

RWANDA / JUDGMENT

NKUNDUMUKIZA vs. AKARERE KA MUHANGA N'ABANDI

RADA 00009/2021/HC/NYZ

COURT

High Court

DECIDED

28 July 2023

CASE / FILE NUMBER

RADA 00009/2021/HC/NYZ

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NKUNDUMUKIZA vs. AKARERE KA MUHANGA N'ABANDI

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- Date: 2023-07-28
- Case/document no.: RADA 00009/2021/HC/NYZ
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Text

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NKUNDUMUKIZA vs. AKARERE KA MUHANGA N'ABANDI [Rwanda URUKIKO RUKURU, URUGEREKO RWA NYANZA – RADA 00009/2021/HC/NYZ – (Badara, J. P.) 28 Nyakanga 2023]

Amategeko agenga imiburanishirize y'imanza z'ubutegetsu – Ibisabwa kugirango ikirego cyakirwe – Inyungu yo kurega – Inyungu yo kurega ni agaciro urega aha icyo asaba urukiko, kakaba kagomba kuba ari ake ku giti cye, kataziguye kandi kemewe n'amategeko, ku buryo iyo kadahari, urega nta burenganzira aba afite bwo kurega. Incamake y'ikibazo: Nkundumukiza wari waragiranye amasezerano y'ubukode bw'inzu na Mujawimana yatanze ikirego mu Rukiko Rwisumbuye rwa Muhanga asaba ko icyemezo cyafashwe n'Akarere ka Muhanga cyo gufunga iyo inzu gikurwaho. Iki kirego yagitanze nyuma yo kunanirwa gushyira mu bikorwa ayo masezerano ndetse n'andi yaje gukorwa hagati y'umugore we n'umugabo wa Mujawawimana, ubwo Ubuyobozi bw'Akagali, Umurenge n'Akarere bwabafashaga gucyemura ikibazo cyabo, ntibikunde. Abaregwa batanze inzitizi yo kutakira icyo kirego kuko urwo Rukiko Rwisumbuye rudafite ububasha bwo kuburanisha urubanza rw'ubucuruzi dore ko iyo nzu ikodeshwa yakorerwagamo ubucuruzi “bar

and restaurant”. Indi nzitizi ni uko Urega yareze adafite inyungu mu rubanza kuko amasezerano aregera yari yarakozwe hagati ya Ngabire umugore we na Niyibizi umugabo wa Mujawimana, akaba areba abayagiranye. Urukiko Rwisumbuye rwemeje ko inzitizi yo kutagira inyungu mu rubanza yatanze n’Abarega ifite ishingiro, ko ikirego cy’Urega kitakiriwe ngo urubanza rusuzumwe mu mizi. Ibi byatumye abijuririra muri uru Rukiko Rukuru, Urugereko rwa Nyanza maze hasuzumwa ikibazo cyo kumenya niba Urega yari afite inyungu n’ububasha bwo kurega. Urega asobanura ko yari afite inyungu zo kurega kubera ko amasezerano ya mbere yakoranye n’umugore wa Niyibizi atigeze aseswa. Akomeza avuga ko kuba yarandikiye umugore we ibaruwa imuha ububasha bwo kumuhagarira mu kibazo yari afitanye na Mujawimana mu Rugaga rw’Abikorera bitamuhesha ububasha bwo kumuhagararira mu kintu icyari cyo cyose. Niyibizi we avuga ko ibyo Urega avuga atari ukuri kuko ayo masezerano avuga yarasheshwe asimburwa nayo yakoranye n’umugore we Ngabire, bivuze ko yabaye itegeko hagati yabayagiranye dore ko umugore we Ngabire ari we wishyuraga ubukode bw’inzu nubwo yaje guhagarara mu ntangiriro za 2020. Akarere ka Muhanga na ko kavuga ko Urega atari afite ububasha bwo kurega kuko amasezerano ya kabiri yakozwe n’umugore we, ntaho ahuriye n’urubanza kuko ataregeye ivanwaho ryayo. Bivuze ko aho kurega asaba ko hakurwaho icyemezo cyafashwe n’umurenge, yari kuregerera ivanwaho cyangwa gutesha agaciro ayo masezerano yabaye hagati ya Ngabire na Niyibizi, we uvuga ko atakurikije amategeko. Incamake y’icyemezo: Inyungu yo kurega ni agaciro urega aha icyo asaba urukiko, kakaba kagomba kuba ari ake ku giti cye, kataziguye kandi kemewe n’amategeko, ku buryo iyo kadahari, urega nta burenganzira aba afite bwo kurega. Bityo, Nkundumukiza afite inyungu n’ububasha bwo kuba yasaba ko icyemezo cyafashwe n’umurenge cyavanyaho kuko kimureba nkuko bigaragazwa n’uburyo Ubuyobozi bw’umurenge bwagiye bumwandikira we n’umugore we bugira ibyo bumutegeka muri icyo cyemezo ndetse hakaba hari ibikoresho bye byari muri icyo yasabwaga gukuramo. Ubujurire bufite ishingiro.

