

RWANDA / JUDGMENT

NIRAGIRE v ARCHIDIOCESE YA KIGALI NABANDI

RADAA 00002/2022/CA

COURT

Court of Appeal

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NIRAGIRE v ARCHIDIOCESE YA KIGALI NABANDI

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Text

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NIRAGIRE v ARCHIDIOCESE YA KIGALI N'ABANDI [Rwanda URUKIKO RW'UBUJURIRE – RADAA 00002/2022/CA – (Nyirandabaruta, J. P., Kamere na Munyangeri, J.) 24 Gashyantare 2023]

Amategeko agenga ububasha bw'inkiko –Ubujurire bwa kabiri – Inzitizi y'iburabubasha – Gutsindwa ku mpamvu zimwe – Inzitizi yo gutsindwa hashingiwe ku mpamvu zimwe ntihabwa ishingiro iyo hatagaragajwe ko inkiko zombi zabanje zasobanuye mu buryo bumwe impamvu zatumye uwajuriye atsindwa. Amategeko agenga imiburanishirize y'imanza z'Ubutegetsu – Itangwa ry'ibimenyetso – Inshingano z'Urega – Urega afite inshingano zo gutanga ibimenyetso by'ibyo aregera, iyo abibuze uwarezwe aratsinda. Incamake y'ikibazo: Niragire na Mukarusine baregeye Urukiko Rwisumbuye rwa Gasabo basaba kurenganurwa, ubuso bambuwe bukongera kubandikwaho, ubutaka bwabo bukongera gusubira nkuko bwari buri ubwo babuguraga na Mwumvaneza hamwe n'umugore we Zirimwabagabo. Batanze ikirego cyabo barega abo baguze nabo n'Ikigo Gishinzwe Imicungire n'Imikoreshereze y'Ubutaka mu Rwanda ndetse Archidiocèse ya Kigali yagurishije ubutaka Mwumvaneza na Zirimwabagabo yagobokeshejwe ku gahato muri

uru rubanza, kugira ngo isobanure aho yabukomoye. Abaregwa bisobanuye bagaragaza aho bakuye ubwo butaka n'ingano yabwo maze Urukiko rufata icyemezo ko ikirego cya Niragire na Mukarusine nta shingiro gifite, rutegeka buri wese guha abaregwa indishyi zitandukanye. Ibi byatumye bajuririra Urukiko Rukuru ariko narwo rwemeza ko ikirego cyabo nta shingiro gifite. Niragire yajuririye Urukiko rw'Ubujurire avuga ko Urukiko rutahaye agaciro ibisobanuro yatanze ku birebana n'inkomoko y'umutungo we ndetse n'iy'uwa Archidiocèse, ko Urukiko rwahaye agaciro ibyerekanwe n'Ikigo Gishinzwe Imicungire n'Imikoreshereze y'Ubutaka mu Rwanda kandi kivuga ko kidafite "archives" zo muri 2011 igihe yahabwaga ibyangombwa by'ubutaka, ko Urukiko rwirengagije inyandiko yatanze n'ubuyobozi bw'inzego z'ibanze, kandi ko abaregwa batashoboye kugaragaza ahishyuriwe ikiguzi cy'ubutaka, asaba Urukiko rw'Ubujurire kwemeza ko indishyi yategetswe kwishyura, nta shingiro zifite. Muri uru rubanza Abaregwa batanze inzitizi y'iburabubasha bw'uru Rukiko, ishingiyeye ku kuba Urega yaratsinzwe mu nkiko zibanza hashingiwe ku mpamvu zimwe ariko Urukiko rwemeje ko nta shingiro ifite maze urubanza ruburanishwa mu mizi hasuzumwa ikibazo cyatanze n'Urega cyo kumenya niba Urukiko Rukuru rwariirengagije, ko hari ubuso bw'ubutaka bwe bwometswe k'ubwa Mwumvaneza na Zirimwabagabo. Incamake y'icyemezo: 1. Inzitizi yo gutsindwa hashingiwe ku mpamvu zimwe ntihabwa ishingiro iyo hatagaragajwe ko inkiko zombi zabanje zasobanuye mu buryo bumwe impamvu zatumye uwajuriye atsindwa.

2. Urega afite inshingano zo gutanga ibimenyetso by'ibyo aregera, iyo abibuze uwarezwe aratsinda. Bityo, nta kimenyetso na kimwe kigaragaza ko ubutaka bwa Niragire Théogène bwagiye ku bwahawe

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Archidiocèse ya Kigali ndetse n'Urukiko Rukuru nta bimenyetso rwirengagije ubwo rwemezaga ko ubutaka bubura k'ubutaka bwe bwatwawe n'igishanga. Ubujurire nta shingiro bufite. Urubanza rwaciye n'Urukiko Rukuru, ntiruhindutse. Amagarama aherera ku isanduku ya Leta. Amategeko yashingiweho: Itegeko N° 27/2021 ryo ku wa 10/06/2021 rigenga ubutaka, ingingo ya 21. Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruza, iz'umurimo n'iz'ubutegetsu, ingingo ya 111 n'ya 154. Itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo ingingo ya 3. Iteka rya Minisitiri N° 002/2008 ryo ku wa 01/04/2008 rigenga uburyo iyandikishwa ry'ubutaka rikorwa, ingingo ya 58 n'ya 59. Iteka rya Minisitiri N° 001/2006 ryo ku wa 26/09/2006 rigenga imiterere y'ibitabo bikoresheye mu gucunga ubutaka, inshingano n'imikorere by'ibiro by'ubutaka muri buri Karere, ingingo ya 4. Imanza zifashishijwe: Nicyabera v Mukagatare, RS/INJUST/RC 00004/2018/SC rwaciye n'Urukiko rw'Ikirenga ku wa 21/02/2020. Urubanza I. IMITERERE Y'URUBANZA [1] Niragire Théogène na Mukarusine Verena batangije urubanza, buri wese asobanura ko mu bihe bitandukanye byo hagati y'itariki ya 01/07/2008 na 12/06/2011, yaguze ubutaka n'abaturage bari babusanganywe nka gakondo yabo. Binyuze mu Kigo Gishinzwe Imicungire n'Imikoreshereze y'Ubutaka mu Rwanda babwiyandikishijeho, Niragire Théogène ahabwa icyangombwa gifite numero UPI: 1/02/13/02/2207 ku buso bwa 4.436 m², na ho Mukarusine Verena ahabwa icyangombwa gifite numero UPI: 1/02/13/02/2205, ku buso bungana

na 6.763 sqm. Bavuga ko nyuma baje kumenyeshwa ko ubuso bw'ubutaka bwabo bwahindutse, ko Niragire Théogène asigaranye 36 sqm, na ho Mukarusine Verena asigaranye 152 sqm, bandikira Ikigo Gishinzwe Imicungire n'Imikoreshereze y'Ubutaka mu Rwanda, basaba ko basubizwa ubuso bw'ubutaka bwabo, kubera ko batigeze bamenya impamvu babwambuwe, ariko ntibahabwa igisubizo. [2] Niragire Théogène na Mukarusine Verena babonye badasubijwe, baregeye Urukiko Rwisumbuye rwa Gasabo, barega Mwumvaneza Félicien n'umugore we witwa Zirimwabagabo Irène

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Umukobwa n'Ikigo Gishinzwe Imicungire n'Imikoreshereze y'Ubutaka mu Rwanda, ibirego byabo byandikwa kuri RAD 00007/2020/TGI/GSBO na RAD 00008/2020/TGI/GSBO, bihurizwa hamwe kuri RAD 00007 CMB RAD 00008/2020/TGI/GSBO, basaba kurenganurwa, ubuso bambuwe bukongera kubandikwaho. Archidiocèse ya Kigali yagurishije ubutaka Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa yagobokeshejwe ku gahato muri uru rubanza, kugira ngo isobanure aho yabukomoye. [3] Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa basobanura ko ubutaka batunze bwanditse kuri UPI: 1/02/13/02/1105 bufite ubuso bungana na 14.195 sqm n'ubwanditse kuri UPI: 1/02/13/02/1106 bufite ubuso bungana na 7.498 sqm, babuguze na Archidiocèse ya Kigali ku wa 19/06/2017, babwandikwaho. [4] Archidiocèse ya Kigali isobanura ko ubutaka yagurishije Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa, yabuhawe na Leta (Umuji wa Kigali) mu mwaka wa 2004, bufite ubuso bwa 2ha 6ares na 7ca, ku wa 31/12/2004 ihabwa "contrat de location", ku wa 15/03/2011 ihabwa "acte de notoriété" y'ubutaka, mu gihe cy'ibarura bwandikwa kuri numero UPI: 1/02/13/02/1105 no kuri numero UPI: 1/02/13/02/1106. [5] Mu rubanza RAD 00007/2020/TGI/GSBO CMB RAD 00008/2020/TGI/GSBO rwaciwe ku wa 10/06/2021, Urukiko Rwisumbuye rwa Gasabo rwemeje ko ikirego cya Niragire Théogène na Mukarusine Verena nta shingiro gifite, rutegeka buri wese mu barega guha Zirimwabagabo Irène Umukobwa na Mwumvaneza Félicien 500.000 Frw y'ikurikiranarubanza n'igihembo cya Avoka, rutegeka kandi buri wese mu barega guha Archidiocèse ya Kigali 500.000 Frw y'ikurikirarubanza n'igihembo cya Avoka, ingwate y'amagarama yatanze mu kurega, ihwana n'ibyakozwe mu rubanza. [6] Niragire Théogène yajuririye icyo cyemezo mu Rukiko Rukuru, avuga ko mu gufata icyemezo, Urukiko Rwisumbuye rwa Gasabo rwashingiye ku bimenyetso bitasesenguwe neza, ko rwanze kujya ku kiburanwa ngo rurebe imiterere yacyo n'uko ubutaka bubaruwe kuri numero UPI: 1/02/13/02/1105 na numero UPI: 1/02/13/02/1106 butabaho, ko bugeretsweho izindi numero za UPIs kandi ko ubutaka bwe bwavaga ku gishanga bukagera ku Mudugudu wa Juru. [7] Mu rubanza RADA 00055/2021/HC/KIG rwaciwe ku wa 07/01/2022, Urukiko Rukuru rwemeje ko ubujurire bwa Niragire Théogène nta shingiro bufite, ko urubanza RAD 00007 CMB RAD 00008/2020/TGI/GSBO ruhindutse ku bijyanye n'indishyi, rutegeka Niragire Théogène kwishyura Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa 400.000 Frw yiyongera ku ndishyi zagenwe mu rubanza rujuririrwa, rumutegeka kandi kwishyura Archidiocèse ya Kigali 400.000 Frw yo ku rwego rw'ubujurire yiyongera ku ndishyi zagenwe mu rubanza rujuririrwa, runamutegeka kwishyura Ikigo Gishinzwe Imicungire n'Imikoreshereze y'Ubutaka mu Rwanda 450.000 Frw akubiyemo amafaranga y'ikurikiranarubanza n'igihembo cya Avoka. [8] Ku wa

