

RWANDA / JUDGMENT

UBUSHINJACYAHA vs NIYONSABA

RPAA00194/2024/CA

COURT

Court of Appeal

DECIDED

22 April 2025

CASE / FILE NUMBER

RPAA00194/2024/CA

Source: amategeko.gov.rw · Research copy typeset by Esheria. Not court-issued or certified.

UBUSHINJACYAHA vs NIYONSABA

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2025-04-22
- Case/document no.: RPAA00194/2024/CA
- Collection: Court of Appeal

Text

Page 1

UBUSHINJACYAHA vs NIYONSABA [Rwanda URUKIKO RW'UBUJURIRE – RPAA00194/2024/CA (Nyirandabaruta, P.J.) 22 Mata 2025] Amategeko Mpanabyaha – Ibihano – Impamvu nyoroshyacyaha – Kuja muni y'igihano gito giteganyijwe n'Itegeko – Umurongo wari uriho ntushobora gukurikizwa mu gihe Itegeko wari ushingiyeho ryavuyeho cyangwa ryahinduwe. Incamake y'icyemezo: Uru rubanza rwatangiye Ubushinjacyaha burega Niyonsaba mu Rukiko Rwisumbuye rwa Gicumbi icyaha cyo guhinga ibiyobyabwenge byo mu bwoko bw'urumogi, rumusabira igihano cy'ifungo cy'imyaka makumyabiri (20) n'ihazabu y'amafaranga miliyoni makumyabiri (20.000.000Frw). Niyonsaba yaburanye yemera icyaha avuga ko ingemwe z'urumogi zagaragaye mu murima we, hari umuntu wari wamusabye kuzimwinariza. Urukiko mu rubanza RP00291/2020/TGI/GIC, rushingiye ku kuba Niyonsaba yemera icyaha aregwa, kuba urumogi aregwa guhinga rwarafatiwe mu isambu ye, ku mvugo z'abatangabuhamya na a raporo y'ubuyobozi bw'Inzego z'ibanze, rumuhanisha igifungo cy'imyaka makumyabiri n'itanu (25) n'ihazabu y'amafaranga y'u Rwanda miliyoni makumyabiri n'imwe (21.000.000Frw). Niyonsaba yajuririye imikirize y'urwo rubanza mu Rukiko Rukuru, avuga ko yahawe ibihano byinshi, asaba kugabanyirizwa kugira ngo ajye kwita ku muryango we, Uhagarariye Ubushinjacyaha avuga ko

igihano Niyonsaba yahawe gikurikije amategeko, ariko ko yakigabanyirizwa hashingiwe ku itegeko rishya rihana rivugurura itegeko rya mbere kuko ariryo ritanga ibihano bito. Urukiko mu rubanza RPA01044/2020/HC/KIG rushingiye ku ngingo ya 2 y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, yahinduye ingingo ya 60 y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 no ku mpamvu nyoroshyacyaha y'uko Niyonsaba yaburanye yemera icyaha kandi akaba ari ubwambere akoze icyaha mu buryo buzwi, rwamuhanishije igifungo cy'imyaka cumi n'itanu (15) n'ihazabu y'amafaranga miliyoni eshanu n'ibihumbi magana atatu (5.300.000Frw). Niyonsaba avuga ko Urukiko Rukuru mu kumugabanyiriza ibihano rwashyizeho umupaka kandi hari impamvu nyoroshyacyaha zagombaga gushingirwaho, asaba Urukiko rw'Ubujurire kumugabanyiriza igihano rukakigeza muni y'igihano gito giteganywa n'Itegeko. Ubushinjacyaha buvuga ko impamvu z'ubujurire za Niyonsaba zitahabwa ishingiro kuko yagabanyirijwe ibihano ku buryo buhagije. Urukiko mu rubanza RPAA00194/2024/CA rwemeje ko ubujurire bwa Niyonsaba nta shingiro bufite, ko atakongera kugabanyirizwa ibihano kuko yagabanyirijwe ku buryo buhagije. Incamake y'icyemezo: Umurongo wari uriho ntushobora gukurikizwa mu gihe Itegeko wari ushingiyeho ryavuyeho cyangwa ryahinduwe. Bityo, iyo Urukiko rushobora kujya muni y'igihano gito giteganyijwe rushingiye ku Itegeko rihari, hakaza Itegeko ririhindura cyangwa ririvanaho riteganya ko igihano gito kidashobora kujyimbwa muni, nicyo kigomba gukurikizwa. Amategeko yashingiweho: Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, Ingingo ya 2. Imanza zifashishijwe:

Page 2

Urubanza RPAA00367/2020/CA, haburana Ubushinjacyaha na Twagirumukiza Innocent Réponse rwaciwe n'Urukiko rw'Ubujurire ku wa 22/12/2023, (igika cya 19), Urubanza RPAA00530/2022/CA, haburana Ubushinjaha na Kubwimana Jonathan rwaciwe n'Urukiko rw'Ubujurire ku wa 12/1/2024, igika cya 22; Urubanza RPAA00627/2022/CA, haburana Ubushinjacyaha na Nsabimana Phocas rwaciwe n'Urukiko rw'Ubujurire ku wa 22/02/2024, igika cya 34. Urubanza RPAA 01452/2024/CA, haburana Ubushinjacyaha na Nzabamwita Silas rwaciwe n'Urukiko rw'Ubujurire ku wa 14/02/2025 (igika cya 16). Urubanza. I. IMITERERE Y'URUBANZA [1] Ku wa 09/05/2020, mu Mudugudu wa Nyirakazo, Akagari ka Yaramba, Umurenge wa Nyankenke, Akarere ka Gicumbi, Intara y'Amajyaruguru, ubuyobozi bw'inzego z'ibanze bwari bufite amakuru ko Niyonsaba Patrick ahinga urumogi mu murima we, nibwo bagiye kureba basanga muri uwo murima yarahinzemo urumogi basangamo ingemwe 66 z'urumogi zihinze mu byatsi. Nyuma yo gukora iperereza Ubushinjacyaha bwamuregeye Urukiko Rwisumbuye rwa Gicumbi icyaha cyo guhinga ibiyobyabwenge byo mu bwoko bw'urumogi, rumusabira igihano cy'ifungo cy'imyaka makumyabiri (20) n'ihazabu y'amafaranga miliyoni makumyabiri (20.000.000Frw). [2] Niyonsaba Patrick yaburanye yemera icyaha avuga ko ingemwe z'urumogi zagaragaye mu murima we, hari umuntu wari wamusabye kuzimwinariza. [3] Urukiko Rwisumbuye rwa Gicumbi rwaciye urubanza RP00291/2020/TGI/GIC ku wa 20/08/2020, rushingiye ku bimenyetso byatanze n'Ubushinjacyaha, nko kuba Niyonsaba Patrick yemera icyaha aregwa, kuba urumogi aregwa

guhinga rwarafatiwe mu isambu ye akemera ko ingemwe 66 zabonetse ari we wazinaje, akaba abishinjwa n'umutangabuhamya Kamana Ildéphonse, hari na raporo y'ubuyobozi bw'Inzego z'ibanze yemeza ko mu murima wa Niyonsaba Patrick hafatiwe urumogi no kuba yarabikoreye inyandiko, rumuhanisha igifungo cy'imyaka makumyabiri n'itanu (25) n'ihazabu y'amafaranga y'u Rwanda miliyoni makumyabiri n'imwe (21.000.000Frw). [4] Niyonsaba Patrick yajuririye imikirize y'urwo rubanza mu Rukiko Rukuru, avuga ko yahawe ibihano byinshi, asaba kugabanyirizwa kugira ngo ajye kwita ku muryango we, Uhagarariye Ubushinjacyaha avuga ko igihano Niyonsaba Patrick yahawe gikurikije amategeko, ariko ko yakigabanyirizwa hashingiwe ku itegeko rishya rihana rivugurura itegeko rya mbere kuko ariryo ritanga ibihano bito. [5] Mu rubanza RPA01044/2020/HC/KIG rwaciwe n'Urukiko Rukuru, ku wa 29/02/2024, urwo Rukiko rushingiye ku ngingo ya 2 y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyaga ibyaha n'ibihano muri rusange, yahinduye ingingo ya 60 y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 no ku mpamvu nyoroshyacyaha y'uho Niyonsaba Patrick yaburanye yemera icyaha kandi akaba ari ubwambere akoze icyaha mu buryo buzwi, akaba yari agikeneye kwiteza imbere ubwe ndetse no guteza imbere Igihugu muri rusange, rwamuhanishije igifungo cy'imyaka cumi n'itanu (15) n'ihazabu y'amafaranga miliyoni eshanu n'ibihumbi magana atatu (5.300.000Frw). [6] Niyonsaba Patrick yajuririye imikirize y'urwo rubanza mu Rukiko rw'Ubujurire, urubanza ruhabwa RPAA00194/2024/CA, ruburanishwa mu ruhame ku wa 01/04/2025, Niyonsaba Patrick yunganiwe na Me Ruberwa Ngarukiye Silas, naho Ubushinjacyaha buhagarariye na Habimana Jean Cabin, Umushinjacyaha ku rwego rw'Igihugu.

