

RWANDA / JUDGMENT

NAHIMANA v. UMUJYI WA KIGALI

RADA00085/2023/HC/KIG

COURT

High Court

DECIDED

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NAHIMANA v. UMUJYI WA KIGALI

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Text

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NAHIMANA v. UMUJYI WA KIGALI [Rwanda URUKIKO RUKURU – RADA00085/2023/HC/KIG (Hitimana, J. P.) 17 Mutarama 2025] Amategeko agenga ubutaka – Igishanga – Umutungo utimukanwa – Uburenganzira ku bikorerwa mu gishanga – Umutungo utagaragara mu rutonde rw’ibishanga biteganywa mu Iteka rya Minisitiri w’Intebe N° 006/03 ryo ku wa 30/01/2017 rishyiraho urutonde rw’ibishanga, imiterere n’imbibi zabyo rikanagena uburyo ubwo butaka bukoreshwa, butunganywa kandi bucungwa, ntabwo ugomba gusenya ahubwo ikitemewe ni ukuwongeraho ibikorwa; icyakora, mu gihe bibaye ngombwa ko hasenywa, usenyewe ahabwa indishyi. Incamake y’ikibazo: Nahimana yareze Umujyi wa Kigali mu Rukiko Rwisumbuye rwa Nyarugenge, asaba Urukiko ko ruwutegeka kumwishyura amafaranga bitewe n’uko wamusenyeye inzu ye uvuga ko yubatswe mu gishanga, kandi atarahubatswe. Umujyi wa Kigali wisobanuye uvuga ko amafaranga y’ingurane Urega asaba atagomba kuyahabwa kuko yubatswe mu gishanga, kandi ari icya Leta. Bityo, ikirego cye kikaba kitagomba guhabwa ishingiro. Urukiko Rwisumbuye rwaciye urubanza rwemeza ko ikirego cy’Urega cyakiriwe ariko kikaba nta shingiro gifite, ko ingurane ikwiye asaba itagomba gutangwa, kuko yubatswe mu gishanga cya Leta. Urega yajuririye icyo cyemezo muri uru Rukiko Rukuru, avuga ko hirengagijwe ibimenyetso bigaragaza

akarengane yakorewe n'Uregwa, rwanga kwemeza ko yishyurwa indishyi kubera umutungo we Uregwa yashenye yitwaje ko uri mu gishanga cya Leta. Urega asobanura ko ibimenyetso byirengagijwe mu rubanza rujuririrwa birimo ibaruwa yo ku wa 10/11/2004 Umujyi wa Kigali wamwandikiye, umubwira ko umutungo we utimukanwa uri mu kibanza UPI: 1/02/04/011617 hateganyirijwe kubakwa inyubako zijyanye n'ako gace, ko uzabarurwa kandi ugahabwa agaciro n'abatekinisiye kuwa 15/11/2004, kugira ngo azahabwe ingurane ikwiye (expropriation). Ikindi ni uko amakuru atangwa n'Ikigo gishinzwe ubutaka (NLA: National Land Authority), agaragaza ko aho umutungo we wari wubatse, hagenewe guturwa akaba atari mu gishanga nk'uko Uregwa abivuga. Akomeza avuga ko Uregwa atigeze agaragaza ibimenyetso byemeza ko uwo mutungo wari wubatswe mu gishanga, bityo, akaba asaba uru Rukiko gukosora ayo makossa yakozwe, rugafata icyemezo cyemeza ko Uregwa amwishyura uwo mutungo we yashenye. Urega kandi yajuriye asaba guhabwa indishyi z'akababaro, kuko kuva hafatwa icyemezo cyo kumusenyerera inzu ye, we n'umuryango we ntabwo bafite aho kuba, ku buryo byabateye ihungabana, bityo akaba yagenerwa izo ndishyi mu rwego rwo gutanga ubutabera. Uregwa yireguye avuga ko ku mugereka w'urubanza rujuririrwa hari ikarita yo mu gishanga cya Rwampara igaragaza ko umutungo w'Urega uri mu mbago z'igishanga ahatemewe kubakwa. Avuga kandi ko Urukiko rwabanje rwasuzumye ibimenyetso by'Urega maze rwemeza ko nta ndishyi yahabwa mu gihe yashyize ibikorwa bitemewe mu gishanga aho yagiye ahashyira inyubako kandi abizi neza ko bibujijwe n'amategeko. Bityo, indishyi Urega asaba zikaba nta shingiro zifite, kuko atamuha indishyi zikomoka ku bikorwa bitemewe yari yashyize ku butaka bwa Leta. Incamake y'icyemezo: Umutungo utagaragara mu rutonde rw'ibishanga biteganywa mu Iteka rya Minisitiri w'Intebe N° 006/03 ryo ku wa 30/01/2017 rishyiraho urutonde rw'ibishanga, imiterere n'imbibi zabyo rikanagena uburyo ubwo butaka bukoreshwa, butunganywa kandi bucuungwa, ntabwo ugomba gusenywa ahubwo ikitemewe ni ukuwongeraho ibikorwa; icyakora, mu gihe bibaye ngombwa ko hasenywa, usenyewe ahabwa indishyi. Ubujurire bufite ishingiro. Ubujurire bwuririye ku bundi nta shingiro bufite.