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Imikirize y’urubanza rwaciye n’Urukiko Rwisumbuye rwa Muhanga iteshejwe agaciro. Amategeko yashingiweho: Itegeko No 22/2018 ryo kuwa 29/04/2018 ryerekeye imiburanishirize y’imanza z’imbenezamubano, iz’ubucuruzi, iz’umurimo n’iz’ubutegets, ingingo ya 3 n’iya 158. Nta manza zifashishijwe. Inyandiko z’abahanga zifashishijwe: G. Cornu, Vocabulaire juridique, Association Henri Capitant, Paris, PUF, 1998, p. 456. G. De Leval et autres, Droit judiciaire, Manuel de procédure civile, tome 2, Larcier, p. 80). Urubanza I. IMITERERE Y’URUBANZA [1] Kuwa 01/01/2015, Nkundumukiza Jean Claude yakoranye na Mujawimana Mariette umugore wa Niyibizi Emile, amasezerano y’ubukode bw’inzu y’ubucuruzi Sifa Guest House bumvikana igiciro cy’amafranga ibihumbi magana atatu (300.000 frw) buri kwezi. [2] Kuwa 13/09/2018, Mujawimana Mariette yamwandikiye ibaruwa ahagarika amasezerano kugira ngo iyo nzu ibanze ivugururwe. Nkundumukiza Jean Claude yanga kuyivamo, nibwo kuwa 14/11/2018 Mujawimana Mariette yagejeje ikibazo afitanye na Nkundumukiza Jean Claude ku buyobozi bw’abikorera mu Karere ka Muhanga kugira ngo babafashe kugikemura. Nyuma yo kumva impande zombi ku wa 30/11/2018 bemeranya ko ibizajya bikorwa bigomba kuba byumvikanyweho n’impande zombi hanyuma bazamara gusana bakumvikana uburyo Nkundumukiza Jean Claude yakomeza gukorera. [3]

Kuwa 15/02/2019, Ingabire Chemsu wari wahawe uburenganzira n'umugabo we Nkundumukiza Jean Claude bwo kumuhagararira mu bibazo yari afitanye na Niyibizi Emile Bniz yongeye gusinyana amasezerano yo gukodesha inzu yo gukorera "restaurant" na Niyibizi Emile Bniz, banagirana amasezerano y'uburyo hazishyurwa ibirarane by'umwaka wa 2018 by'ubukode yarafite bungana n'amafaranga miliyoni n'ibihumbi magana atandatu (160 0000 Frw) akishyura n'amafaranga ibihumbi magana abiri na mirongo itandatu n'umunani (268 000 Frw) y'amazi ya Wasac. [4] Nkundumukiza Jean Claude afunguwe yakomeje kubahiriza amasezerano y'ubukode yakozwe hagati y'Umugore we Ingabire Chemsu na Niyibizi Emile Bniz bigeze mu kwezi kwa Gashyantare 2020 ntiyongera kwishyura ubukode, maze ku wa 15/06/2020 Niyibizi Emile Bniz yandikira Ingabire Chemsu amuha integuza yo kurangiza amasezerano, abonye bitubahirijwe, ikibazo gishyikirizwa Ubuyobozi bw'Akagari n'Umurenge nabwo nticyakemuka kugeza ubwo kigeze ku rwego rw'Akarere. Tariki ya 31/08/2020 habaye inama yahuje abafitanye ikibazo aribo Mujawimana Mariette, Simbizi Joseph na Nkundumukiza Jean Claude, hafatwa icyemezo cy'uko Nkundumukiza yakubahiriza amasezerano, atabyubahirije, ku itariki yo kuwa 08/09/2020 hafatwa icyemezo cyo gufunga iyo nzu, akaba ariyo mpamvu yatanze ikirego mu rukiko rwisumbuye rwa Muhanga asaba kuvanaho icyemezo cyo ku wa 28/08/2020 numero 1669.../07.020708 cyafashwe mu buryo budakurikije amategeko. [5] Me Karangwa Olivier na Me Uwiragiye Pierre Celestin bahagarariye Niyibizi Emile Bniz uregwa na Mujawimana Mariette wagobokeshejwe, batanze inzitizi isaba kutakira ikirego bavuga ko urukiko Rwisumbuye rwa Muhanga rudafite ububasha bwo kuburanisha urubanza RAD 00015/2020/TGI/MHG kuko ari urubanza rw'ubucuruzi kubera ko inzu ivugwa yari yarakodeshejwe