Page 3

[7] Mu miburanire no mu mwanzuro y'ubujurire bwe wo ku wa 20/03/2024, Niyonsaba Patrick avuga ko Urukiko Rukuru mu kumugabanyiriza ibihano rwashyizeho umupaka kandi hari impamvu nyoroshyacyaha zagombaga gushingirwaho, akaba asaba uru Rukiko kumugabanyiriza igihano rukakigeza muni y'igihano gito giteganywa n'Itegeko. [8] Ubushinjacyaha buvuga ko impamvu z'ubujurire za Niyonsaba Patrick zitahabwa ishingiro kuko yagabanyirijwe ibihano ku buryo buhagije, busaba ko hagumaho igihano cy'imyaka cumi n'itanu (15) n'ihazabu y'amafaranga miliyoni eshanu n'ibihumbi magana atatu (5.300.000Frw) yari yahawe n'Urukiko Rukuru. [9] Hashingiwe kuri izo mpaka, harasuzumwa niba Niyonsaba Patrick ashobora kongera kugabanyirizwa igihano. II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA Kumenya niba Niyonsaba Patrick ashobora kongera kugabanyirizwa igihano [10] Niyonsaba Patrick n'umwunganira basaba uru Rukiko kongera rukamugabanyiriza igihano agasanga abana be kuko umugore we yabataye; avuga ko Urukiko Rukuru mu kumugabanyiriza igihano rwashyize umupaka ku bihano rwamuhaye kandi hari impamvu nyoroshyacyaha, ko mu gihe hari impamvu nyoroshyacyaha nta cyabuza umucamanza kugabanyiriza uregwa igihano kuko biri mu bwigenge bwe, nk'uko byemejwe mu manza zitandukanye harimo n'urubanza RPAA00530/2021/CA rw'Ubushinjacyaha na Kanamugire ndetse n'urubanza RS/INCONST/SPEC 00003/2019/CA rwaciwe ku wa 14/12/2019, haburana Kabasinga Florida na Leta y'u Rwanda, ko izo manza zigaragaza ko nta mpaka ukwiye kubaho mu gihe hari impamvu nyoroshyacyaha. [11]

Basaba Urukiko rw'Ubujurire kuzashingira ku mirongo yatanzwe mu manza RPAA00251/2022/CA rwaciwe ku wa 28/02/2024 haburana Ubushinjacyaha na Ntakirutimana Damien mu gika cyarwo cya 20, n'urubanza RPAA00624/2022/CA rwaciwe ku wa 22/02/2024 haburana Ubushinjacyaha na Niyibizi Anicet igika cya 17, aho avuga ko muri izo manza zombi hasobanuwe ko iyo hari amategeko abiri ahana rimwe ryariho icyaha gikorwa irindi rigasohoka nyuma kandi urubanza rukiburanishwa; ko Itegeko rikoreshe ari iryorohera uregwa. Akomeza avuga ko hari imirongo yatanzwe mbere y'uko Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyaga ibyaha n'ibihano muri rusange ryateganyijwe mu ngingo yaryo ya 2 igihano umucamanza adashobora kujya munsu risohoka ndetse n'imirongo yatanzwe nyuma iryo Tegeko rimaze gusohoka, hagakurikizwa umurongo watanzwe worohereza uregwa. [12] Basaba ko hashingirwa ku murongo watanzwe mu rubanza RPAA00305/2021/CA rwaciwe ku wa 26/04/2023 haburana Ubushinjacyaha na Nyirandikubwayo Jeannette waregwaga icyaha cyo gucuruza urumogi, agakurikizwa igifungo cy'inyuma itanu (5) n'ihazabu y'amafaranga miliyoni eshanu (5,000,000Frw) aho kuba inyuma makumyabiri (20), Niyonsaba Patrick nawe agahanishwa igifungo cy'inyuma itanu (5). [13] Uhagarariye Ubushinjacyaha avuga ko nk'uko bigaragara mu gika cya 14,15 n'icya 18 by'urubanza RPA01044/2020/HC/KIG rukurikizwa, Niyonsaba Patrick yagabanyirijwe igihano ku buryo buhagije, kandi ko ntacyo anenga urubanza yajuririje. [14] Uhagarariye Ubushinjacyaha akomeza avuga ko igihano Niyonsaba Patrick yahawe kitanyuranyije n'ibiteganywa mu ngingo ya 2, agace ka (b), y'Itegeko No 59/2023 ryo ku wa 04/12/2023 rihindura Itegeko No 68/2018 ryo ku wa 30/08/2018 riteganyaga ibyaha n'ibihano muri rusange, ko kandi hazanashingirwa ku murongo watanzwe mu rubanza RPA00060/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 04/04/2022, haburana Ubushinjacyaha na Nsabimana Callixte alias Sankara na bagenzi be, umurongo wakurikijwe no mu zindi manza zaciwe n'uru Rukiko nko mu rubanza RPAA00176/2022/CA, rwaciwe n'Urukiko rw'Ubujurire