02/02/2022, Niragire Théogène yajuririye icyo cyemezo mu Rukiko rw'Ubugurire, ubugurire bwe bwandikwa kuri RADAA 00002/2022/CA, avuga ko Urukiko rutahaye agaciro ibisobanuro yatanze ku birebana n'inkomoko y'umutungo we ndetse n'iy'uwa Archidiocèse, ko Urukiko rwahaye agaciro ibyerekanwe n'Ikigo Gishinzwe Imicungire n'Imikoreshereze y'Ubutaka mu Rwanda kandi kivuga ko kidafite "archives" zo muri 2011 igihe yahabwaga ibyangombwa by'ubutaka, ko Urukiko rwirengagije inyandiko yatanze n'ubuyobozi bw'inzego z'ibanze, kandi ko

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abaregwa batashoboye kugaragaza ahishyuriwe ikiguzi cy'ubutaka, asaba Urukiko rw'Ubugurire kwemeza ko indishyi yategetswe kwishyura, nta shingiro zifite. [9] Urubanza rwaburanishijwe mu ruhamu ku wa 05/10/2022, Niragire Théogène yunganiye na Me Bigaraba John, Me Shema Gakuba Charles, Me Sadi Jashi na Me Sebukonoke Innocent, Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa bahagarariye na Me Sangano Yves, Archidiocèse ya Kigali ihagarariye na Me Bayingana Janvier, Ikigo cy'Igihugu Gishinzwe Ubutaka gihagarariye na Me Habiyaambere Clément, hasuzumwa inzitizi y'iburabubasha bw'Urukiko yatanze n'uruhande rwa Archidiocèse ya Kigali n'uruhande rwa Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa, ishingiyeye ku kuba Niragire Théogène yaratsinze mu nkiko zibanza hashingiyeye ku mpamvu zimwe, abatanze inzitizi bavugaga ko baretse iyo bari batanze ishingiyeye ku gaciro k'ikiburanwa. [10] Ku wa 21/10/2021, Urukiko rwasomye icyemezo mu rubanza rubanziriza urundi ku nzitizi y'iburabubasha bw'Urukiko yasuzumwe, rwemeza ko nta shingiro ifite, rwemeza ko iburanisha mu mizi rizakomeza ku wa 09/11/2022, uwo munsu ntirwaburanishwaga kubera ko abacamanza bari bafite inama, ryimurirwa ku wa 23/11/2022, iburanisha rigeze hagati hafatwa icyemezo cyo gukora iperereza ryo kugera ku kiburanwa kugira ngo Urukiko rusobanukirwe imiterere y'ahaburanwa, iperereza rikorwa ku wa 10/01/2023. [11] Iburanisha ry'urubanza ryakomeje ku wa 02/02/2023, Niragire Théogène yunganiye na Me Bigaraba John, afatanyije na Me Shema Gakuba Charles na Me Sebukonoke Innocent, Archidiocèse ya Kigali ihagarariye na Me Bayingana Janvier, Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa bahagarariye na Me Sangano Yves, Ikigo cy'Igihugu Gishinzwe Ubutaka gihagarariye na Me Habiyaambere Clément. Isomwa ry'urubanza ryashyizwe ku wa 17/02/2023 ariko kubera ko uwo munsu wageze inteko yaruburanishije itararangiza kurucu no kurwandika ryimurirwa ku wa 24/02/2023. II. IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO

1. Kumenya niba Urukiko Rukuru rwariyegagije, ko hari ubuso bw'ubutaka bwa Niragire Théogène bwometswe k'ubwa Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa [12] Me Bigaraba John avugaga ko yasabye Urukiko kugera ku kiburanwa kugira ngo buri muburanyi agaragaze ubutaka bwe ndetse n'inkomoko yabwo, kuko Niragire Théogène we yagaragazaga amasezerano y'ubugure yabuguriyeho na bene bwo, na ho Archidiocèse ya Kigali yo ikavugaga ko ubutaka yagurishije yabuhawe na Leta, ariko itagaragaza inyandiko yabuhereyeho, ahubwo yerekana gusa "contrat de location" ifite numero UPI itandukanye n'iri kuri "fiche cadastrale" iyometseho, Urukiko Rukuru rwagera ku kiburanwa, rukifashisha umuhanga wazanwe n'Ikigo cy'Igihugu Gishinzwe Ubutaka kandi cyari umuburanyi mu rubanza, nyamara Niragire Théogène yaragaragazaga amasezerano

y'ubugure n'igice cy'ubutaka kirebana na yo, hakaba hari na bamwe mu bo yaguze na bo babonetse bagatanga amakuru ko bamugurishije, ndetse ko hanabajijwe abaturage bahageze bagahamya ko ubwo butaka bazi ko ari ubwe, ariko mu guca urubanza, Urukiko Rukuru rushingira

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kuri “contrat de location” yo ku wa 31/12/2004 na “acte de notoriété” yo ku wa 15/03/2011 byahawe Archidiocèse ya Kigali, ruvuga ko nta kigaragaza ko byateshejwe agaciro. [13] Avuga kandi ko igice cy'ubutaka Niragire Théogène yaherewe icyangombwa UPI: 1/02/13/02/2207 hatarimo igice cyatwawe n'igishanga, ko icyo cyangombwa ari icy'ubutaka buri imusozi, ndetse ko muri 2013 atari guhabwa icyangombwa cy'ubutaka kirimo igishanga kuko icyo gihe ibishanga byari byarashyizwe mu mutungo wa Leta, akaba ashimangira ko ubutaka bw'uwo yunganira bubaruye kuri UPI: 1/02/13/02/2207 bwamizwe na UPI: 1/02/13/02/1105 bwa Archidiocèse ya Kigali. Avuga kandi ko kuba hari abatangabuhamya basobanuriye uru Rukiko mu gihe cy'iperereza ko Archidiocèse ya Kigali yatangiye gusiza Leta ikayihagarika iyimenyesha ko izahakorera undi mushinga, ibyo byumvikanisha ko ubwo butaka butakiri ubwa Archidiocèse ya Kigali n'ubwo nta baruwa ibuyambura yahawe. [14] Akomeza asobanura ko numero 10078 ya “contrat de location de parcelle” yagaragajwe na Archidiocèse ya Kigali nta ho ihuriye na numero 9934 yagaragajwe kuri “fiche cadastrale”, nyamara zakabaye zuzuzanya mu gihe zivuga ku kibanza kimwe, kuko “fiche cadastrale” ari yo igaragaza ku buryo budashidikanywaho ubutaka buba bwatanzwe n'urwego rwa Leta rubifitiye ububasha. Asobanura na none ko mu gihe Urukiko Rukuru rwajyaga ku kiburanwa, Niragire Théogène yagaragaje ubutaka bwe ahera ku rupangu rw'umudugudu wa Juru agera hepfo, Archidiocèse ya Kigali na yo mu kugaragaza ubutaka bwayo, ihera ku rupangu rw'umudugudu wa Juru imanuka hepfo mu gishanga, ko yasabye ko bagaragarizwa ububiko bw'inyandiko zo muri 2011, Ikigo cy'Igihugu Gishinzwe Ubutaka gisubiza ko nta zihari, kandi ko bashatse kumenya uwo ubutaka bufite UPI: 1/02/13/02/1105 bwari bwanditseho muri 2011, ntibashobora kumumenya, akaba akeka ko bushobora kuba bwari igisigara kubera ko bwanditswe bwa mbere kuri Archidiocèse ya Kigali muri 2016, ndetse ko Niragire Théogène atavuga ko iyo numero ari iye, akaba asanga Ikigo cy'Igihugu Gishinzwe Ubutaka ari cyo gikwiye kubitangira ibisobanuro, kubera ko iyo urebye, usanga ubutaka bufite UPI: 1/02/13/02/1105 ari “superposé” ku bibanza bigera kuri bitandatu (6), kandi ko “contrat de location” Umujyi wa Kigali wahaye Archidiocèse ya Kigali, igaragaza ko ihawe ubutaka bigaragara ko buri muni y'umuhanda wari muri gahunda zo guhangwa. [15] Me Bigaraba John akomeza avuga ko kuba haragaragajwe ko umuhanda unyura mu kibanza kibaruye kuri UPI: 1/02/13/02/1105, bimutera kwibaza niba ubutaka bwimuka, akavuga ko yumva byarakozwe mu rwego rwo kugira ngo hagire abantu bahabwa ingurane batayikwiye, kandi ko kuba hatagaragazwa amasezerano y'ubugure hagati ya Archidiocèse ya Kigali na Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa ndetse n'ahatangiwe ubwishyu, asanga ari uburyo bwo koroshya ibintu, kuko atumva ukuntu umutungo wa Archidiocèse wagurishwa mu kirere nta nyandiko zikozwe, kuko umutungo utari uw'umuntu ku giti cye utagurishwa nta nyandiko. [16] Avuga kandi ko asanga Ikigo cy'Igihugu Gishinzwe Ubutaka cyarakoze ibintu bidafututse, ari yo mpamvu yifuza ko hagaragazwa

ibimenyetso yifuza kugira ngo amenye ko ibintu byakozwe mu mucyo (amasezerano y'ubugure n'inyandiko yishyuriweho), kubera ko atumva uburyo ubugure bwabaye hagati ya Archidiocèse ya Kigali n'ikigo cy'ishuri, bukaba bwaranditswe kuri Mwumvaneza Félicien n'umugore we Zirimwabagabo Irène Umukobwa. [17] Ashingiye ku ngingo ya 4 y'Iteka rya Minisitiri N° 001/2006 ryo ku wa 26/09/2006 rigena imiterere y'ibitabo bikoreshwa mu gucunga ubutaka, inshingano n'imikorere by'ibiro by'ubutaka muri

