

RWANDA / JUDGMENT

UBUSHINJACYAHA V. NSANGIRANABO**RLR V.1-2016****COURT**

Supreme Court

DECIDED

5 September 2014

CASE / FILE NUMBER

RPAA 0221/10/CS

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

UBUSHINJACYAHA V. NSANGIRANABO

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2014-09-05
- Case/document no.: RPAA 0221/10/CS
- Collection: Supreme Court

Text**Page 1**

UBUSHINJACYAHA v. NSANGIRANABO [Rwanda URUKIKO RW'IKIRENGA – RPAA 0221/10/CS (Mukanyundo, P.J., Rugabirwa and Gakwaya, J.) 5 Nzeli 2014] Amategeko yerekeye imiburanishirize y'imanza nshinjabyaha – Ubujurire – Ibihe byo kujurira – Ibihe byo kijurira ni iminsi mirongo itatu. Ariko rero, kuba uwajuriye atarazanywe gusomerwa urubanza n'ibaruwa y'ubujurire ye ntiyandikweho na gereza igihe iyiboneye akaba yarananditse amabaruwa anyuranye yibutsa ibyubujurire bwe, bituma ibihe byo kujurira bibarwa uherye igihe yamenyesherejwe iby'imikiriye y'urwo rubanza hatitawe ku igihe yajuririye. – Itegeko - Ngenga n° 01/2004 ryo kuwa 29/01/2004 rigena imitunganyirize, imikorere n'ububasha by'Urukiko rw'Ikirenga, Ingingo ya 64 n'Itegeko n° 013/2004 ryo kuwa 17/05/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, Ingingo ya 164. Incamake y'ikibazo: Nsangiranabo Raphaël yahamijwe icyaha cyo gusambanya umwana n'Urukiko rw'Intara ya Gisenyi ahanishwa gufungwa burundu n'ihazabu ingana na 100, 000, 00Frw. Yajuririye mu rukiko Rukuru rwemeza ko imikiriye y'urubanza idahindutse. Yajuririye nanone mu rukiko rw'Ikirenga ariko umucamanza w'ibanzirizasuzuma yemeza ko ubujurire bwe butakiriwe kubera gutangwa bukerewe kuko urubanza ajuririra rwaciwe ahari ku wa 12 Gicurasi 2009 amenyeshwa ko ruzasomwa ku wa 2

Kamena 2009 ariko ajurira ku wa 5 Mutarama 2010. Yajuririye icyo cyemezo avuga ko icyatumye atajurira ku gihe ari uko Gereza ya Gisenyi afungiyemo itigeze imujyana gusomerwa. Avuga ko yajuririye urubanza ari uko akomeje kwandikira Urukiko Rukuru arusaba kumumenyesha imikirize y'urubanza. Ubushinjacyaha buvuga ko ubujurire budakwiye kwakirwa kuko yajuririye akerewe dore ko ngo yari yaramenyeshwe igihe urubanza ruzasomerwa maze umunsi yabwiwe rusomwa abirengaho ajurira akerewe.. Incamake y'icyemezo: N'ubwo Urukiko rwamenyesheje ababuranyi igihe urubanza rwari gusomerwa, 2 Kamena 2009 bikanagenda uko, uwo munsi ntaze mu gihe muri dosiye harimo amabaruwa Nsangiranabo yagiye yandikira Urukiko Rukuru ayanyujije ku Muyobozi wa Gereza yari afungiyemo asaba kumenyeshwa imikirize y'urubanza rwe nyamara ntibikorwe no kuba rwaraciwe ku itariki yavuzwe haruguru akandika ibaruwa ye y'ubujurire ku wa 22 Kamena 2009, iminsi 20 nyuma y'isomwa ry'urubanza, ariko Ubuyobozi bwa Gereza ntibwandikeho itariki buyiboneyeho, byumvikanisha ko Nsangiranabo ataryozwa ayo makosa. Bityo ubujurire bwe ntabwo bwatanzwe mu gihe kirenze iminsi 30. Uburire ku cyemezo cy'ibanzirizasuzuma Ubujurire bufite ishingiro icyemezo cy'ibanzirizasuzuma kirahindutse Amagarama y'urubanza aherereye ku isanduku ya leta. Amategeko yashingiweho y'Itegeko - Ngenga n° 01/2004 ryo kuwa 29/01/2004 rigena imitunganyirize, imikorere n'ububasha by'Urukiko rw'Ikirenga, Ingingo ya 64.