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yari Bar, Restaurant ikorerwamo ibikorwa by'ubucuruzi, bakaba baragombaga kurega mu Rukiko rw'Ubucuruzi, inzitizi ya kabiri yatanzwe isaba kutakira ikirego ikaba ari uko urega ariwe Nkundumukiza Jean Claude, yareze adafite inyungu mu rubanza kuko amasezerano atarubahirijwe yatumye iyo nzu yakodeshejwe ifungwa n'akarere, ayo masezerano yari yarakozwe hagati ya Ingabire Chemsu na Niyibizi Emile Bniz akaba yararebaga abayagiranye. [6] Nkundumukiza Jean Claude yunganiwe na Me Ruberwa Silas, yasabye urukiko kudaha agaciro inzitizi zatanzwe na Me Karangwa Olivier na Mugenzi we Me Uwiragiye Pierre Celestin basobanura ko kuba ikirego bashyikirije urukiko ari kuvanaho icyemezo cyo kuwa 28/08/2020 numero 1669.../07.020708 cyafashwe n'ubuyobozi bw'akarere ka Muhanga mu buryo budakurikije amategeko; byumvikana ko ari urubanza rw'ubutegetsi atari urubanza rw'ubucuruzi. [7] Mu rubanza RAD 00015/2020/TGI/MHG, urukiko rwemeje ko inzitizi yatanzwe na Me Karangwa Olivier na Me Uwiragiye Pierre Celestin bahagarariye Niyibizi Emile Bniz uregwa na Mujawimana Mariette wagobokeshejwe, irebana nuko ikirego RAD 00015/2020/TGI/MHG cyagombaga kuba cyarashyikirijwe inkiko z'ubucuruzi nta shingiro ifite. Rwemeje ko inzitizi yatanzwe na Me Karangwa Olivier na Me Uwiragiye Pierre Celestin bahagarariye Niyibizi Emile Bniz uregwa na Mujawimana Mariette wagobokeshejwe, irebana nuko Nkundumukiza Jean Claude nta nyungu afite mu rubanza RAD 00015/2020/TGI/MHG ifite ishingiro. Rutegetse ko ikirego RAD 00015/2020/TGI/MHG Nkundumukiza Jean Claude yashyikirije urukiko kitakiriwe ngo urubanza rusuzumwe