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buri Karere, iteganya ko ibitabo bikoreshwa ari: 1°igitabo cya fishi y'ubutaka, 2°igitabo cy'amasezerano y'ubukode bugufi, 3° igitabo cy'amasezerano y'ubukode burambye, avuga ko "acte de notoriété" yo ku wa 15/03/2011 nta gaciro yahabwa, kuko muri uwo mwaka zitari zigitangwa, kandi ko "acte de notoriété" cyari icyangombwa cyatangwaga ku butaka butari muri "plan cadastral", Umujyi wa Kigali ukaba utarayitangaga ku butaka bwatangiwe "contrat de location" bunafite "fiche cadastrale", kuko bwo bwarangwaga n'izo nyandiko zombi. Avuga ko izo nenge uko ari eshatu (3) zari zihagije kugira ngo Urukiko rwemeze ko mu kugaragaza nyir'umutungo, izo nyandiko nta shingiro zahabwa, rukaba rwashingira ku bindi bimenyetso by'uko buri muburanyi yagombaga kugaragaza inkomoko y'umutungo we, kandi ko ubutaka bwa Niragire Théogène bufite inkomoko idafite amakemwa kuko yawuguze na ba nyirawo, banabyemeje imbere y'Urukiko ndetse ko Umujyi wa Kigali utari warabambuye ubwo butaka mbere y'uko babugurisha muri 2006, akaba yibaza uburyo Leta yahaye Archidiocèse ya Kigali ubwo butaka bwari bufite bene bwo. [18] Akomeza avuga ko mu gihe cy'ibarura ry'ubutaka, Archidiocèse ya Kigali yabaruje ubutaka bwayo ikabuharwa amasezerano afite numero UPI: 1/02/13/02/1106 ku wa 16/09/2011, ko muri icyo gihe iyo ibona ko ubuso bw'ubutaka yahawe budahuje n'ubuso bw'ubutaka bwanditswe ku masezerano, yagombaga gusaba ko bikosorwa, ariko ko igihe ikibazo cyashyikirizwaga inkiko ari bwo Archidiocèse ya Kigali yavuze ko ku cyangombwa gifite numero UPI: 1/02/13/02/1106 yahawe ubuso buto, isaba ko byakosorwa, mu mwaka wa 2016 ubwo butaka buhabwa numero UPI: 1/02/13/02/1105, kandi uburyo bwo gukosoza ibyangombwa by'ubutaka buteganywa n'ingingo ya 31 y'Iteka rya Minisitiri N° 002/2008 ryo ku wa 01/04/2008 rigena uburyo iyandikishwa ry'ubutaka rikorwa, ivuga ko ikosora iryo ari ryo ryose n'inyandiko zohereza ku zindi byemezwa kandi bigashyirwaho umukono n'Umubitsi cyangwa Umubitsi wungirije. Nta kosora ry'uko inyandiko iteye cyangwa se inyandiko yohereza ku yindi bishobora gukorwa iyo mihango y'iyandika yashojwe. Iyo bigaragaye nyuma ko habayeho ukwibeshya, Umubitsi ashobora kubikosorera ku itariki agezeho akoresheje ingingo isobanura impamvu zibiteye. Iyo bigenze bityo, ingingo y'ikosora yandikwa mu gitabo cyandikwamo ibikorwa bya buri munsu. Iyo iyandikwa rifite aho rihuriye n'iyandikwa ryaribanjirije, irya nyuma rigomba kugaragaza numero ya gahunda y'iyandikwa rya mbere kandi n'inyuma y'umurongo wo mu mpande z'inyandiko ya mbere hakandikwa inomero ya gahunda y'inyandiko nshya, akaba asanga bitumvikana ukuntu hatangwa ibyangombwa bibiri ku mutungo umwe, bikanahabwa ubuso butandukanye hatabayeho gukosoza. [19] Anavuga ko ingingo ya 58 n'ya 59 z'Iteka rya Minisitiri N° 002/2008 ryo ku wa 01/04/2008 rigena uburyo iyandikishwa ry'ubutaka rikorwa, zivuga ko abaturanye n'ukosoza imbibi cyangwa wandikisha ubutaka bagomba kubazwa, kugira

ngo harebwe niba nta kibazo bafitanye, kugira ngo hatabaho kurengera imbibi, kuko ubutaka umuntu atunze ari ntavogerwa, kandi ko mu rubanza RS/INJUST/RC 00004/2018/SC rwaciye ku wa 21/02/2020, Urukiko rw'Ikirenga rwemeje ko kuba umuntu yaribarujeho ubutaka bitavuga ko ari ubwe, ahubwo ko ikigenderwaho ari uko agomba kwerekana inkomoko yabwo, igaragaza ko yabubonye mu buryo bukurije amategeko. [20] Me Shema Gakuba Charles wunganira Niragire Théogène avuga ko mu mwanzuro w'Ikigo cy'Igihugu Gishinzwe Ubutaka, Me Habiya Mbere Clément yasobanuye ko igishushanyo cyagendeweho mbere inkiko zibanza zashingiyeho nta kuri kukirimo, ko inyandiko zatanze n'Akarere ka Gasabo ku wa 22/04/2022 ari zo zirimo ukuri, ko Niragire Théogène yaguze haruguru

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y'umuhanda, hagakomeza kugera ku muhanda, nyamara inkiko zibanza zikaba zaravuze ko Archidiocèse ya Kigali yari yarahawe haruguru y'umuhanda kandi yarahawe muni y'umuhanda. [21] Akomeza avuga ko inyandiko zatanze n'Akarere ka Gasabo zigaragaza neza inkomoko y'ubutaka buburanywe, inkiko zabanje zikaba zaraburanishije urubanza zidafite izo nyandiko, kandi ko inyandiko uwo yunganira yaguriyeho, zigaragaza ko yaguze na bene ubutaka, bikaba byaranemejwe n'abayobozi b'inzego z'ibanze, ko Ikigo cy'Igihugu Gishinzwe Ubutaka cyifuje ko hashingirwa ku byavuzwe n'ubuyobozi bw'inzego z'ibanze, kubera ko ibyangombwa byatanze mbere byanashingiyeho n'inkiko mu gufata ibyemezo, byarimo uburiganya, ko kuba hatagaragazwa inyandiko Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa bishyuriyeho ikiguzi cy'ubutaka baguze na Archidiocèse ya Kigali, biteye ugushidikanya mu kwemera niba koko harabayeho kugura no kugurisha. [22] Asobanura ko kuba ubugure bwarabaye hagati ya Archidiocèse ya Kigali n'ikigo cy'ishuri Maranatha, ubu icyangombwa cy'ubutaka kikaba cyanditse kuri Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa, byumvikanisha ko habaye uburiganya, na cyane ko hagaragara inyandiko yanditswe na Archidiocèse ya Kigali isaba ubutaka, ntihaboneke iyanditswe isubizwa ivuga ko yemerewe ibyo yasabye. Asaba ko ibyavuzwe n'abatangabuhama bihuzwa n'ibimenyetso byavuye mu buyobozi bw'inzego z'ibanze, Niragire Théogène ahabwe ingurane y'ubutaka bwe bwatwawe n'umuhanda. [23] Me Sebukonoke Innocent wunganira Niragire Théogène avuga ko bidashoboka ko ubutaka bumwe butangirwa ibyangombwa bibiri, ko rero bidashoboka ko Niragire Théogène yabaruza ubutaka muri 2011, ngo Archidiocèse ya Kigali yongere ibubaruza muri 2016, kandi ko abatangabuhama babajijwe, basobanuye ko Archidiocèse ya Kigali yari yarateye ibiti bigaragaza imbibi hagati y'ubutaka bwayo n'ubwa Niragire Théogène ndetse yaranatangiye gusiza mu kwayo, ko hari n'umutangabuhama wasobanuye ko ahasizwaga hari hateganyirijwe ubusitani bw'umudugudu wa Juru. [24] Niragire Théogène asobanura ko hagati y'umudugudu wa Juru n'umuhanda, nta kindi kintu gihari uretse igishanga, kandi ko ubuso bw'ubutaka buri ku cyangombwa cye atari ko bungana mu by'ukuri, ko kuburebeshya amaso ari bunini cyane, akaba yari yarabuguze agamije kubukoreramo ibikorwa by'ubworozi, ko hari abashumba bazi ko yahahingaga urubingo, akaba yarahanaga urubibi n'umudugudu wa Juru wonyine, ko icyangombwa cy'ubutaka Archidiocèse ya Kigali yahawe muri 2016, cyaje cyorosa ubutaka bwe. [25] Niragire Théogène akomeza avuga ko mu gihe ubutaka bwabururwaga muri 2011, nta

gishushanyo mbonera (Master plan) cyariho, ko icyo Akarere gafite ari icyo muri 2013, akaba akinenga kubera ko kigaragaza ko mu kwe habaye igishanga, nyamara atarigeze asabwa gusubiza icyo cyangombwa cy'ubutaka, ndetse ko na mbere hose nta kibazo cyari gihari, ko yamenye ikibazo ari uko hagiye gutangwa ingurane (expropriation). [26] Me Habiyambere Clément uhagarariye Ikigo cy'Igihugu Gishinzwe Ubutaka, avuga ko icyo Kigo cyashatse dosiye ya pariseri numero 10078 mu Karere ka Gasabo kugira ngo kimenye amakuru nyayo ku nkomo y'uwo mutungo, Akarere gatanga dosiye ku wa 18/04/2022 harimo "Formulaire de visite et d'inspection" igaragaza igishushanyo kigaragaza ko pariseri Archidiocèse ya Kigali