Page 2

Itegeko n° 013/2004 ryo kuwa 17/05/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, Ingingo ya 164. Nta manza zifashishijwe Urubanza I. IMITERERE Y'URUBANZA [1] Urukiko rw'Intara ya Gisenyi rwemeje ko Nsangiranabo Raphaël ahamwe n'icyaha cyo gusambanya umwana w'imyaka 10 y'amavuko, rumuhanisha igifungo cya burundu n'ihazaba ya 100.000 Frw. [2] Nsangiranabo Raphaël yajuririye urwo rubanza mu Rukiko Rukuru, Urugereko rwa Musanze, rwemeza ko imikirize y'urubanza rwajuririye idahindutse. [3] Nsangiranabo Raphaël yajuririye na none urwo rubanza mu Rukiko rw'Ikirenga kuri n° RPAA 0039/10/CS. Ubwo ubujurire bwakorewe ibanzirizasuzuma, umucamanza wabishinzwe afata icyemezo cy'ibanzirizasuzuma n° RP 0168/10/Pré-ex/CS kuwa 01/06/2010, yemeza ko ubujurire bwe butakiriwe kuko bwakererewe kubera ko urubanza n° RPA 0646/06/HC/MUS rwaburanishijwe ahari kuwa 12/05/2009, amenyeshwa ko ruzasomwa kuwa 02/06/2009, uwo munsi ugeze rurasomwa, ariko ko yarujuririye akererewe kuwa 05/01/2010. [4] Amaze kumenyeshwa icyo cyemezo, Nsangiranabo Raphaël yakijuririye muri uru Rukiko avuga ko umucamanza w'ibanzirizasuzuma yagombaga kwakira ubujurire bwe kuko icyatumye atajurira mu gihe cy'iminsi mirongo itatu (30) yateganywaga n'amategeko ari uko Gereza ya Gisenyi afungiyemo itari yaramujyanye gusomerwa imikirize y'urubanza yajuririye muri uru Rukiko, ariko ko yakomeje kwandikira Urukiko Rukuru asaba ko rwamumenyesha imikirize y'urwo rubanza kugeza ubwo yayimenyesheje kuwa 05/01/2010, ahita ajurira uwo munsi. [5] Urubanza rwaburanishijwe mu ruhame kuwa 16/06/2014, Nsangiranabo Raphaël yitabye kandi yunganiye na Me Murenzi Eugène, naho Ubushinjacyaha buhagarariye na Ntawangundi Béatrice. II. IKIBAZO KIRI MU RUBANZA N'ISESENGURWA RYACYO: Kumenya niba ubujurire bwa Nsangiranabo Raphaël ku cyemezo cy'ibanzirizasuzuma bufite ishingiro [6] Nsangiranabo Raphaël n'umwunganira bavugaga ko umucamanza

w'ibanzirizasuzuma yemeje ko ubujurire bwe bwakererewe, yirengagije ko impamvu yatumye atajurira mu gihe cy'iminsi 30 yateganywaga n'amategeko ari uko Gereza ya Gisenyi afungiyemo itamujyanye gusomerwa imikirize y'urubanza n° RPA 0646/06/HC/MUS yari yaraburanye kuwa 12/05/2009 rukaba rwaragombaga gusomwa kuwa 02/06/2009, ariko ko yandikiye Urukiko Rukuru, Urugereko rwa Musanze, amabaruwa atanu (5) yose asaba ko rwamumenyesha imikirize y'urwo rubanza kugeza ubwo yayimenyeshejwe kuwa 05/01/2010, ajurira uwo