mu mizi. [8] Mu gufata icyemezo cyo kutakira ikirego, urukiko rwasanze uwagombaga gutanga ikirego asaba ko icyo cyemezo cyo kuwa 28/08/2020 numero 1669.../07.020708, cyafashwe n'Akarere ka Muhanga gikurwaho, ni Ingabire Chemsa wari wakodesheje iyo nzu, ariyo mpamvu urukiko rusanze Nkundumukiza Jean Claude nta nyungu afite mu rubanza RAD 00015/2020/TGI/MHG bityo iki kirego kikaba kitakiriwe. [9] Nkundumukiza Jean Claude ntiyishimiye iyo mikirize ajuririra muri uru rukiko rukuru, urubanza ruhabwa RADA 00009/2021/HC/NYZ, ruburanishwa mu ruhamwe ku wa 10/7/2023, Nkundumukiza Jean Claude yitaba urukiko yunganiwe na Me Ruberwa Ngarukiye Silas, Akarere ka Muhanga kaburanirwa na Me Mbonigaba Eulade naho Ingabire Chemsa, Niyibizi Emile Bniz na Mujawimana Mariette batitabye ariko baramenyeshwe itariki yo kuburana. [10] Mu myanzuro y'ubujurire no mu miburanire, Nkundumukiza Jean Claude avuga ko yari afite inyungu mu rubanza yajuririye hashingiwe ku ngingo ya 3 CPCCSA kubera ko amasezerano yo kuwa 01/01/2015 atigeze aseswa. Ikindi kuba Urukiko rwashingiye ku ibaruwa yo kuwa 30/1/2019 Nkundumukiza Jean Claude yandikiye Ingabire Shemsa na Me Kananga Protogene imuha ububasha bwo kumuhagararira mu kibazo yari afitanye na Mujawimana Mariette muri PSF, nta bubasha yamuhaye cyangwa yamweguriye bwo gukora ikintu icyo aricyo cyose mu izina rye dore ko n'amasezerano yayakoze ku giti cye atamuhagarariye. Naho ibindi byakozwe ntaburenganzira yari yabiherewe dore ko amasezerano yo ku itariki ya 01/01/2015 atigeze aseswa kugeza ubu afite agaciro kayo. [11] Mu kwiregura, Niyibizi Emile Bniz avuga ko nubwo Nkundumukiza Jean Claude avuga ko yari afite inyungu hashingiwe kungingo ya 3 CPCCSA kubera ko amasezerano yo kuwa 01/01/2015 atigeze aseswa, ibyo avugaga si ukuri kuko hari amasezerano yakozwe ku wa 15/02/2019 Ingabire Chemsa yasinyanye na Niyibizi Emile Bniz amasezerano yo gukodesha inzu yo gukoreramo "restaurant" yasheshe ayari asanzwe kuko yabaye itegeko hagati yabayagiranye ko yashyizwe mu bikorwa aho Ingabire yishyuraga ubukode kugeza mu ntangiriro za 2020. Urukiko rwashingiye ku procuration yo kuwa 30/1/2019 Nkundumukiza Jean Claude yahaye Ingabire Shemsa yo gukemura ikibazo yari afite muri Sifa Guest House, byakozwe bakora amasezerano ndetse ashirwa mubikorwa aho bishyuraga

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ubukode uko bukubiye mu masezerano yo kuwa 15/02/2019 bityo bikagagaraza ko nta nyungu, ububasha n'ubushobozi Nkundumukiza Jean Claude afite byo kurega. [12] Uhagarariye Akarere ka Muhanga avuga ko asanga Nkundumukiza nta nyungu afite mu rubanza. Kuba avuga ko amasezerano yo kuwa 15/02/2019 ntaho bihuriye n'urubanza kubera ko ataregeye ivanwaho ryayo masezerano avuga ko atakurikije amategeko. Icyo yaregeye ni ukuvanaho icyemezo cyo kuwa 28/08/2020 numero 1669.../07.020708 cy'Akarere ka Muhanga kandi icyo cyemezo cyo cyafashwe hashingiwe ku masezerano yo kuwa 15/02/2019. Ni ukuvuga rero ko aho kuregera ivanwaho ry'icyemezo cy'Akarere ka Muhanga yagombaga kuregera ivanwaho cyangwa gutesha agaciro amasezerano yo kuwa 15/02/2021 we avuga ko atakurikije amategeko. Kubera izo mpamvu, Nkundumukiza nta nyungu zishingiye ku mategeko zo kuregera amasezerano atakoze. [13] Ibibazo bigiye gusuzumwa muri uru rubanza ni ibi bikurikira: - Kumenya niba Nkundumukiza Jean Claude yaba yari afite inyungu n'ububasha bwo kurega. - Kumenya niba hari indishyi

zatangwa muri uru rubanza. II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