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yahawe, iri muni y'ahagombaga kuzajya umuhanda, mu gihe Niragire Théogène we yavugaga ko afite pariseri igabana n'umudugudu wa Juru ikamanuka ikagera mu gishanga. Avuga kandi ko igishushanyo kiri kuri "formulaire de visite et d'inspection" ari na cyo kigaragara kuri "procès verbal de mesurage et de bornage" yo ku wa 15/03/2004, bikaba bivuze ko ikibazo cyo kumenya imbibi za buri wese cyagaragajwe mu manza zabanje cyakemuwe. [27] Akomeza asobanura ko dosiye yo muri 2004 yavuye mu Karere ka Gasabo irimo "fiche cadastrale" y'ikibanza numero 10078, ari na yo ikwiye gufatwaho ukuri, kuko iyagaragajwe na Archidiocèse ya Kigali igaragaza ikibanza gifite numero 9934, ikagira amasezerano y'ubukode y'ikibanza numero 10078, ko ifite numero 9934 nta gaciro ikwiye guhabwa nk'ikimenyetso, akaba asanga hagomba no gusuzumwa ibindi bimenyetso biri muri dosiye yavuye mu Karere ka Gasabo, mu rwego rwo kumenya inkomo y'ubutaka buri wese aburana. [28] Asobanura ko dosiye yavuye mu Karere ka Gasabo igaragaza ko Umujyi wa Kigali wahaye Archidiocèse ya Kigali ubutaka, ko hari "fiche cadastrale" ifite numero 10078 na numero 9934, babonye bidasobanutse bifashisha igishushanyo, kigaragaza ko ubutaka bwa Archidiocèse bwari muni y'aho umuhanda uzanyura, kandi ko icyo gishushanyo gikorwa, uwo muhanda wari utaracibwa ariko kigaragaza aho ushobora kuzanyuzwa. Avuga ko umukozi wakoze igishushanyo muri icyo gihe yagaragazaga ubutaka bwa Archidiocèse ya Kigali bwonyine, kubera ko ubwa Niragire Théogène butari buhari. [29] Avuga na none ko akurikije igishushanyo, abona Archidiocèse ya Kigali yarahawe ubutaka buri muni y'umuhanda iruhande rw'igishanga, yakumva ibisobanuro bitangwa na Niragire Théogène, akumva ubutaka bwe buhera hejuru y'umuhanda bukamanuka ku gishanga, ariko bagera ku kiburanwa, bagasanga numero y' ikibanza 9934 ari iy'undi muntu witwa Nyiradende Thérèse, ari yo mpamvu abona ko habayeho kwibeshya, hakaba hagenderwa ku bimenyetso biriho. [30] Me Habiyambere Clément akomeza asobanura ko ubusanze "contrat de location" ihabwa umuntu wamaze kwerekwa ubutaka yahawe, ko kuba bigaragara ko ari ibanza bibiri bitandukanye, yumva ibyangombwa byatanze nta gaciro byahabwa n'iyi haba harabaye kwibeshya kandi ko iyo umuhanda unyuze mu kibanza kikavamo bibiri, nyiracyo ahabwa ibyangombwa by'ibanza bibiri kubera ko kiba kitakiri kimwe. Asobanura ko mu gihe cyo kubarura ubutaka muri 2011, ubutaka bwose bwahawe numero, ko ariko umuntu ashobora gutunga icyangombwa cy'ubutaka, ibigikubiyemo bitandukanye n'ibiri kuri "terrain", ko kuba ufite icyangombwa cy'ubutaka bidasobanuye ko ari ubwawe kandi ko ibibazo nk'ibyo Ikigo cy'Igihugu Gishinzwe Ubutaka gikunda guhura na byo, ari yo mpamvu gihora gisaba abaturage kukegera kikabarebera uko ikibazo giteye. Ku kibazo

cy'ishyinguranyandiko (Archives) zo mu mwaka wa 2011 zitaboneka, avuga ko “system” ikoreshwa mu gucunga amakuru arebana n'ubutaka yagize ikibazo, habaho gutakaza amakuru yose yarebanaga n'ibibanza bya mbere ya 2011. [31] Avuga kandi ko icyangombwa cy'ubutaka cyahawe Archidiocèse ya Kigali muri 2011, cyatanzwe hashingiwe ku byangombwa byo muri 2004 kandi ko nta kibazo kirimo, na ho icyatanzwe muri 2016 cyatanzwe hashingiwe ku cyemezo kigaragaza nyir'ubutaka, cyatanzwe n'ubuyobozi bw'inzego z'ibanze, ko inkomoko yabwo yo iri muri dosiye yakuwe mu Karere ka Gasabo, ikaba igaragaza ko Archidiocèse ya Kigali yahawe ubutaka na Leta. Asobanura ko nk'uko umuntu ku giti cye atanga umutungo we, Leta na yo itanga ubutaka kubera ko na yo igira umutungo kandi ko iyo

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ubutaka butagira nyirabwo, aba ari ubwa Leta, akaba ari bwo Archidiocèse yahawe kuko handitse ko ari “parcelle vierge”, ibi bikaba byaranditswe n'umukozi w'Akarere wagiye gusura icyo kibanza bwa mbere kuko yasanze hadatuwe, ko kuba rero Niragire Théogène avuga ko we aho yaguze hari hatuye abantu, byumvikanisha ko ubutaka bwahawe Archidiocèse ya Kigali nta ho bwaba buhuriye n'ubwa Niragire Théogène. Avuga ko Archidiocèse ya Kigali yakorewe ibyangombwa by'ubutaka bishyashya muri 2016, kubera ko yaje ivuga ko itabaruje ubutaka bwayo. [32] Avuga ko nyuma yo kubona inyandiko zikubiye muri dosiye yavuye mu Karere ka Gasabo, asanga Archidiocèse ya Kigali ifite uburenganzira kuri ubwo butaka, Niragire Théogène na we akaba abufiteho uburenganzira, bikaba byumvikanisha ko inkomoko y'ubutaka bwa Niragire Théogène na yo yemewe, ko uko yumvaga ibintu mbere yari mu ruhande rw'uko ubutaka bwa Niragire Théogène bwatwawe n'igishanga, nyuma yo kubona izo nyandiko, akaba ahinduye imyumvire ye ya mbere. [33] Ku birebana no kuba ubutaka bwa Archidiocèse ya Kigali bwaraguzwe n'ikigo cy'ishuri, ariko bukaba bwaranditswe kuri Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa, Me Habiyambere Clément avuga ko ikigo aburanira gitanga ibyangombwa gikurikije inyandiko abakeneye serivisi bakizaniye, ko kuba bwaranditswe kuri abo bombi, ari uko bakigaragariye inyandiko z'ubugure. Asaba Urukiko kuzatanga ubutabera rushingiye ku bimenyetso byatanzwe na buri ruhande. [34] Me Sangano Yves uhagarariye Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa avuga ko ibyerekeye inkomoko y'ubutaka bwa Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa bufite UPI: 1/02/13/02/1105 bitaburanwe ku rwego rwa mbere, ko ikiburanwa cyari gusaba Urukiko kwemeza ko ubutaka bufite numero ya UPI: 1/02/13/02/2207 bufite ubuso bungana na 4.436 m2 bwa Niragire Théogène bwagumana measure zabwo kubera ko bwagabanyijwe mu buryo bunyuranyije n'amategeko, na ho ikibazo cyagombaga gusesengurwa kikaba gusuzuma niba ubutaka bwanditse ku cyangombwa numero UPI: 1/02/13/02/2207 bwakomeza kwandikwaho ubuso bungana na 4.436 m2, nk'uko bwari busanzwe bwanditsweho. [35] Avuga ko ari na byo byatumye icyo kirego cyandikwa mu birego by'ubutegets, kuko ikibazo kitari inkomoko y'ubutaka bufite numero UPI: 1/02/13/02/1105, ahubwo ko Niragire Théogène yumvaga ikigo cy'Igihugu Gishinzwe Ubutaka cyaragabanyije igice cy'ubutaka bwe, kikabushyira kuri numero UPI: 1/02/13/02/1105. [36] Akomeza asobanura ko mu gutanga ikirego mu Rukiko Rwisumbuye rwa Gasabo, Théogène yemeraga ko numero UPI: 1/02/13/02/1105 ibaho, ahubwo akibwira ko bayongereye ubutaka bwe kandi atari byo, kuko

inkiko zibanza zagaragaje ko igice cy'ubutaka bwe cyagiye mu gishanga, kikaba kibarirwa mu mutungo wa Leta nk'uko amategeko agenga imbibi z'ibishanga abiteganywa, ko we yifuzaga ko hakorwa iperereza ryo kugera ku kiburanwa, agamije kugaragaza ko ubutaka bwe butatwawe n'igishanga, ariko ko byaje kugargara ko atari byo, hashingiwe ku makuru we ubwe yitangiye mu gihe cy'ibarura ry'ubutaka, kandi ko atashoboye kugaragaza ikimenyetso kidashidikanywaho kivuguruzwa amakuru abitswe n'Ikigo cy'Igihugu Gishinzwe Ubutaka, ko rero iperereza ryakozwe n'Urukiko Rukuru ari ikindi kimenyetso gihamya neza ko ibyo aregera nta kuri kurimo, kuko ibyagaragaye ubwo Urukiko Rukuru rwageraga ku kiburanwa, bihura n'ibiri ku masezerano y'ubukode burambye yo ku wa 21/12/2011.

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- [37] Avuga kandi ko kumenya inkomoko y'ubutaka bwa Archidiocèse ya Kigali bwagurishijwe Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa, nta ho bihuriye n'ikiburanwa, kandi ko mbere yo kubaza inkomoko y'ubutaka, hagomba kubanza kugaragazwa isano bifitanye uretse kuba buhana imbibi gusa, bityo ko inkomoko y'ubutaka bufite UPI: 1/02/13/02/1105 nta cyo yafasha, kubera ko itigeze iregerwa ku rwego rwa mbere, ndetse akaba atari cyo cyari kigamijwe nk'uko biteganywa n'ingingo ya 1541 y'itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi.
- [38] Me Sangano Yves akomeza asobanura ko ibyangombwa by'umwimerere Archidiocèse ya Kigali yagaragaje nta nenge bifite, kuko nta cyemezo cy'Urukiko cyabitesheje agaciro, ko ahubwo Niragire Théogène agaragaza kwivuguruzwa, aho ku ruhande rumwe avuga ko Archidiocèse ya Kigali itagaragaza inkomoko y'ubutaka bwayo, ku rundi ruhande akanenga ibyangombwa bigaragaza inkomoko y'ubutaka, nyamara kubisuzuma nta cyo byafasha ku cyaregewe, kandi ko kuva ku rwego rwa mbere kugeza mu Rukiko rw'Ubujurire, Niragire Théogène atashoboye kugaragaza uburyo ubutaka bwe bwagabanutse bukongerwa ku bundi butaka busanzwe bufite UPI: 1/02/13/02/1105, ndetse ko yemera ko iyo numero iri ku cyangombwa cy'ubutaka cyahawe Archidiocèse ya Kigali yari isanzwe ihari mu gihe na we yahabwaga icyangombwa, kandi ko urebye icyangombwa cy'ubutaka cya Niragire Théogène, usanga n'ubundi ubutaka buri kuri UPI: 1/02/13/02/1105 ari bunini ugereranyije n'ubutaka bwe ndetse ko ubutaka bwahawe Archidiocèse ya Kigali buhana imbibi n'ubwa Niragire Théogène, akaba nta bworoshe ku bundi.
- [39] Ku birebana no kuba Archidiocèse ya Kigali yaragiye kwandikisha icyangombwa cy'ubutaka bubaruye kuri UPI: 1/02/13/02/1105 idahamagaye abo bahana imbibi, Me Sangano Yves avuga ko nta mpamvu yari gutuma bahamagazwa, kubera ko icyangombwa cy'ubutaka cyatanze na Niragire Théogène kigaragaza ko numero ifite UPI: 1/02/13/02/1105 isanzweho, ndetse n'ifite UPI: 1/02/13/02/2207 ya Niragire Théogène ikaba ihari kandi bigaragara ko zitandukanye.
- [40] Akomeza avuga ko mu gihe Urukiko Rukuru rwageraga ku kiburanwa, umukozi w'Ikigo cy'Igihugu Gishinzwe Ubutaka yazanye imashini yifashishwa mu kugaragaza imbibi (GPS), Niragire Théogène na Archidiocèse ya Kigali buri wese agaragaza aho yapimishije abaruka ubutaka, GPS igaragaza ko ubutaka Niragire Théogène yabaruje buhana imbibi na UPI: 1/02/13/02/1105, kandi ko UPI: 1/02/13/02/1105 itari hejuru (superposé) y'ubutaka bwa