Page 4

ku wa 29/02/2024, haburana Ubushinjacyaha na Nsabimana Jacques, kuko ntacyo anenga urubanza rwajuririjwe, igihano Niyonsaba Patrick yahawe kikagumaho. [15] Asoza avuga ko ibyo Niyonsaba Patrick n'umwunganizi we basaba ko hashingirwa ku manza zaciwe itegeko rishya ritarajyaho zishingiye ku murongo wari mu rubanza RS/INCONST/SPEC00003/2019/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 04/12/2019, uwo murongo utagikoreshwa, nk'uko byemejwe mu manza nyinshi zirimo n'urubanza RPAA00048/2020/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 26/05/2022 haburana Ubushinjacyaha na Bimenyimana Jean Paul, mu gika cya 26, uru Rukiko rwagaragaje ko umurongo udashobora gukurikizwa mu gihe itegeko wari ushingiyeho ryavuyeho (cyangwa ryahinduwe). UKO URUKIKO RUBIBONA [16] Impaka zishingiye ku gusuzuma niba bishoboka ko Niyonsaba Patrick wahanishijwe gufungwa cy'inyuma cumi n'itanu (15ans) ku cyaha yahamijwe mu rubanza rukurikizwa cyo guhanga urumogi, yakongera kugabanyirizwa igihano ku buryo yahabwa igihano kiri munsu y'igihano gito Itegeko riteganyiriza icyo cyaha, niba kandi yagabanyirizwa hashingiwe ku mirongo yafashwe mu rubanza RS/INCONST/

SPEC00003/2019/CA rwaciwe ku wa 14/12/2019, haburana Kabasinga Florida na Leta y'u Rwanda n'izindi manza zarushyacyaha zigaragaza ko nta mupaka ukwiye kubaho mu kugabanya igihano mu gihe hari impamvu nyoroshyacyaha. [17] Ibyerekeranye no kugabanya ibihano hashingiwe ku mirongo yatanze mu manza zaciwe hashingiwe ku Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyaho ibyaha n'ibihano muri rusange nyuma y'uko hasohotse Itegeko N° 059/2023 ryo ku wa 04/12/2023 ririhindura, byatanze umurongo mu rubanza RPAA00367/2020/CA rwaciwe n'uru Rukiko ku wa 22/12/2023 haburana Ubushinjacyaha na Twagirumukiza Innocent Réponse. Muri urwo rubanza (gika cyarwo cya 18), Urukiko rwasanze ingingo ya 21 y'Itegeko N°059/2023 ryo ku wa 04/12/2023 ari yo igomba gushyirwaho mu kugena aho rukwiriye kugeza rugabanya igihano mu gihe hari impamvu nyoroshyacyaha, aho gushyirwa ku mirongo yatanze mu rubanza RS/INCONST/SPEC00003/2019/SC rwavuzwe haruguru n'urubanza RPAA00032/2019/CA rw'Ubushinjacyaha na Nzafashwanimana rwaciwe n'uru Rukiko ku wa 28/02/2020, kimwe n'izindi manza zagendeye kuri uwo murongo, kuko izo manza zaciwe hakurikijwe ibyateganywaga n'ingingo ya 60 y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyaho ibyaha n'ibihano muri rusange, ikaba yarahinduwe n'ingingo ya 2 y'Itegeko N° 059/2023 rivuzwe haruguru. Kubw'ibi, Umurongo wari uriho ntushobora gukurikizwa mu gihe itegeko wari ushingiyeho ryavuyeho cyangwa ryahinduwe. [18] Ku byerekeye uru rubanza, dosiye igaragaza ko mu rubanza RPA01044/2020/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 29/02/2024 (igika cya 13), Urukiko Rukuru rwahanishije Niyonsaba Patrick igihano cy'igifungo cy'imyaka cumi n'itanu (15) n'ihazabu y'amafaranga y'u Rwanda miliyoni eshanu n'ibihumbi magana atatu (5.300.000Frw) rukivanye ku gifungo cy'imyaka makumyabiri n'itanu (25) n'ihazabu y'amafaranga miliyoni makumyabiri n'imwe (21.000.000Frw) yari yahanishijwe n'Urukiko Rwisumbuye rwa Gicumbi ku rwego rwa m bere, rushyirwa ku mpamvu nyoroshyacyaha z'uko yemera icyaha, runashyirwa ku ingingo ya 2 y'Itegeko No 59/2023 ryo ku wa 04/12/2023 ririhindura Itegeko No 68/2018 ryo