1. Kumenya niba Nkundumukiza Jean Claude yaba yari afite inyungu n'ububasha bwo kurega [14] Nkundumukiza Jean Claude avuga ko yari afite inyungu mu rubanza yajuririye hashingiwe ku ngingo ya 3 CPCCSA kubera ko amasezerano yo kuwa 01/01/2015 atigeze aseswa. Ikindi kuba Urukiko rwashingiye ku ibaruwa yo kuwa 30/1/2019 Nkundumukiza Jean Claude yandikiye Ingabire Shemsa na Me Kananga Protogene imuha ububasha bwo kumuhagararira mu kibazo yari afitanye na Mujawimana Mariette muri PSF, nta bubasha yamuhaye cyangwa yamweguriye bwo gukora ikintu icyo aricyo cyose mu izina rye dore ko n'amasezerano yayakoze ku giti cye amuhagarariye. [15] Niyibizi Emile Bniz avuga ko nubwo Nkundumukiza Jean Claude avuga ko yari afite inyungu hashingiwe ku ngingo ya 3 CPCCSA kubera ko amasezerano yo kuwa 01/01/2015 atigeze aseswa, ibyo avuga si ukuri kuko hari amasezerano yakozwe ku wa 15/02/2019 Ingabire Chemsu yasinyanye na Niyibizi Emile Bniz amasezerano yo gukodesha inzu yo gukorera "restaurant" yasheshe ayari asanzwe kuko yabaye itegeko hagati yabayagiranye ko yashyizwe mu bikorwa aho Ingabire yishyuraga ubukode kugeza mu ntangiriro za 2020. Urukiko rwashingiye ku "procuration" yo kuwa 30/1/2019 Nkundumukiza Jean Claude yahaye Ingabire Shemsa yo gukemura ikibazo yari afite muri Sifa Guest House, bityo bikagagaraza ko nta nyungu, ububasha n'ubushobozi Nkundumukiza Jean Claude afite byo kurega. [16] Uhagarariye akarere ka Muhanga avuga ko asanga Nkundumukiza nta nyungu afite mu rubanza. Kuba avuga ko amasezerano yo kuwa 15/02/2019 ntaho bihuriye n'urubanza kubera ko ataregeye ivanwaho ryayo masezerano avuga ko atakurikije amategeko. Icyo yaregeye ni ukuvanaho icyemezo cyo kuwa 28/08/2020 nimeru 1669.../07.020708 cy'Akarere ka Muhanga kandi icyo cyemezo cyo cyafashwe hashingiwe ku masezerano yo kuwa 15/02/2019. Ni ukuvuga rero ko aho kuregera ivanwaho ry'icyemezo cy'Akarere ka Muhanga yagomba kuregera ivanwaho cyangwa gutesha agaciro amasezerano yo kuwa 15/02/2021 we avuga ko atakurikije amategeko. Kubera izo mpamvu, Nkundumukiza nta nyungu zishingiye ku mategeko zo kuregera amasezerano atakoze. UKO URUKIKO RUBIBONA

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- [17] Impaka ziri muri uru rubanza zishingiye ku kumenya niba Nkundumukiza Jean Claude yaba yari afite inyungu n'ububasha bwo kurega kubera ko umugore we Ingabire Chemsu yari yahawe uburenganzira bwo kumuhagararira mu gukemura ikibazo muri PSF ariko ntibwari ubwo guhindura amasezerano y'ubukode. Ku rubande rw'abaregwa bo bagaragaza ko nta nyungu yari afite yo kurega kuko icyemezo aregera cyafashwe hashingiwe ku masezerano yo kuwa 15/02/2019 yabaye hagati y'umugore wa Nkundumukiza Jean Claude na Niyibizi Emile Bniz. [18] Ikibazo cy'inyungu z'urega cyasobanuwe mu rubanza RADAA 00009/2018/CA rwaciye n'urukiko w'ubujurire kuwa 17 Mutarama 2020 aho urwo rukiko rwifashishije inyandiko z'Umuhanga mu mategeko Gérard Cornu uvuga ko inyungu yo kurega ari agaciro urega aha icyo asaba urukiko, ako agaciro kagomba kuba ari ake ku giti cye, kataziguye kandi kemewe n'amategeko, ku buryo icyo kadahari, urega nta burenganzira aba afite bwo kurega. Umuhanga mu mategeko Georges De Leval na bagenzi be bavuga ko inyungu

