneka ko kugira ngo yunguke amafaranga angana atyo mu gihe cy'umwaka, yagombye kuba ifite igishoro kirenze kure ayo mafaranga ku buryo ubwo bucuruzi bwagombye kuba bufite imicungire n'ibaruramari byubahirije amategeko agenga ibigo by'ubucuruzi biri kuri urwo rwego, ariko mu nyandiko zose zasabwe RNECO Ltd, nta n'imwe igaragaza urwo rwego. Ahubwo ivuga ko ubucuruzi bwayo bwakorerwaga mu ntoki nk'uko umuyobozi wayo yabivugiye imbere y'urukiko. Ibi bigaragaza ko ubucuruzi bwayo butari ku rwego rwo kunguka 135.617.080 Frw ku mwaka. [71] Urukiko rurasanga RNECO Ltd itarashoboye gutanga inyandiko yasabwe zose, ndetse n'izo yatanze zikaba zidatanga amakuru ahagije kubyo rwari rukeneye kumenya. Rurasanga kandi ibyo RNECO Ltd ivuga by'uko inyandiko z'ibaruramari zaburiye mu isenywa rya Flower selling point ikaba ntazo ifite ntacyo byamarira Urukiko kuko bidakuraho ko yagombaga gutanga iza banki ndetse n'Ikigo cy'Igihugu cy'Imisoro n'Amahoro zose, nazo zari kugaragaza imiterere y'ubucuruzi bwayo. Rurasanga kandi kuzitanga byari mu nyungu zayo, kuba rero itarabikoze bikaba bifatwa ko ari uko ari nta zihari. [72] Ingingo ya 4 (1) y'Itegeko No 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso iteganya ko "Urega cyangwa utanze ikibazo agaragaza ikimenyetso cy'ibyo aregera cyangwa asaba. Uwiregura agaragaza ikimenyetso gishyigikira ukwiregura kwe. icyakora, umucamanza cyangwa ukemura ikibazo ashobora gutegeka umuburanyi cyangwa umwe mu bafitanye ikibazo cyangwa undi muntu gutanga cyangwa kwerekana ikimenyetso afite." [73] Ingingo ya 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 igika cya mbere iteganya ko "urega agomba kugaragaza ibimenyetso by'ibyo aregera. Iyo abibuze, uwarezwe aratsinda." [74] Urukiko rurasanga nta kindi kimenyetso RNECO Ltd itanga kigaragaza igihombo yaba yaratewe no kudasinya amasezerano mashya y'ubufatanye, cyangwa ingano y'ibyo yaba yarakoze mu gutegura cyangwa mu gushyira mu bikorwa amasezerano atarakozwe, ikaba idashobora kuvuga ko hari igihombo yatejwe na NAEB kandi itakigaragariye ibimenyetso. Urukiko rurasanga rero nta ndishyi z'igihombo ikwiye guhabwa, izo yari yagenewe n'Urukiko rw'Ubucuruzi zikemezwa n'Urukiko Rukuru rw'Ubucuruzi zikaba zigomba kuvanwaho.

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[75] Kuba Urukiko rwakwemeza ko hari ibyo umuburanyi akwiye guhabwa ariko ntibitangwe kubera ko nta bimenyetso byatangiye, ni ko byagenze no mu rubanza RS/INJUST/RC 00008/2021/SC 21/03/2025 rwaciwe n'Urukiko rw'Ikirenga ku wa 21/03/2025 SOCOBICO yaregagamo ECOBANK RWANDA Plc n'abandi17, aho Urukiko rwavuze ko mu gihe SOCOBICO itabashije kugaragaza ibyo isaba no kubitangira ibimenyetso, ntaho rwahera rubigena, rwemeza ko ikirego cyayo nta shingiro ifite. [76] Urukiko rurasanga kandi kuba hatarasinywe amasezerano mashya y'ubufatanye icyabaye ari ukuvutswa amahirwe yo kuba RNECO Ltd yari kuyabyaza inyungu, kandi nk'uko byasobanuwe haruguru, ibyo bitangirwa indishyi zitanzwe mu bushishozi bw'Urukiko. Rurasanga ariko izi atari zo RNECO Ltd yasabye, zikaba rero zitari busuzumwe, kuko nk'uko biteganywa n'ingingo ya 10 y'itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbenezamubano, iz'ubucuruza, iz'umurimo n'iz'ubutegets, Umucamanza aca urubanza ku cyasabwe cyose kandi kuri icyo cyonyine. III. ICYEMEZO CY'URUKIKO [77] Rwemeje ko ikirego cyatanzwe na NAEB cyo gusubirishamo ku mpamvu z'akarengane urubanza RCOMA 00180/2023/HCC rwaciwe ku wa 10/05/2024 n'Urukiko Rukuru rw'Ubucuruza, gifite ishingiro kuri bimwe; [78] Rwemeje ko amasezerano akubiye mu nyandiko igamije gukemura ikibazo mu bwumvikane hatitabajwe inkiko yashyizweho umukono ku wa 21/09/2020 yasesenguwe mu buryo bukurikije amategeko; [79] Rwemeje ko urubanza RCOMA 00180/2023/HCC rwaciwe ku wa 10/05/2024 n'Urukiko Rukuru rw'Ubucuruza ruhindutse ku bijyanye n'indishyi zikomoka ku gihombo; [80] Rutegetse ko nta ndishyi zikomoka ku gihombo RNECO Ltd ivuga ko yatejwe no kutubahiriza ayo masezerano igomba guhabwa;

17 Urubanza rwa N° RS/INJUST/RC 00008/2021/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 21/03/2025 SOCOBICO yaregagamo ECOBANK RWANDA Plc n'abandi, igika cya 66

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