Niragire Théogène bufite UPI: 1/02/13/02/2207. [41] Asobanura ko ku ikubitiro, ubutaka bwari ubwa Kiliziya Gatolika, irangiye isaba abaturage bagize Santarali kujya babukoresha, ko bagiye kubaka kiliziya, igice kimwe ari cyo bayiteganyirije, ikindi gisigara kibereye aho, akaba ari yo mpamvu Kiliziya Gatolika yasabye ko ubutaka bugabwamo kabiri kandi ko iyo uteranyije ubuso bw'ubutaka bufite UPI: 1/02/13/02/1105 n'ubufite UPI: 1/02/13/02/1106, bubyara ubuso bungana na hegitari Archidiocèse ya Kigali yahawe mu ntangiriro, ndetse ko ibyangombwa Niragire Théogène yatanze bigaragaza ko ubutaka bwose yaguze bwagwaga mu gishanga kuko yaguze n'abaturage batagiraga ibyangombwa, amaze kugura aba ari bwo ashaka icyangombwa, ko rero ubuso bw'ubutaka bwa Niragire Théogène bwagabanyijwe bwaguye mu gishanga, akaba atarahawe ingurane kubera ko nta butaka bwe bwigeze buhura n'ahanyujijwe 1 Ingingo ya 154, igika 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 ko ku rwego rw'ubujurire ntihashobora gutangirwa ikirego gishya keretse kuregera guhwanya imyenda cyangwa gutanga ikirego cyo kwiregura ku kirego cy'ibanze cyatanzwe mu rukiko rw'ubujurire.

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umuhanda, kandi ko ubwo Urukiko rwageraga ku kiburanwa, hasobanuwe ko ubutaka bwa Niragire Théogène bwisigaye ari akarongo, hagaragazwa kandi ko inkomoko y'ubutaka bwe ishidikanywaho, kubera ko abantu bose babumugurishije, nta wari ufite icyangombwa, ko kuba rero batagiraga ibyangombwa, byumvikanisha ko bari barabwihaye. [42] Me Sangano Yves akomeza asobanura ko Archidiocèse ya Kigali yari yarahawe ubutaka mbere y'uko Niragire Théogène agura, itangiye kubaka isabwa kugabamo kabiri ubutaka yari yahawe, haboneka UPI: 1/02/13/02/1105 na UPI: 1/02/13/02/1106, kandi ko nta muhanda wari wagacibwa mu gihe hatangwaga icyangombwa cy'ubutaka. Avuga ko kuba Leta yarahagaritse Archidiocèse ya Kigali kubaka kubera umushinga yageneye aho hantu, bidasobanuye ko yambuwe ubutaka, ko uwahawe ashobora guhagarikirwa ibikorwa, ariko agategereza ingurane. Ku birebana no kugaragaza inyandiko z'ubugure n'izishyuriweho ikiguzi cy'ubutaka Archidiocèse ya Kigali yagurishije Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa, avuga ko Urukiko rubasabye kuzishyira muri dosiye babikora, ko ariko nta n'icyo zamara mu gusubiza ikibazo rwashyikirijwe. [43] Me Bayingana Janvier uhagarariye Archidiocèse ya Kigali, asobanura ko Archidiocèse ya Kigali yasabye aho hantu ishaka kuhubaka Kiliziya, itangiye kubaka ifata bwa butaka ibugabanyishamo kabiri kuko igice kimwe yashakaga kugikorera indi mishinga, aba ari bwo havuka UPI: 1/02/13/02/1105 na UPI: 1/02/13/02/1106, ko imaze kubugabanyishamo kabiri ari bwo yabugurishije Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa, babanza gutanga amafaranga y'ikiguzi atuzuye bakorerwa ihererekanyamutungo ku gice kimwe, bamaze kwishyura ikiguzi cyose bakorerwa ihererekanyamutungo ry'ikindi gice. [44] Akomeza avuga ko guhabwa ubutaka bidasaba kunyura mu nzira idahinduka, ko byose bigenda bihinduka bitewe no gutera imbere kw'imikorere y'inzego, kandi ko habaye gushaka inkomoko y'ubutaka, ibyangombwa byatanzwe na Niragire Théogène bitarusha agaciro ibyatanzwe na Archidiocèse ya Kigali, ndetse ko kuba Archidiocèse ya Kigali yarahawe ubutaka na Leta, bizwi kandi bitagibwaho

impaka. [45] Avuga kandi ko ibyo Avoka w'Ikigo cy'Igihugu Gishinzwe Ubutaka avuga ko Niragire Théogène na Archidiocèse ya Kigali bose bafite uburenganzira kuri ubwo butaka, uwo mwanzuro nta cyo ushingiyeho kuri uru rwego, kuko uko icyo kigo cyabibonaga mbere byo byari bishingiye ku byagaragajwe mu iperereza Urukiko Rukuru rwakoze, bishingiye ku bipimo byafashwe na GPS, binashingiye ku bimenyetso by'inkomoko y'umutungo byatanzwe na Archidiocèse ya Kigali, kandi ko dosiye yavuye mu Karere ka Gasabo nta kibazo cy'ibipimo kiyivugwamo, nyamara ari byo biburanwa muri uru rubanza. Asaba Urukiko kwitondera imyumvire y'Avoka uhagarariye Ikigo cy'Igihugu Gishinzwe Ubutaka, kuko icyo kigo kitigeze kivuga ko ubutaka bwa Niragire Théogène bwometswe ku bwa Archidiocèse ya Kigali, ko habayeho kumusubiza ubutaka yatakaje, harebwa aho bwashyizwe. [46] Me Bayingana Janvier anavuga ko Niragire Théogène adashobora kubona aho yagurira ubutaka bwe uretse kuba bwakwagurirwa mu gishanga kuko cyo ari kinini, kubera ko ubutaka bwe bufite amajyepfo, amajyaruguru, ibumoso n'iburyo, mu majyaruguru yabwo hakaba hari umuhanda. Asobanura ko ikarita iri muri dosiye y'urubanza, igaragaza imiterere y'ubutaka muri 2013 no muri 2023 kandi ko nta cyahindutse, ikaba igaragaza ko ubutaka bwa Niragire Théogène bwegereye igishanga, kandi ko Archidiocèse ya Kigali ifite ubutaka bwayo kuva muri 2004, abatangabuhamya

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bakaba baragaragaje byibuze uwabanje gutura aho hantu hagati yayo na Nirere Théogène ndetse ko kuva muri 2004, habagaho ibyangombwa by'ubutaka n'ubwo bigenda bihindagurika bitewe n'ibihe. [47] Me Bayingana Janvier avuga kandi ko kuba Urukiko rwarigereye ku kiburanwa, rukerekwa amakarita agaragaza imiterere y'ubutaka, nta cyo numero z'ibibanza zamarira Niragire Théogène mu gukemura ikibazo yashyikirije Urukiko. Avuga ko kuba haragaragajwe ubutaka bufite UPI: 1/02/13/02/1105 hakagaragazwa n'ubutaka bufite UPI: 1/02/13/02/2207, hatavugwa ko habaye uburiganya kandi ko bubaye bwaranabayeho, butashakishirizwa ku ruhande rwa Archidiocèse ya Kigali, ku rwa Mwumvaneza Félicien cyangwa ku ruhande rwa Zirimwabagabo Irène Umukobwa. Ashimangira ko nta butaka bwamizwe n'ubundi, ahubwo ko habayeho abafite ikibazo cyo gushakira inyungu mu ngurane (expropriation). Asaba Urukiko kuzahuza ibimenyetso byatanzwe n'uwo ahagarariye bigaragaza inkomoko y'ubutaka n'ibyo rwiboneye rugeze aho ubutaka buburanwa buherereye, maze ruzabone ko Archidiocèse ya Kigali ifite ibimenyetso by'inkomoko y'ubutaka buburanwa, hazirikanwe ko ibishanga bihindagurika, ko uko byari bimeze mbere atari ko bikimeze ubu. UKO URUKIKO RUBIBONA [48] Ingingo ya 3 y'itegeko N°15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganywa ko buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana. [49] Ingingo ya 21, igika cya 2 y'itegeko N° 27/2021 ryo ku wa 10/06/2021 rigenga ubutaka iteganywa ko « Ihererekanya ry'uburenganzira ku butaka rikorwa binyuze muri ibi bikurikira: 1° izungura; 2° impano; 3° irage; 4° ikodeshwa; 5° igurishwa; 6° iyatishwa; 7° ingurane; 8° gutangwaho ingwate; 9° gutizwa; 10° ubundi buryo ubwo ari bwo bwose bw'iherekanya hakurikijwe uburyo n'inzira biteganywa n'amategeko. [50] Dosiye y'urubanza irimo inyandiko z'amasezerano y'ubugure bw'imirima irimo ubwatsi iri mu kibaya cya Nyarutarama Niragire Théogène yagiranye n'abantu batandukanye bayihingaga, harimo amasezerano y'ubugure bw'ubwatsi yo ku wa 07/11/2006 hagati ye n'abitwa

Karangwa Félix na Nkuriye Samuel, ayo yagiranye na Mbonabucya Gaspard ku wa 06/11/2006, ayo yagiranye na Kaneza Protogène ku wa 02/01/2009, amasezerano y’ubugure yo ku wa 12/01/2009 hagati ya Niragire Théogène na Mukamparirwa Monika n’ayo Niragire Théogène yagiranye na Rugambage Eugène ku wa 12/06/2011. [51] Amasezerano y’ubukode burambye y’ikibanza gifite UPI: 1/02/13/02/2207 yanditse ku mazina ya Niragire Théogène na Mukakarangwa Christine, agaragaza ko icyo kibanza gifite ubuso bungana na 4,435 sqm. [52] Hari ibaruwa yo ku wa 14/07/2003, Archidiocèse ya Kigali yandikiye ubuyobozi bw’Umujyi wa Kigali, isaba ikibanza i Nyarutarama muni y’umudugudu hafi y’igishanga, isobanura ko yifuza kuhakorera umushinga wo kubaka Kiliziya nshya ya Paruwasi ya Nyarutarama, ikigo cy’abapadiri n’inzu mberabyombi, Umujyi wa Kigali uyemerera ikibanza numero 10078 mu ibaruwa yo ku wa 05/04/2005.