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Urubanza rwajuririwe ruhindutse mu ngingo zarwo zose. Amategeko yashingiweho: Itegeko N° 27/2021 ryo ku wa 10/06/2021 rigenga ubutaka, ingingo ya 33 n'ya 34. Itegeko N°48/2018 ryo ku wa 13/08/2018 rigenga ibidukikije, inzuzi, imigezi, amazi y'ikuzimu, amasoko, ibidendezi, ibishanga n'ibiyaga biri mu bigize umutungo rusange wa Leta, ingingo ya 11. Itegeko No 43/2013 ryo ku wa 06/06/2013 rigenga ubutaka mu Rwanda, ingingo ya 19. Iteka rya Minisitiri w'Intebe N° 001/03 ryo ku wa 30/01/2024 ryerekeye ubutaka bw'ibishanga, ingingo ya 24. Iteka rya Minisitiri w'Intebe N° 006/03 ryo ku wa 30/01/2017 rishyiraho urutonde rw'ibishanga, imiterere n'imbibi zabyo rikanagena uburyo ubwo butaka bukoreshwa, butunganywa kandi bucuungwa, ingingo ya 19. Imanza zifashishijwe: RADAA00003/2024/CA Umujyi wa Kigali na Gatete Polycarpe, rwaciwe n'Urukiko rw'Ubujurire ku wa 14/06/2024. Urubanza I. IMITERERE Y'URUBANZA [1] Nahimana Pierre yari afite umutungo utimukanwa ugizwe n'inzu iherereye mu Mudugudu wa Kagara, Akagali ka Musezero, Umurenge wa Gisozi, Akarere ka Gasabo, mu Mujyi wa Kigali yarasenywe n'Umujyi wa Kigali uvuga ko yubatse mu gishanga, akaba yatanze ikirego mu Rukiko

Rwisumbuye rwa Nyarugenge asaba Urukiko gutegeka Umujyi wa Kigali kumwishyura amafaranga bitewe no gusenyerwa, ko atigeze yubaka mu gishanga nk'uko Umujyi wa Kigali ubivuga ndetse n'amafaranga y'ikurikiranarubanza n'ay'igihembo cy'avoka. [2] Umujyi wa Kigali wireguye uvuga ko Nahimana Pierre ikirego cye nta shingiro cyahabwa kuko ngo yasenyewe kuko yashyize ibikorwa bitemewe mu gishanga kandi igishanga ari icya Leta ni nayo mpamvu amafaranga y'ingurane aregera atagomba kuyahabwa, ahubwo Nahimana Pierre yategekwa kwishyura Umujyi wa Kigali amafaranga y'ikurikiranarubanza n'ay'igihembo cy'avoka bitewe no kuwushora mu rubanza nta mpamvu. [3] Uru rubanza rwaburanishijwe mu ruhamwe kuwa 20/04/2023 Nahimana Pierre ahagarariwe na Me Komezusenge Deogratias naho Umujyi wa Kigali uhagarariwe na Me Kayigamba Umulisa Alice. [4] Kuwa 18/05/2023 Urukiko Rwisumbuye rwa Nyarugenge rwaciye urubanza rwemeza kwakira ikirego cya Nahimana Pierre ariko rugisuzumye rusanga nta shingiro gifite kuri byose; rwemeza ko NAHIMANA Pierre yubatse mu gishanga kandi igishanga ari icya Leta; rwemeza ko nta ngurane ikwiye gutangwa muri uru rubanza; rutegeka Nahimana Pierre kwishyura igihembo cy'avoka cy'Umujyi wa Kigali kingana n'ibihumbi maganatanu (500.000Frws) rutegetse ko amafaranga ibihumbi makumyabiri (20.000Frws) Nahimana Pierre yatanzeho ingwate y'amagarama arega muri uru rubanza ahwanye n'ibyarukozwemo. [5] Nahimana Pierre ntiyishimiye imikirize y'urubanza maze ajuririra Urukiko Rukuru rwa Kigali avuga ko urukiko rwirengagije ibimenyetso bigaragaza akarengane Nahimana Pierre yakorewe n'Umugi wa Kigali rwanga kwemeza ko yishyurwa indishyi 53,755,595Frw kubera umutungo we wari mu kibanza UPI1/02/01/1617.