Page 3

munsi. Asaba ko icyemezo cy'ibanzirizasuzuma yajuririye cyahinduka kugira ngo azabone amahirwe yo kuburana urubanza mu mizi. [7] Uhagarariye Ubushinjacyaha avuga ko icyemezo cy'ibanzirizasuzuma kidakwiye guhinduka kubera ko ubujurire bwa Nsangiranabo Raphaël bwakererewe. Asobanura ko Nsangiranabo Raphaël yaburanye urubanza n°RPA 0646/06/HC/MUS, iburanisha rirangiye, amenyeshwa ko ruzasomwa kuwa 02/06/2009, ko uwo munsi wageze, rurasomwa, nyamara yarujuririye akererewe kuwa 05/01/2010. UKO URUKIKO RUBIBONA [8] Ku byerekeranye n'ibihe by'ubujurire, ingingo ya 64 y'Itegeko - Ngenga n° 01/2004 ryo kuwa 29/01/2004 rigena imitunganyirize, imikorere n'ububasha by'Urukiko rw'Ikirenga ryakurikizwaga igihe Nsangiranabo Raphaël yajuriraga, ivuga ko "Igihe cyo kujurira ni iminsi mirongo itatu (30) itangira kubarwa guhera ku munsi w'isomwa ry'icibwa ry'urubanza rwajuririye ku muburanyi wari uhari cyangwa ahagarariye no ku muburanyi wamenyeshejwe umunsi w'isomwa ariko ntahagere, cyangwa ngo yohereze umuhagararira". [9] Naho ingingo ya 166, igika cya 4 y'Itegeko n° 013/2004 ryo kuwa 17/05/2004 ryerekeye imiburanishirize y'ianza z'inshinjabyaha ryakurikizwaga ubwo Nsangiranabo Raphaël yajuriraga, igateganya ko "Nyamara, iyo ujuriye afunze, ubujurire bwe ashobora kubukorera muri gereza mu nyandiko yandikira umwanditsi w'urukiko abinyujije ku muyobozi wa gereza. Na we ashyira umukono kuri urwo rwandiko agaragaza itariki arushyikirijweho ari na yo ifatwaho umunsi w'ijurira. Yihutira koherereza ubwo bujurire urukiko rugomba kububuranisha". [10] Ku birebana n'uru rubanza, dosiye igaragaza ko urubanza n° RPA 0646/06/HC/MUS rwaburanishijwe n'Urukiko Rukuru kuwa 12/05/2009, ababuranyi bose bahari, iburanisha rishojwe, Urukiko rubamenyesha ko urubanza ruzasomwa kuwa 02/06/2009, uyu munsi ugeze, rusomwa nta muburanyi uhari nk'uko bigaragazwa n'inyandiko-mvugo y'isomwa ry'urubanza iri muri dosiye, Nsangiranabo Raphaël arujuririra muri uru Rukiko kuwa 05/01/2010. [11] Muri dosiye hari kandi amabaruwa yo kuwa 22/06/2009, kuwa 26/10/2009 no kuwa 23/11/2009, Nsangiranabo Raphaël yandikiye Urukiko Rukuru, Urugereko rwa Musanze, ayanyujije ku Buyobozi bwa Gereza ya Gisenyi yari afungiyemo, ariko ntibwayandikaho amatariki buyashyikirijweho, aho yasabaga ko rwamumenyesha imikirize y'urubanza n°RPA 0646/06/HC/MUS rwe rwagombaga gusomwa kuwa 02/06/2009, nyamara ntiyahabwa ibisubizo. [12] Urukiko rurasanga, kuba urubanza rwajuririye muri uru Rukiko rwaraciye kuwa 02/06/2009, Nsangiranabo Raphaël akaba yarahise yandika ibaruwa ye y'ubujurire kuwa 22/06/2009, ni ukuvuga nyuma y'iminsi makumyabiri (20) urwo rubanza rukimara gusomwa, ariko Ubuyobozi bwa Gereza ya Gisenyi bukaba bwarakoze amakosa yo kutayandikaho itariki buyiboneyeho, bigaragara ko Nsangiranabo Raphaël ataryozwa ayo makosa yakozwe na Gereza, bivuga rero ubujurire bwe ku rubanza n° RPA 0646/06/HC/MUS bukwiye gufatwa nk'aho bwatanzwe mu gihe

kitarenze iminsi 30 yateganywaga n'ingingo ya 64 y'Itegeko – Ngenga ryavuzwe haruguru, bityo ubujurire bwe bukaba bukwiye kwakirwa, bityo icyemezo cy'ibanzirizasuzuma n° RP 0168/10/Pré-ex/CS cyo kuwa 01/06/2010 kikaba kigomba guhinduka.

Page 4

III. ICYEMEZO CY'URUKIKO [13] Rwemeye kwakira ubujurire bwa Nsangiranabo Raphaël ku cyemezo cy'ibanzirizasuzuma n° RP 0168/10/Pré-ex/CS cyo kuwa 01/06/2010 kuko bwatanzwe mu buryo n'inzira bikurikije amategeko; [14] Rwemeje ko ubwo bujurire bufite ishingiro; [15] Rwemeje ko icyemezo cy'ibanzirizasuzuma n° RP 0168/10/Pré-ex/CS cyo kuwa 01/06/2010 gihindutse; [16] Rutegetse ko amagarama y'uru rubanza aherera ku Isanduku ya Leta.

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/7814/8098>

CASE PAGE <https://chat.esheria.ai/case-law/rwanda/nsangiranabo-raphael-appealperiod-supreme-court-2014>

Prepared on 13 October 2026 · Esheria