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[53] “Fiche cadastrale” y’ikibanza numero 10078 igaragaza ko nyiracyo ari Archidiocèse ya Kigali, “acte de notoriété” yo ku wa 15/03/2011, ikagaragaza ko handikishwaga ikibanza numero 10078 gifite ibipimo bingana na 2h 6 ares 07 ca. Na ho amasezerano y’ubukode burambye, agaragaza ko ikibanza gifite UPI: 1/02/13/02/1106 gifite ubuso bungana na 7,629 sqm, ikibanza gifite UPI: 1/02/13/12/1105 gifite ubuso bungana na 14,195 sqm, ibi bibanza byombi bikaba byanditse kuri Archidiocèse ya Kigali. [54] Bigaragara kandi ko ku wa 21/06/2016, Archidiocèse ya Kigali yujuje inyandiko isaba iyandikisha ry’ubutaka butabaruwe, muri iyo nyandiko isobanura ko habaruwe ubufite UPI: 1/02/13/02/1106, ikindi gice nticyabarurwa, ikaba ibanzirizwa n’icyemezo cyo ku wa 26/05/2016, aho Umunyamabanga Nshingwabikorwa w’Akagari ka Nyarutarama yemezaga ko Archidiocèse ya Kigali ihafite ubutaka 1105 kandi ko butarimo amakimbirane. Harimo kandi inyandiko y’amasezerani afite umutwe ugira uti” Kwemera kugurisha ubutaka” muri ayo masezerano, hagaragaramo ko Archidiocèse ya Kigali yemeye kugurisha Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa ubutaka bwayo bufite UPI: 1/02/13/02/1106 na UPI: 1/02/13/02/1105. [55] Raporo y’ubuyobozi bw’Umudugudu wa Kangondo I yo ku wa 23/12/2019, ivuga ko hari abaturage batabaruriwe ibyabo mu gihe cyo gusiza umuhanda harimo uwitwa Gatabazi Sylvestre, Niragire Théogène na Habimana Jean Bosco. [56] Mu gufata icyemezo ku kibazo cyo kumenya niba hari ibimenyetso bya Niragire Théogène na Mukarusine Verena bitagaragaye kubera ko Urukiko rutagiye ku kiburanwa, Urukiko Rukuru rwasanze kuba Urukiko Rwisumbuye rutaragiye ku kiburanwa nta kosa rwakoze kubera ko kujyayo atari itegeko cyangwa ihame, ko umucamanza akena kujya ku kiburanwa mu bushishozi bwe kandi ko umuburanyi usabye Urukiko kujya ku kiburanwa atari ngombwa ko abyemererwa na cyane ko Urukiko rushobora kujyayo rubyibwirije mu gihe rusanga ari ngombwa. [57] Rwasanze kandi Archidiocèse igaragaza ko yahawe umutungo yagurishije Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa ugizwe n’ubutaka bubarurwa kuri UPI: 1/02/13/02/1105 bufite ubuso bungana na 14.195 sqm, n’ubwanditse kuri UPI: 1/02/13/02/1106 bungana na 7.497 sqm, iwuhabwa n’urwego rubifitiye ububasha, igaragaza “contrat de location” yo ku wa 31/12/2004, na “acte de notoriété” yo ku wa 15/03/2011, kandi ko nta kimenyetso cyagaragajwe cyaba cyemeza ko ibyo byangombwa byaba byarateshejwe agaciro. [58]

Urukiko Rukuru rwasobanuye kandi ko kuba buriya butaka Archidiocèse yarabuhawe, byarumvikanye mu mvugo y'umutangabuhamya witwa Mugwaneza Désiré, wabajijwe mu gihe Urukiko Rukuru rwajyaga ku kiburanwa, aho yatanze amakuru ko aho hantu hatanzwe n'umukozi wa "Land Center" nyamara bitari bikwiye, ahaha umupadiri wari ugiye kuhubaka "chapelle", biteye ikibazo inzego z'ubuyobozi mu kugikemura, zemeza ko hadakwiye kubakwa, ko nta gikwiye kuhakorera, hemezwa ko ibyangombwa byatanzwe biteshwa agaciro, ariko ko bitigeze bikorwa, ndetse ko ibi byagarutswaho na Niragire Théogène avuga ko hari hasabwe ko ibyangombwa biteshwa agaciro ariko ntibikorwe, rusanga rero ibi byumvikanyishye ko bibaye ariko byagenze, nta cyakuyeho ko Archidiocèse ya Kigali yahawe aho hantu, Leta inayihahera ibyangombwa byakomeje kugira agaciro. [59] Rushingiye ku bipimo byafashwe n'umuhanga wo mu Kigo cy'Igihugu cy'ubutaka witwa Niyigena Jean Baptiste mu gihe rwari ku kiburanwa, wagaragaje aho ubuso bw'igishanga bugarukira,

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akerekana ko ubuso bw'ubutaka bwa Niragire Théogène buherereye hagati y'ahashyizwe mu gishanga n'ubutaka bubaruye kuri UPI: 1105 bwanditse kuri Mwumvaneza na Zirimbwabagabo, ubwa Niragire bugatambikamo ari buto cyane mu bugari, bukagenda mu burebure, bukungu na sqm 36 nk'uko yabugaragarijwe; ubwo buso bukongerwaho ubuso bw'ahakuweho nk'igishanga bigahura n'ubuso bwe bwose, bikaba biboneka kuri raporo yiswe raporo ku butaka bw'igishanga mu Kagari ka Nyarutarama yakozwe ku wa 14/12/2021, Urukiko Rukuru rwanzuye ko nta buso bwakuwe ku mutungo wa Niragire Théogène. [60] Ku birebana n'ibyasabwe na Niragire Théogène n'abamwunganira, aho bavugaga ko hakwiye gushingirwa kuri raporo yakoresheje ubwe, Urukiko Rukuru rwasanze bitahabwa agaciro, kubera ko yayikoresheje nyuma y'uko ruvuye ku kiburanwa, nta wundi muburanyi uhari, mu gihe iya mbere yakozwe impande zose zihagarariwe, igakorwa kandi hakoreshejwe ibikoresho byabugenewe, bitagenzurwa n'abantu ngo habe hakekwa ko yerekanye ibyo Ikigo cy'Igihugu cy'Ubutaka cyagaragaje, kandi buri ruhande rubanje kugaragaza umutungo ubaruye ku cyangombwa cyarwo. [61] Ku birebana n'amasezerano y'ubugure atandukanye Niragire Théogène n'abunganizi be bavugaga ko yashingirwaho nk'inkomoko y'umutungo we, Urukiko Rukuru rwasanze atashingirwaho, kubera ko uretse no kuba yose yarakozwe muri 2006, nyuma y'uko Archidiocèse ya Kigali ihabwa ubutaka muri 2004, anavugwamo ko bamugurishije ubwatsi bw'amatungo, bigahura n'ibigaragazwa na "Land Center" ko ari mu gishanga, kandi ko byagarutswaho n'undi mutangabuhamya wavuze ko aho hantu ahazi agura ubwatsi bw'amatungo na Niragire. Undi mutangabuhamya uri mu bagurishije Niragire, akaba yarabwiye Urukiko ko aho bamugurishije bari barahaguze n'umukecuru wari utuye hakurya y'ahaburanwa, ariko ko atazi aho uwo mukecuru yari yarahakomoye, ko bamubonaga ahahinga gusa, ko n'abandi bagurishije Niragire, nta yandi makuru bafite ku nkomo y'aho. [62] Ku birebana no kuba uruhande rwa Niragire Théogène rwaravuze ko mu nyandiko zigaragazwa na Archidiocèse ya Kigali harimo inenge, Urukiko Rukuru rwasanze bitahabwa agaciro kuko kuri "contrat de location" yatanze ku wa 31/12/2004, havugwamo ko Archidiocèse ya Kigali ihawe ubutaka "à usage social" buherereye i Nyarutarama, bufite numero 10078, bungana na 2 ha 06 a 07 ca. iyo numero n'ingano akaba ari na byo biboneka ku nyemezabwishyu ya "acte de notoriété".