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[6] Umujyi wa Kigali wo uvuga ko ubujurire nta shingiro bufite, kubera ko nk'uko byemejwe mu rubanza rwajuririwe, Nahimana Pierre yari yarubatse mu gishanga. [7] Urubanza rwaburanishijwe Nahimana Pierre ahagarariwe na Me Komezusenge Deogratias, Umujyi wa Kigali uhagarariwe na Me Ntirushwamaboko Aloys. [8] Harasuzumwa: - niba urukiko rwarirengagije ibimenyetso bigaragaza akarengane Nahimana Pierre yakorewe n'Umugi wa Kigali rwanga kwemeza ko yishyurwa indishyi 53,755,595Frw kubera umutungo we wari mu kibanza UPI1/02/01/1617; - indishyi z'akababaro Nahimana Pierre yatewe no kudahabwa ingurane y'umutungo we wasenywe n'Umugi wa Kigali zingana 20,000,000Frw; - Amafaranga y'ikurikiranarubanza angana n'igihembo cya Avoka. II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA A. Gusuzuma niba urukiko rwarirengagije ibimenyetso bigaragaza akarengane Nahimana Pierre yakorewe n'Umujyi wa Kigali rwanga kwemeza ko yishyurwa indishyi 53,755,595Frw kubera umutungo we wari mu kibanza UP: I1/02/01/1617 [9] Nahimana Pierre avuga ko mu Rukiko Rwisumbuye yasobanuye ko kuwa 29/04/2022 yandikiye ubuyobozi bw'Umugi wa Kigali asaba ko yakwishyurwa umutungo we wangijwe ugizwe n'amazu yari yubatse mu kibanza gifite UPI: 1/02/04/011617, gihereye mu Mudugudu wa Kagara, Akagali ka Musezero, Umurenge wa Gisozi, Akarere ka Gasabo, Umujyi wa Kigali. Uwo mutungo mbere y'uko usenywa ukaba wari ufite agaciro kangana n'amafaranga y'u Rwanda miriyoni mirongo itanu n'eshatu n'ibihumbi magararindwi na mirongo itanu na bitanu na maganatanu na mirongo icyenda na bitanu (53,755,595Frw) nk'uko bigaragazwa

n'igenagaciro ryakozwe kuwa 08/04/2019 mbere y'uko usenywa; Yakomezaga asobanura ko Abakozi b'umugi wa Kigali bafashe icyemezo cyo gusenya amazu ya Nahimana Pierre, bavuga ko ngo aho yubatswe ari mu gishanga, ibi binyuranye n'ibyo Umugi wa Kigali wari wavuze mu ibaruwa yo kuwa 10/11/2004 (Ref. no: 6484/07.11.10/2004) aho Nahimana Pierre yamenyeshejwe ko umutungo we utimukanwa uri mukibanza cyavuzwe hejuru, hateganyirijwe kubakwa inyubako zijyanye n'akogagace, ko uzabarurwa kandi ugahabwa agaciro n'abatekinisiye kuwa 15/11/2004, kugirango azahabwe ingurane ikwiye (expropriation). Ikindi kandi amasezerano y'Ubukode burambye ndetse n'amakuru atangwa na National Land Authority (NLA), agaragaza ko aho amazu yari yubatswe, hagenewe guturwa (Usage résidentielle), ntabwo rero ari mu gishanga nk'uko abakozi b'Umugi wa Kigali bahasenywe babivugaga, n'urukiko akaba ariko rwabyemeje mu rubanza rujuririrwa mu gika cya