itareberwa mu kizava mu rubanza, ko ahubwo ari ukuba hashobora kuba hari ihungabana ry'uburenganzira, nubwo nyuma yo kubisuzuma, urubanza rwagaragaza ko ubwo burenganzira bwahungabanye cyangwa butahungabanye². [19] Urukiko rurasanga tariki ya 1/1/2015 harabaye amasezerano y'ubukode bw'inzu hagati ya Mujawimana Mariette ny'ir'inzu na Nkundumukiza Jean Claude bumvikana ubukode bw'inzu bungana n'ibihumbi magana atatu buri kwezi (300 000 frw). Nyuma, tariki ya 15/2/2019, habaye andi masezerano y'ubukode bw'inzu hagati ya Niyibizi Emile Bniz ny'ir'inzu akaba umugabo wa Mujawimana Mariette na Ingabire Chemssa ukodesha akaba umugore wa Nkundumukiza Jean Claude ariko ubukode bwashyizwe ku mafranga ibihumbi magana inani (800 000 frw). [20] Urukiko rurasanga nyuma y'ayo masezerano yo 15/2/2019, ny'ir'inzu ariwe Niyibizi Emile Bniz yandikiye Ingabire Chemssa amuha integuza y'ukwezi kumwe ashingiye ku ngingo ya 5 y'amasezerano y'ubukode bw'inzu bagiranye kuwa 15/9/2019, amumenyesha ko akeneye inzu ye. Muri icyo gihe cy'integuza yamusabye kwishyura amafranga yasigaye y'ubukode atishyuye muri 2019, amusaba kwishyura no gusana ibyaba byarangiritse byose ku nzu bitewe n'iminsi yayikoreyemo. [21] Urukiko rurasanga Niyibizi Emile Bniz yarashyikirije ikibazo cye umurenge wa Nyamabuye asaba ko madame Ingabire Chemsu n'umugabo we Nkundumukiza Jean Claude bava mu nzu bakodeshaga no kwishyura umwenda w'ubukode bungana n'amezi arindwi na "facture" y'amazi kugeza uyu muni. Umurenge wabagiriye inama tariki ya 17/8/2020 ko Nkundumukiza Jean Claude agomba gutanga inzu yakodeshaga nta yandi mananiza akabikora mu gihe cy'iminsi irindwi uherye igihe uyu mwanzuro wafashwe kandi Nkundumukiza asabwe kwishyura umwenda w'ubukode bw'amazi. Tariki ya 28/8/2020, ubuyobozi bw'umurenge wa Nyamabuye bwandikiye Nkundumukiza Jean Claude bumusaba kubahiriza ibyo yasabwe, Nkundumukiza Jean Claude yamenyeshejwe ko guhera kuwa 28/8/2020 agomba gutangira kwimuka aya mu nzu, akayisubiza nyirayo nk'uko amasezerano y'ubukode abivugaga, atakubahiriza ibyavuzwe kuwa 31/8/2020 akayikurwamo n'ubuyobobozi, ibikoresho birimo bikabikwa, ikiguzi cyose kizagenda muri icyo gikorwa akazacyishura. [22] Urukiko rurasanga Nkundumukiza Jean Claude yari afite inyungu n'ububasha bwo bwo kuregera icyemezo cyo kuwa 28/08/2020 numero 1669.../07.020708 cyafashwe n'umurenge mu buryo budakurikije amategeko kubera ko icyo cyemezo kiramureba bitewe nuko ubuyobozi bw'umurenge

1 "Importance qui, s'attachant pour le demandeur à ce qu'il demande, le rend recevable à le demander en justice (si cette importance est assez personnelle, directe et légitime) et à défaut de laquelle le demandeur est sans droit pour agir" (G. Cornu, Vocabulaire juridique, Association Henri Capitant, Paris, PUF, 1998, p. 456). 2 "L'intérêt s'apprécie in abstracto; il s'agit de la possibilité de l'atteinte à un droit au moment où la demande est formée quand bien même la reconnaissance ne devrait être établie-ou non établie-qu'à la prononciation du jugement à l'issue d'une vérification in concreto" (G. De Leval et autres, Droit judiciaire, Manuel de procédure civile, tome 2, Larcier, p. 80).