[63] Urukiko Rukuru rwanzuye ko nta kimenyetso kitagaragajwe no kuba Urukiko Rwisumbuye rutaragiye ku kiburanwa, kubera ko na rwo ubwarwo rwigiriye ku kiburanwa nta cyo rwabonye, kuko Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa bavuga ko ubutaka bafite babugurishijwe na Archidiocèse ya Kigali na yo yagaragaje ibimenyetso by'inkomoko y'ubutaka yabagurishije, Niragire Théogène akaba atarashoboye kubivuguruza. [64] Ku kibazo cyo kumenya niba mu rubanza rujuririrwa hataragaragajwe inkomoko y'umutungo Archidiocèse ya Kigali yagurishije Zirimwabagabo Irène Umukobwa na Mwumvaneza Félicien, Urukiko Rukuru rwashingiye ku kuba baragaragaje ko umutungo UPI: 1105 na 1106 bawuguze muri 2017 na Archidiocèse ya Kigali, Archidiocèse ya Kigali ikagaragaza ko umutungo w'ubutaka ungana na 2ha 6 ares 07 ca yawuhawe n'Umujyi wa Kigali muri 2004, ikagaragaza ibyangombwa yahawe icyo gihe bigizwe na "contrat de location" yo ku wa 31/12/2004, na "acte de notoriété" yo ku wa 15/03/2011, ikabubaruza kuri UPI: 1/02/13/02/1105 na UPI:1/02/13/02/1106, rusanga ibyo bimenyetso bigomba guhabwa agaciro kuko bitavuguruzwa n'amasezerano y'ubugure Niragire Théogène agaragaza kuko yo yakozwe nyuma, kandi hakaba hatagaragazwa ibimenyetso

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bidashidikanywaho by'uko abo avuga ko bamugurishije bari bene umutungo, rusanga kandi mu buryo bwo kubona umutungo harimo kuwuhabwa n'ubifitiye ububasha, kuwugura cyangwa kuwuzungura. Kuri iyi ngingo, rwanzuye ko ibivugwa n'uruhande rwa Niragire Théogène ko nta bimenyetso byagaragajwe, nta kuri kurimo. [65] Mu iperereza ryakozwe n'Urukiko rw'Ubujurire ku wa 10/01/2023, uwitwa Mukamparirwa Monique yasobanuye ko hari ubutaka yagurishije Niragire Théogène muri 2006, akaba yari yarabuhawe na Nkuriye Samuel, uyu na we avuga ko hari ubwo yagurishije Niragire Théogène, akaba yari yarabugurishijwe n'uwitwa Nyanzira. Sindambiwe Simon yasobanuye ko hari ubutaka bwo guhingamo ubwatsi bw'amatungo yagurishije Niragire Théogène. [66] Uwitwa Ndayisaba Déo na Ntivuguruzwa Emmanuel basobanuye ko muri za 1998 hatangijwe Santarali, muri 2000 hakenerwa kubakwa amacumbi, uwari ushinze umutungo muri Diyosezi yandikira Umujyi wa Kigali asaba ikibanza, Umujyi urakiyemerera, ko yagombaga kuhakorera imishinga ibiri, muri za 2007, Diyosezi itangira gusiza kandi ko mu gihe yasizaga nta wayihagaritse avuga ko ari mu kwe, ndetse ko n'ubwatsi bw'amatungo butari buhinze ahasizwaga. [67] Uwitwa Ndushabandi Faustin yasobanuriye Urukiko ko azi ko Diyosezi yari yarahawe hirya, kandi ko yari yaratangiye gusiza n'ikibanza kikaba kigaragara, akaba yarabonaga Niragire Théogène ari we uHINGA ahagaragajwe ko haburanwa. [68] Mugwaneza Désiré yasobanuye ko atazi niba ahagaragajwe ari aha Archidiocèse ya Kigali cyangwa aha Niragire Théogène, ko icyo azi ari uko ubwo butaka ari ubwa ba nyir'amazu yubatswe haruguru y'umuhanda, aha Niragire Théogène hari haherereye hirya. Uwitwa Tumushimire Christine yasobanuye ko muri 1995 yari mu ishyirahamwe ry'abadamu bishyize hamwe bahinga igishanga, bakaba barahanaga urubibi na Nkuriye ataragurisha Niragire Théogène, ko nta byangombwa by'ubutaka bari bafite, muri 2003 aba ari bwo abona Abagatolika baje. [69] Uwitwa Murara Etienne yasobanuye ko yari azi ko aho hantu ari aha Niragire Théogène kubera ko ari we yabonaga ahahinga ubwatsi, nyuma aza kumva ko Abagatolika bahabonye ikibanza. [70] Bayavuge Gaspard yasobanuye ko ari we wanditse inyandiko nyinshi Niragire

Théogène yaguriragaho imirima, na ho Gatete Etienne akaba yarasobanuye ko Niragire Théogène ari we waguze imirima y'igishanga, ayigura n'abaturage bari bayihafite, kandi ko nta byangombwa bari bafite. [71] Padiri Uwamungu Jean de Dieu ushinze ubutaka bwa Diyosezi, yasobanuye ko Archidiocèse yahawe ubutaka n'urwego rw'ubuyobozi rubifitiye ububasha, itangira gusiza kandi ko itari gusiza ahantu hose icyarimwe, ndetse ko nta kwitiranya ubutaka kuriho kubera ko nta bugerekeranye n'ubundi. [72] Umukozi w'Akarere ka Gasabo ufite ubumenyi n'inshingano mu gupima no kugena imbibi z'ubutaka witwa Mugabonkabandi Gilbert, akoresheje igikoresho cyabugenewe, yagaragaje aho ubutaka bufite UPI: 1/02/13/02/1105 butangirira n'aho ububaruwe kuri UPI:1/02/13/02/2207 butangirira ubu. Yasobanuye ko ubutaka bubaruwe kuri UPI: 1/02/13/02/2207 busigaranye ubuso bungana na 36sqm, ikindi gice cyabwo cyagiye mu mbibi z'igishanga gihabwa indi numero, kandi ko mu bihe binyuranye imbibi z'ibishanga zagiye zihindurwa, ubuyobozi bugakungurira abaturage kuza

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gufata ibipimo bishyashya, bamwe ntibitabire icyo gikorwa. Yavuze kandi ko nta butaka bushobora kwinjira mu bundi, ko igishoboka ari uko numero imwe yakwinjira mu yindi bitewe n'ibikoresho byakoreshejwe mu gufata ibipimo, ndetse ko mu kugena ubuso bw'ibishanga, hamaze kuba impinduka zigera kuri eshatu. [73] Urukiko rw'Ubujurire rurasanga, kuba abaturage baragurishije Niragire Théogène ubutaka bahingamo ubwatsi bw'amatungo, hakaba haragaragajwe amasezerano y'ubugure yagiranye n'abamugurishije ubutaka, abandi bakabona yarahingaga aho hantu, bitagomba gufatwa nk'ibimenyetso bidashidikanywaho bigaragaza ko abamugurishije umutungo bari bene wo koko, kuko igihe ubugure bwabaga batigeze bagaragaza aho bakomora ubutaka bamugurishije, uretse kuba barahingaga ubwatsi bw'amatungo gusa, hakaba hakwibazwa niba bwaba bwaramizwe n'ubutaka bufite UPI: 1/02/13/02/1105 cyangwa bwaratwawe n'imbibi nshya z'igishanga. [74] Ku byo uruhande rwa Niragire Théogène ruvuga ko inkomoko y'ubutaka bwahawe Archidiocèse ya Kigali itahabwa agaciro kubera ko numero ya "fiche cadastrale" idahuye n'ya "contrat de location", aho "fiche cadastrale" igaragaza ko ari iy'ikibanza numero 9934 na ho "contrat de location" ikagaragaza ko ari iy'ikibanza numero 10078, Urukiko rw'Ubujurire rurasanga, iyo atari inenge yatuma ibyakozwe n'ibyabaye biteshwa agaciro, kubera ko Archidiocèse ya Kigali nta ruhare yagize mu kwandika izo numero kuri izo nyandiko zatanze n'urwego rwa Leta rubifitiye ububasha, cyane ko nta n'umwe mu baburanyi ushobora kwerekana ko zaba ari impimbano cyangwa ngo hagire ugaragaza ubundi butaka bwaba bwarahawe Archidiocèse ya Kigali bufite ziriya numero, butandukanye n'ubwagaragarijwe inkiko mu gihe cy'iperereza. [75] Urukiko rw'Ubujurire rurasanga kandi aho Niragire Théogène n'umwunganira basaba ko "acte de notoriété" yo ku wa 15/03/2011 yakorewe ikibanza numero 10078 iteshwa agaciro bitewe n'uko yatanze kandi nyamara Archidiocèse yo yari yarahawe "fiche cadastrale" na "contrat de location", ngo kuko ubusanze itangwa ari uko ibanza bidafite "fiche cadastrale" na "contrat de location, nta shingiro byahabwa, kubera ko nta cyo bashingiraho bavugaga ko ubutaka bwahawe "fiche cadastrale" na "contrat de location" butemerewe gukorerwa "acte de notoriété", cyane ko atari Archidiocèse ya Kigali yayiyandikiye, ndetse bakaba batanasobanura icyo yaba yangiza mu gihe itanzwe bitari ngombwa. [76] Ku byo uwunganira

Niragire Théogène avuga ko mu gihe Archidiocèse ya Kigali yasabaga gukosora icyangombwa cy'ubutaka itagaragaje abanyembibi bayo, Urukiko rurasanga nta kimenyetso cyagaragajwe cyashingirwaho hemezwa ko Archidiocèse ya Kigali yakosoje ubuso bw'ubutaka bwayo, icyabayeho kandi cyagaragajwe haruguru, ni uko yasabye kubarurirwa ubutaka bwayo butari bwarabaruwe, kandi nk'uko bigaragara muri "acte de notoriété" yo ku wa 15/03/2011, Archidiocèse ya Kigali yahawe ubutaka bufite ubuso bungana na 2ha 6 ares 07 ca, bikaba bigaragara ko ubwo buso bwose butari mu cyangombwa cy'ubutaka bufite UPI: 1/02/13/02/1106 yahawe mbere, kuko bwo bufite ubuso bungana na 7.629 sqm. [77] Ku byo Niragire Théogène n'abunganizi be bavuga ko mu guha Archidiocèse ya Kigali ikibanza gifite UPI: 1/02/13/02/1105 habaye uburiganya, Urukiko rw'Ubujurire rurasanga uretse kubivuga gusa, batabasha kubigaragariza ibimenyetso kandi ihame ari uko uburiganya budakekwa, ahubwo bugomba kugaragazwa (La mauvaise foi ne se présume pas), na ho kuvuga ko kuba Archidiocèse ya Kigali na Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa batagaragaza