9. Urukiko rukaba rwarakoze ikosa aho rwirengagije ibimenyetso binyuranye bihamya ko amazu ya Nahimana Pierre yasenywe, ku buryo bwo bw'akarengane, bavuga ko ari mu gishanga, nyamara kugeza ubu ikigo gishinzwe ubutaka (NLA) cyo cyemeza ko aho yari yubatswe hagenewe guturwa. Hirengagijwe kandi ibimenyetso bigaragaza ko aho amazu yari yubatswe kugeza ubu ahafitiye ibyangobwa kandi akomeje kuhatangira umusoro, akaba rero atari ubutaka bwa Leta nk'umo Urukiko rwabivuze. Ikindi kandi mu gihe cy'iburanisha ry'urubanza rujuririrwa ndetse no mumyanzuro yo kwiregura Umugi wa Kigali uretse kuvuga ko aho Nahimana Pierre yari yarubatswe ngo ari mu gishanga, ntabimenyetso wigeze ugaragaza, ngo unasobanure igishanga uwo mutungo uherereyemo, ibi bikaba binyuranyije n'Iteka rya Minisitiri w'Intebe N° 006/03 ryo ku wa 30/01/2017 rishyiraho urutonde rw'ibishanga, imiterere n'imibizi zabyo rikanagena uburyo ubwo butaka bukoreshwa, butunganywa kandi bucuwaga. Niyo mpamvu asaba Urukiko Rukuru gukosora amakosa yakozwe n'Urukiko Rwisumbuye maze rugafata icyemezo cyo gutegeka Umugi wa Kigali kwishyura Nahimana Pierre umutungo ugizwe n'inzu yasanywe, mbere y'uko usenywa ukaba wari ufite agaciro kangana n'amafaranga y'u Rwanda miriyoni mirongo itanu n'eshatu

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n'ibihumbi magararindwi na mirongo itanu na bitanu na maganatanu na mirongo icyenda na bitanu (53,755,595Frw) nk'uko bigaragazwa n'igenagaciro ryakozwe kuwa 08/04/2019 mbere y'uko usenywa. [10] Uhagarariye Umujyi wa Kigali avuga ko n'ubwo Nahimana Pierre akomeje kuvuga ko umutungo we udaherereye mu gishanga, ku mugereka w'urubanza rujuririrwa urukiko rurahasanga ikarita yo mu gishanga cya Rwampara aho umutungo we ugaragara ko uri mu mbago z'igishanga ahatemewe kubakwa. Asanga kandi atasaba urukiko ngo rushingire kw'igenagaciro yatanze ritubahirije amategeko aho usanga ibiciro bihanitse cyane kurusha ibyasohotse mw'igazeti y'ibiciro byemewe. [11] Uhagarariye Umujyi wa Kigali avuga na none ko ibyo Nahimana Pierre avuga, ko Urukiko Rwisumbuye rutasuzumye ingingo ze ndetse n'ibimeyetso, asanga byose urukiko rwabababwiranye cyane cyane mu gika cya 9 aho urukiko rwemeza ko nta ndishyi yababwiranye mu gihe yashyize ibikorwa byemewe mu gishanga aho yagiye ahashyira inyubako kandi abizi neza ko bibujijwe n'amategeko. Nkuko Umujyi wa Kigali