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bwagiye bumwandika we n'umugore we bumusaba kuva mu nzu bakoreramo yitwa Sifa Guest House. Ikindi hari ibikoresho bye byari muri icyo nzu. [23] Urukiko rurasanga kuba ubuyobozi bw'umurenge bwaragiye bwandikira Nkundumukiza Jean Claude bukanagira ibyo bumutegeka muri icyo cyemezo ndetse agasabwa gutwara ibintu bye bibitse kwa Simbizi Joseph byerekana ko afite inyungu n'ububasha bwo kuba yasaba ko icyemezo cyafashwe n'umurenge cyavanwaho. [24] Urukiko rurasanga nubwo igihe Nkundumukiza Jean Claude yari afunze noneho umugore we agakora andi masezerano kuri icyo nzu yari yarakodeshejwe n'umugabo we ntabwo byabuzwa umugabo we kuba yasaba ko icyemezo cyafashwe n'umurenge cyo kubavana mu nzu ko cyavanwaho kuko kiramubangamiye bitewe nuko hari ibintu bye yagombaga gukuramo kandi icyo cyemezo kugirango gifatwe yagiye ahamagazwa ari kumwe n'umugore we Ingabire Chemssa. [25] Urukiko rurasanga iki kirego cyaragombaga kwakirwa kubera ko Nkundumukiza Jean Claude afite inyungu n'ububasha bwo kurega bityo uru rubanza rukaba rugomba kwoherezwa mu rukiko rwisumbuye rwa Muhanga kugirango ruburanishwe mu mizi nk'uko biteganywa n'ingingo ya 158 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuru, iz'umurimo n'iz'ubutegetsi ivuga ko icyo Urukiko rwajuririwe rusanze urubanza rwari rwaregwe mu buryo bukurikije amategeko urukiko rwaruciye kurwego rubanza rukavugako rutakirwa kandi rwagombaga kwakirwa, Urukiko rwajuririwe rurarwakira, rukagaragaza ko rwagombaga kwakirwa ku rwego rwa mbere; rukarutesha agaciro maze rukarusubiza Urukiko rwari rwaruciye kugira ngo ruruburanishe mu mizi, nta yindi ngwate y'amagarama itanzwe. Urukiko rwohererejwe uru rubanza ntirushobora kwanga kuruburanisha rwitwaje ko rwafashe icyemezo kuri icyo burabubasha.

2. Kumenya niba hari indishyi zatangwa muri uru rubanza [26] Niyibizi Emile Bniz abona kuba Nkundumukiza Jean Claude yarashoye nkana abizi neza ko icyo we n'umugore we Ingabire Shemsa bubahiriza amasezerano nta kibazo na kimwe cyarigutuma bajya mu nkiko. Asaba indishyi z'igihembo cy'avoka kingana na miliyoni imwe n'ibihumbi magana tanu (1.500.000 Frw) ndetse na miliyoni imwe z'ikurikirana rubanza (1.000.000 Frw). [27] Akarere ka Muhanga kavugako Nkurikiyumukiza yatangiye urubanza adafitemo inyungu zishingiye ku mategeko, arangije aranajurira nta mpamvu, bityo akaba agomba kwirengera ikiguzi cy'urubanza akishyura Akarere ka Muhanga indishyi z'ikurikiranarubanza zingana na 1,000.000 RWF ku rwego rw'ubujurire. [28] Urukiko rurasanga nta indishyi zatangwa muri uru rubanza kubera ko uru rubanza rugomba kwoherezwa mu rukiko rwisumbuye rwa Muhanga kugirango ruburanishwe mu mizi bityo akaba ariho bazasaba indishyi cyane ko uwo bazisaba ikirego cye cy'ubujurire cyahawe ishingiro. III. ICYEMEZO CY'URUKIKO [29] Rwemeje ko ubujurire bwatanzwe na Nkundumukiza Jean Claude bufite ishingiro. [30] Rwemeje ko imikirize y'urubanza RAD 00015/2020/TGI/MHG rwaciye n'Urukiko Rwisumbuye rwa Muhanga iteshejwe agaciro. [31] Rutegetse ko uru rubanza rwoherezwa mu Rukiko Rwisumbuye rwa Muhanga kugirango ruburanishwe mu mizi.

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Prepared on 12 October 2026 · Esheria