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amasezerano y'ubugure ndetse n'ahishyuriwe ikiguzi cy'ubutaka baguze byaba impamvu yo kwemeza uburiganya, Urukiko rurasanga nta shingiro byahabwa, kubera ko babigaragaza cyangwa batabigaragaza, nta cyo byamarira urukiko ndetse n'ababuranyi mu gusubiza ikibazo kirimo gusesengurwa. [78] Urukiko rurasanga na none, nk'uko byasobanuwe n'umukozi w'Akarere ka Gasabo waje gufasha Urukiko mu iperereza ndetse na Avoka uhagarariye Ikigo cy'Igihugu Gishinzwe Ubutaka, hari abaturage batunze ibyangombwa by'ubutaka birimo amakuru atandukanye n'ukuri k'uko ibintu bimeze aho buherereye no mu bubiko bw'ikoranabuhanga ry'ubutaka, kuba rero Niragire Théogène agitunze icyangombwa cy'ubutaka cyanditseho ko bufite ubuso bungana na 4.436 sqm, mu gihe igipimo cyabugenewe kigaragaza ko hasigaye ubuso bungana na 36 sqm, ko ikindi gice cyatwawe n'igishanga, akaba nta cyaherwaho havuguruzwa ibyagaragajwe n'igikoresho cyagenewe kugaragaza ubuso n'imbibi z'ubutaka, kandi kuba Niragire Théogène atarasubije icyo cyangombwa cy'ubutaka cyangwa ngo ahagarikwe gukomeza guhinga muri icyo gishanga nk'uko abivuga, ntibivanaho ko ubuso bw'ubutaka bwe bwahindutse bitewe n'uko imbibe z'igishanga zahindutse igice kinini cy'ubutaka bwe kikaba igishanga. [79] Urukiko rw'Ubujurire rurasanga, nta kimenyetso na kimwe kigaragaza ko ubutaka bwa Niragire Théogène bwagiye ku bwahawe Archidiocèse ya Kigali, cyane ko ubwo Urukiko rwageraga ku kiburanwa, umukozi w'Akarere ka Gasabo wavuzwe haruguru, akoresheje igikoresho cyabugenewe mu kugaragaza ubuso n'imbibi z'ubutaka, yerekanye imbibi z'ubutaka bufite UPI: 1/02/13/02/2207 n'iz'ubufite UPI: 1/02/13/02/1105, ibyo bibanza byombi bikaba bihana imbibi ku buryo bugaragara, nta wavuga ko hari ikigeretse hejuru y'ikindi, ndetse ibimenyetso byatanze bikaba bigaragaza ko Archidiocèse ya Kigali yahawe ubutaka mbere y'uko Niragire Théogène agura n'abahingaga mu kibaya cya Nyarutarama. [80] Hashingiwe ku bisobanuro bitanzwe, Urukiko rw'Ubujurire rurasanga nta bimenyetso byirengagijwe n'Urukiko Rukuru, mu gihe rwemezaga ko ubuso bw'ubutaka bwa Niragire Théogène bubura ku bwari bwanditse kuri UPI: 1/02/13/02/2207, bwatwawe n'igishanga. Iyi mpamvu y'ubujurire ikaba nta shingiro ihawe.

2. Kumenya niba indishyi Niragire Théogène yategetswe n'Urukiko Rukuru zavanwaho [81] Me Bigaraba John avuga ko ubutaka buburanwa ari ubwa Niragire Théogène kuko kuva yabuhabwa nta yindi nyandiko yahawe imumenyesha ko hari igice cy'ubutaka bwe yaba yarambuwe cyangwa ko yabwambuwe bwo ngo anasobanurirwe impamvu, ko ahubwo yabimenyeshejwe mu gihe yakurikiranaga ingurane y'ubutaka bwe mu Mujyi wa Kigali kubera ko bwanyujijwemo umuhanda. Asaba Urukiko rw'ubujurire kwemeza ko nta ndishyi akwiye gucibwa. [82] Me Bayingana Janvier avuga ko kubera ko Niragire Théogène yatsinzwe, Urukiko rwagombaga kumuca indishyi zo gushora abo baburana mu manza. Bityo ko asaba Urukiko rw'Ubujurire kudaha ishingiro iyi ngingo y'ubujurire rushingiye ku ihame ry'uko "Nul ne peut se prévaloir de sa propre turpitude". [83] Me Sangano Yves avuga ko ibyo Niragire Théogène avuga ko nta nyandiko yahawe imumenyesha ko yambuwe ubutaka, bitavuze ko amategeko atagombaga gukurikizwa nk'uko

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biteganywa n'ingingo ya 201 y'Itegeko Nshinga rya Repubulika y'u Rwanda, iteganya ko nta we ushobora kwitwaza ko atazi itegeko iyo ryatangajwe mu buryo buteganywa n'amategeko, kandi ko kuba atarabimenye bitamuha uburenganzira bwo kurega Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa, kuko badafite inshingano zo gutanga ibyangombwa by'ubutaka. UKO URUKIKO RUBIBONA [84] Ingingo ya 111 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ko ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikiye ku kirego cy'iremezo kigamije kwishyura ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishwa rimwe n'ikirego cy'iremezo. Gishobora kandi kwakirwa kikaburanishwa n'iyi ikirego cy'iremezo cyaba kitakiriwe. [85] Urukiko rw'Ubujurire rurasanga, kuba Urukiko Rukuru rutarahaye ishingiro ubujurire bwatanze na Niragire Théogène, nta kosa rwakoze mu kumutegeka guha abo baburana indishyi z'ibyagiye ku rubanza.

3. Kumenya ishingiro ry'indishyi zinyuranye zisabwa n'ababuranyi [86] Me Habiyambere Clément asaba ko Ikigo cy'Igihugu Gishinzwe Ubutaka kigenerwa 1.000.000 Frw yo gutegeka no gukurikirana urubanza, kubera gukomeza gushorwa mu manza kandi ibyo rwakoze rwarabishingiye ku makuru yavuye mu ibarura ry'ubutaka. [87] Me Bigaraba John avuga ko amafaranga yo gutegeka no gukurikirana urubanza asabwa n'Ikigo cy'Igihugu Gishinzwe Ubutaka nta shingiro afite, kubera ko ari cyo cyakoze amakosa yo gutanga icyangombwa cya kabiri mu mwaka wa 2016, kitabanje gutumira abanyembibi kugira ngo hamenyekane niba nta burengere ikosora kigiye gukora rishobora guteza. [88] Me Sangano Yves asaba Urukiko rw'Ubujurire gutegeka Niragire Théogène kwishyura Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa amafaranga y'ikurikiranarubanza n'igihembo cya Avoka angana na 1.000.000 Frw kuri buri wese, ndetse n'indishyi z'akababaro zingana na 50.000.000 Frw kubera gukomeza gutinzwa mu manza bikabatera igihombo kijyanye no kuba badashobora kubona amafaranga y'ingurane no gukomeza kwishyura inguzanyo batse muri BK bagura ubutaka bubaruye kuri UPI: 1/02/13/02/1105 bufite 14,195 sqm, ariko bakaba batabukoresha. [89] Akomeza asobanura ko ibyerekeye igihombo batejwe babigaragarije

Inkiko mu kirego cyihutirwa cyahawe RAD 00025/2020/TGI/GSBO na RAD 00026/2020/TGI/GSBO, aho basobanuye ko mu kugura ubwo butaka, bari bagamiye kubaka amashuri kuko bafite ishuri ryitwa Iwacu Academy ryahoze ryitwa The Maranatha Academy bifuzaga kwagura, uwo mushinga ukaba warahagaze ndetse n'inguzanyo bahawe ikaba itishyurwa neza. [90] Me Bigaraba John avuga ko amafaranga y'ikurikiranarubanza, ay'igihembo cya Avoka ndetse n'indishyi z'akababaro Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa basaba nta shingiro yahabwa, kuko kuva izi manza zatangira Niragire Théogène yasabye ko bagaragaza amasezerano y'ubugure baba baragiranye na Archidiocèse ya Kigali n'aho bishyuriye ikiguzi, ariko

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kugeza ubu bakaba batabigaragaza. Asaba ahubwo ko abaregwa bamwishyura 5.000.000 Frw akubiyemo igihembo cy'Abavoka n'amafaranga y'ikurikiranarubanza, naho Me Sangano Yves akavuga ko indishyi zisabwa na Niragire Théogène nta shingiro zifite, kuko ari we washoye abaregwa mu manza, kandi ko kuba ubutaka bwe bwaragabanutse kubera amategeko, nta ruhare abo ahagarariye babigizemo. UKO URUKIKO RUBIBONA [91] Ingingo ya 111 y'itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu iteganya ko ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikiye ku kirego cy'iremezo kigamiye kwishyura ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishwa rimwe n'ikirego cy'iremezo. Gishobora kandi kwakirwa kikaburanishwa n'ayo ikirego cy'iremezo cyaba kitakiriwe. [92] Urukiko rw'Ubujurire rurasanga, kuba ubujurire bwatanzwe na Niragire Théogène nta shingiro buhawe, amafaranga y'ikurikiranarubanza n'igihembo cy'Avoka asaba atagomba kuyahabwa. Rusanga ahubwo agomba guha abaregwa basabye amafaranga y'ibyagiye ku rubanza agenwe mu bushishozi bwarwo kuko ayo basaba ari ikirenga, nta n'ibisobanuro byihariye bayatangira, Ikigo cy'Igihugu Gishinzwe Ubutaka kikaba kigenewe 700.000 Frw akubiyemo amafaranga y'ikurikiranarubanza n'igihembo cya Avoka, Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa, hamwe bombi bakaba bagenewe 700.000 Frw akubiyemo amafaranga y'ikurikiranarubanza n'igihembo cya Avoka. [93] Urukiko rurasanga, indishyi z'akababaro Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa basaba, nta shingiro zihawe kuko nta bisobanuro batangira akababaro baba baratewe n'uru rubanza, cyane ko bavuga ko hari imanza baregeyemo igihombo bagize. III. ICYEMEZO CY'URUKIKO [94] Rwemeje ko ubujurire bwatanzwe na Niragire Théogène, nta shingiro bufite. [95] Rwemeje ko urubanza RADA 00055/2021/HC/KIG rwaciye n'Urukiko Rukuru ku wa 07/01/2022, rudahindutse. [96] Rutegetse Niragire Théogène guha Ikigo cy'Igihugu Gishinzwe Ubutaka 700.000 Frw akubiyemo amafaranga y'ikurikiranarubanza n'igihembo cya Avoka kuri uru rwego. [97] Rutegetse Niragire Théogène guha Mwumvaneza Félicien na Zirimwabagabo Irène Umukobwa, hamwe bombi 700.000 Frw akubiyemo amafaranga y'ikurikiranarubanza n'igihembo cya Avoka kuri uru rwego. [98] Ruvuze ko amafaranga y'ingwate y'amagarama Niragire Théogène yatanze ajurira, ahwanyeye n'ibyakozwe mu rubanza.

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