wabisobanuye mu rubanza rujuririrwa, ubutaka Nahimana Pierre yita ubwe buhereyeye mu gishanga kandi ashingiye ku Itegeko No 43/2013 ryo ku wa 06/06/2013 rigenga ubutaka mu Rwanda ryakorehwaga igihe inyubako ze zakurwagaho mu ngingo ya 19 ivuga ko ubutaka bwo mu bishanga ni ubwa Leta. Ntibushobora kwegurirwa burundu abantu ku giti cyabo kandi nta ushobora kwitwazwa ko abumaranye igihe kirekire ngo abwegukane. icyakora, bushobora gutizwa umuntu hashingiwe ku masezerano yumvikanyweho n'impande zombi. Naho mu ngingo ya 33 (agace ka 1, 2) y'Itegeko N° 27/2021 ryo ku wa 10/06/2021 rigenga ubutaka iteganya ko ubutaka bwo mu bishanga ni ubwa Leta Ntibushobora kwegurirwa burundu abantu ku giti cyabo kandi nta we ushobora kwitwaza ko abumaranye igihe kirekire ngo abwegukane. icyakora, ubutaka bw'ibishanga bushobora gutizwa umuntu hashingiwe ku masezerano yumvikanyweho hagati ya Minisitiri n'utizwa. Ingingo ya 34 y'iri tegeko kandi iteganya ko umuntu abujijwe kurengera cyangwa kwiha uburenganzira, ubwo ari bwo bwose, ku butaka bwa Leta. Bigashimangirwa n'ingingo ya 11 Itegeko N°48/2018 ryo ku wa 13/08/2018 rigenga ibidukikije, inzuzi, imigezi, amazi y'ikuzimu, amasoko, ibidendezi, ibishanga n'ibiyaga biri mu bigize umutungo rusange wa Leta, bityo bakaba basanga indishyi Nahimana Pierre asaba nta shingiro kuko Umujyi wa Kigali ntiwamuha indishyi zikomoka kubikorwa bitemewe yari yashyize ku butaka bwa Leta. Doreko atanagaragaza amasezerano yagiranye na Minisitiri amwemerera kugira ibikorwa ahashyira ngo abe yabihererwa indishyi. UKO URUKIKO RUBIBONA [12] Urukiko rurasanga icyo Nahimana Pierre anenga ku mikirize y'urubanza rwajuririwe, ni uko rwanze kumuha ingurane ku mutungo we wasenywe n'Umujyi wa Kigali wari mu kibanza UPI 1/02/01/1617, ruvuga ko uyu mutungo we wari mu gishanga, ariko ngo rwirengagije ko igihe ibikorwa byashyirwaga kuri ubu butaka, ubutaka bwari bugenewe guturwa nk'uko bigaragara ku cyangombwa cy'ubu butaka, ndetse n'amakuru yatanzwe n'Ikigo cy'Igihugu cy'Ubutaka akaba agaragaza ko ubu butaka bugenewe gutura. Umujyi wa Kigali ushimangira ko inyubako za Nahimana Pierre zagombaga gukurwaho, kubera ko zari ku butaka bw'igishanga kandi atari inyubako zemerewe kuba ku butaka bw'igishanga. [13] Urukiko rurasanga Nahimana Pierre agaragaza icyangombwa cy'ubutaka bwe, kigaragaza ko ubutaka bwe hari igice cyagenewe gutura. Agaragaza kandi n'amakuru yatanzwe n'ikigo cy'Ubutaka, agaragaza ko ubutaka bwe bwari busanzwe bugenewe gutura (residential) ariko mu gishushanyo mbonera cy'imikoreshereze y'ubutaka cy'umwaka wa 2020 (master plan 2020), ubutaka bwe hari igice kiri ahagenewe kubakwamo inganda ziciriritse (light industrial zone), igice kigenewe imyidagaduro (parks and open spaces zone), n'igice cyagenewe imihanda (transportation zone). Igishushanyo cyatanzwe n'Umujyi wa Kigali nacyo kigaragaza ko hari igice cy'ubu butaka bwa Nahimana Pierre kiri mu ngengero z'igishanga (buffer zone) n'igice kiri ahagenewe gutura (kitari mu gishanga kitari no muri "buffer zone" y'igishanga), kandi iki gishushanyo cyatanzwe n'Umujyi wa Kigali kigararagara ko igice kinini cy'inyubako za Nahimana Pierre kiri mu gice kigenewe gutura.