1 Iyo ingingo igira iti: « Ingingo ya 60 y'Itegeko n° 68/2018 ryo ku wa 30/08/2018 riteganyaho ibyaha n'ibihano muri rusange, ihinduwe ku buryo bukurikira: Iyo umucamanza yemeje impamvu nyoroshyacyaha, ashobora kugabanya igihano ku buryo bukurikira: a) igifungo cya burundu gishobora kugabanywa ariko ntikijye munsi y'igihano cy'igifungo cy'imyaka 15;..... ». 2 Reba n'izindi manza. Urugero: Urubanza RPAA 00530/2022/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 12/1/2024 haburana Ubushinjaha na Kubwimana Jonathan, igika cya 22; Urubanza N° RPAA 00627/2022/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 22/02/2024, haburana Ubushinjacyaha na Nsabimana Phocas, igika cya 34. Urubanza N° RPAA 01452/2024/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 14/02/2025 haburana Ubushinjacyaha na Nzabamwita Silas (igika cya 16).

Page 5

ku wa 30/08/2018 riteganyaho ibyaha n'ibihano muri rusange³, igihano Niyonsaba Patrick yahawe kikaba aricyo gihano gito giteganywa n'Itegeko. [19] Hashingwe ku murongo wavuzwe haruguru, watanze mu rubanza RPAA00367/2020/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 22/12/2023, haburana Ubushinjacyaha na Twagirumukiza Innocent Réponse (igika cya 19), Uru Rukiko rurasanga igihano Niyonsaba Patrick yahawe n'Urukiko Rukuru kidashobora kongera kugabanywa kuko ari cyo gihano gito giteganywa n'ingingo ya 2 y'Itegeko No 059/2023 ryo ku wa

04/12/2023 rimaze kuvugwa haruguru, iteganya ko iyo umucamanza yemeje impamvu nyoroshyacyaha, ashobora kugabanya igihano ku buryo igifungo cya burundu gishobora kugabanywa ariko ntikijye muni y'igihano cy'igifungo cy'inyaka 15, bityo akaba nta nenge iri mu rubanza rujuririrwa kuko igihano cy'igifungo cy'inyaka 15 n'ihazabu y'amafaranga miliyoni eshanu (5.000.000Frw) Niyonsaba Patrick yahawe kidashobora kongera kugabanywa kuko aricyo gihano gidashobora kugibwa muni, kubw'ibyo kikaba kigumye. III. ICYEMEZO CY'URUKIKO [20] Rwemeje ko ubujurire bwa Niyonsaba Patrick nta shingiro bufite; [21] Rwemeje ko urubanza RPA01044/2020/HC/KIG rwaciwe n'Urukiko Rukuru, ku wa 29/02/2024, rudahindutse; igihano cy'igifungo cy'inyaka cumi n'itanu (15) n'ihazabu y'amafaranga y'u Rwanda miliyoni eshanu n'ibihumbi magana atatu (5.300.000Frw) Niyonsaba Patrick yahanishijwe kigumye; [22] Ruvuze ko amagarama y'urubanza aherera ku isanduku ya Leta, kuko Niyonsaba Patrick afunze.

3 Ingingo ya 2 y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, iteganya ko Ingingo ya 60 y'Itegeko n° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, ihinduwe ku buryo bukurikira: "Iyo umucamanza yemeje impamvu nyoroshyacyaha, ashobora kugabanya igihano ku buryo bukurikira: (a) igifungo cya burundu gishobora kugabanywa ariko ntikijye muni y'igihano cy'igifungo cy'inyaka 15"; "(d) igihano cy'ihazabu gishobora kugabanywa kugeza kuri kimwe cya kane cy'igihano cy'ihazabu gito giteganyirijwe icyaha cyakozwe."

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.amategeko.gov.rw/view/doc/9612/10098>

CASE PAGE <https://chat.esheria.ai/case-law/rwanda/niyonsaba-patrick-sentencing-court-of-appeal-2025>

Prepared on 11 October 2026 · Esheria