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- [14] Urukiko rurasanga n'ubu butaka kandi haba hari inyubako za Nahimana Pierre zafatwa nk'iziri mu gishanga, uretse ko ntazigaragara, kuko izigaragara ziri muri buffet zone, nazo Umujyi wa Kigali waba warazikuyeho mu buryo bunyuranyije n'amategeko, hashingiwe ku ngingo ya

19, igika cya nyuma, y'Iteka rya Minisitiri w'Intebe N° 006/03 ryo ku wa 30/01/2017 rishyiraho urutonde rw'ibishanga, imiterere n'imbibi zabyo rikanagena uburyo ubwo butaka bukoresha, butunganywa kandi buchungwa, yateganyaga ko umuntu wese usanzwe ufite ibikorwa biramba mu gishanga kidakomye kandi atari byo byagenwe muri icyo gishanga, akaba yarabishyizemo mu buryo bukurikije amategeko, akomeza kugira uburenganzira kuri ibyo bikorwa ariko ntiyemerewe kubyongerera agaciro. Mu rubanza RADAA00003/2024/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 14/06/2024, haburana Umujyi wa Kigali na Gatete Polycarpe, Urukiko rwemeje ko gukuraho ibikorwa bya Gatete Polycarpe mu buryo bunyuranyije n'iri teka rya Minisitiri w'Intebe bituma Umujyi wa Kigali utegekwa kwishyura agaciro k'ibyo bikorwa, uyu murongo ukaba ariwo ugomba kugenderwaho no kuri Nahimana Pierre kubera ko ibikorwa bye bitagombaga gusenywa, ahubwo yagombaga gukomeza kugira uburenganzira kuri ibyo bikorwa ariko ntiyemerewe kubyongerera agaciro. [15] Urukiko rurasanga ibyo uhagarariye Umujyi wa Kigali avuga, ko hagomba gushingirwa ku Iteka rya Minisitiri w'Intebe N° 001/03 ryo ku wa 30/01/2024 ryerekeye ubutaka bw'ibishanga, mu ngingo yayo ya 24, iteganya ko umuntu usanzwe ufite ibikorwa ku butaka bw'igishanga kidakomye cyangwa gikomye kandi atari byo bwagenewe agomba kubikuramo, nta shingiro bifite kubera ko dosiye y'urubanza igaragaza ko ibikorwa bya Nahimana Pierre byasenywe mu mwaka wa 2020, mu gihe iri Teka rya Minisitiri w'Intebe ryasohotse mu Igazeti ya Leta ku wa 31/01/2024, byumvikana ko Umujyi wa Kigali usenya ibikorwa bya Nahimana Pierre atariryo wagendeyeho kuko ryari ritarajyaho, ahubwo hakurikizwaga Iteka rya Minisitiri w'Intebe N° 006/03 ryo ku wa 30/01/2017 rishyiraho urutonde rw'ibishanga, imiterere n'imbibi zabyo rikanagena uburyo ubwo butaka bukoresha, butunganywa kandi buchungwa. [16] Urukiko rurasanga Nahimana Pierre atanga ikirego mu Rukiko Rwisumbuye, yasabaga amafaranga 53,755,595, agizwe n'amafaranga 36.833.095 y'inyubako, n'amafaranga 16.922.500 y'agaciro k'ubutaka. Icyo Nahimana Pierre agomba kwishyurwa, ni ibikorwa biri ku butaka, ni ukuvuga amafaranga 36.833.095, kuko ubutaka bwo Umujyi wa Kigali utabumwambuye, ahubwo icyo asabwa ni uko abukoresha ibyo bwagenewe. B. Ku bijyanye n'indishyi z'akababaro Nahimana Pierre yatewe no kudahabwa ingurane y'umutungo we wasenywe n'Umugi wa Kigali zingana 20,000,000Frw [17] Nahimana Pierre avuga ko Urukiko Rwisumbuye rwanze gutegeka Umugi wa Kigali kumwishyura indishyi z'akababaro kubera ko kuva hafatwa icyemezo cyo kumusenyerera inzu ye, ubu we n'umuryango we ntabwo bafite aho kuba, ku buryo byabateye ihungabana, indishyi z'akababaro yasabaga kwishyurwa zingana na 20,000,000Frw, bityo tukaba dusaba Urukiko Rukuru kubikosora, rukamugenera izo ndishyi mu rwego rwo gutanga ubutabera. [18] Uhagarariye Umujyi wa Kigali mu izina ry'Umuyobozi wayo uvuga ko izi ndishyi nta shingiro zifite. UKO URUKIKO RUBIBONA [19] Urukiko rurasanga muri iyi ngingo y'ubujurire Nahimana Pierre asaba guhabwa amafaranga 20,000,000 y'indishyi z'akababaro kubera ko kuva hafatwa icyemezo cyo kumusenyerera inzu ye, we n'umuryango we ntabwo bafite aho kuba, ku buryo byabateye ihungabana. [20] Urukiko rurasanga kuba Umujyi wa Kigali warasenyeye inyubako za Nahimana Pierre uvuga ko izo nyubako zitagombaga kuba kuri ubwo butaka, bifatwa nko kumwimura ku bw'inyungu rusange, bityo

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indishyi z'ihungabana agomba guhabwa, ni iziteganyijwe n'itegeko ryo kwimura abantu ku bw'inyungu rusange, zingana n'amafaranga 5% y'agaciro k'umutungo we wasenywe (36.833.095 x 5 %), ni ukuvuga amafaranga 1.841.654. C. Amafaranga y'ikurikiranarubanza angana n'igihembo cya Avoka [21] Nahimana Pierre avuga ko Urukiko Rwisumbuye rwanze gutegeka Umujyi wa Kigali kumwishyura amafaranga angana na 1,000,000Frw y'ikurikirarubanza ndetse ukanamusubiza n'igihembo cya Avoka kingana na 2,000,000Frw yatanze kubera kuba atarishyuwe ingurane y'umutungo we wangijwe byatumye atakaza amafaranga akurikirana ikibazo cye, nyuma aza no kwiyambaza Avoka ngo amutangire ikirego mu rukiko ndetse anagikurikirane. [22] Uhagarariye Umujyi wa Kigali avuga ko urega ariwe wishoye mu manza bityo izi ndishyi nta shingiro zifite. UKO URUKIKO RUBIBONA [23] Urukiko rurasanga amafaranga na 1,000,000Frw y'ikurikirarubanza n'amafaranga 2,000,000 y'igihembo cya Avoka, kuri uru rwego n'urwarubanjirije Nahimana Pierre asaba, ntiyayahabwa yose kubera ko ari menshi, akaba agenewe amafaranga 800.000 y'igihembo cya Avoka, n'amafaranga 200.000 y'ikurikiranarubanza, kuri uru rwego n'urwarubanjirije. D. Gusaba urukiko gutegeka urega kwishyura indishyi zo gushorwa mu manza kuruhande rw'umujyi wa kigali [24] Umujyi wa Kigali mu izina ry'Umuyobozi wayo, Umujyi wa Kigali warezwe mu rubanza bisaba ko ushaka abawuhagararira ukaba ibisabira indishyi zingana na 1,000,000Frw y'igihembo cya Avocat. [25] Nahimana Pierre avuga ko asanga indishyi basaba nta shingiro zifite kuko Nahimana Pierre yajuriye amamije kurenganurwa kandi akaba ari uburenganzira ahabwa n'itegeko. UKO URUKIKO RUBIBONA [26] Urukiko rurasanga amafaranga 1.000.000 y'igihembo cya Avoka uhagarariye Umujyi wa Kigali asaba, ntayo wahabwa kubera ko ubujurire bwa Nahimana Pierre usabwa kwishyura ayo mafaranga bufite ishingiro, bityo akaba atarayishoye mu rubanza rw'amaherere. III. ICYEMEZO CY'URUKIKO [27] Rwemeje ko ubujurire bwa Nahimana Pierre bufite ishingiro. [28] Rwemeje ko ubujurire bwuririye ku bundi nta shingiro bufite. [29] Rwemeje ko imikirize y'urubanza rwajuririwe idindutse kuri byose. [30] Rutegetse Umujyi wa Kigali guha Nahimana Pierre amafaranga 36.833.095 y'agaciro k'ibikorwa bye byari mu kibanza UPI 1/02/01/1617 byasenywe, amafaranga 1.841.654 y'indishyi z'ihungabana, n'amafaranga 800.000 y'igihembo cya Avoka n'amafaranga 200.000 y'ikurikiranarubanza, ikamusubiza n'amafaranga 60.000 yatanzeho ingwate y'amagarama yatanze kuri uru rwego n'urwarubanjirije.

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[31] Rutegetse ko amafaranga yatanzweho ingwate y'amagarama ahwanye n'ibyakozwe mu rubanza.

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