

RWANDA / JUDGMENT

NYIRABASINGA v BUGWIZA

RCAA 00014/2021/CA

COURT

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NYIRABASINGA v BUGWIZA

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Text

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NYIRABASINGA v. BUGWIZA [Rwanda URUKIKO RW'UBUJURIRE – RCAA 00014/2021/CA (Ngagi, P.J.) 14 Mutarama 2022] Amategeko agenga ububasha bw'Inkinko – ubujurire bwa kabiri – Ububasha bw'Urukiko rw'Ubujujire ku bujujire bwa kabiri bushingira ku gaciro k'ikiburanwa kagenwe n'umuhanga mu gihe gusa icyaburanwe kitagenewe agaciro mu mafaranga mu manza zabanje. Incamake y'ikibazo: Uru rubanza rwatangiye Nyirabasinga arega Bugwiza mu Rukiko Rwisumbuye rwa Gasabo ko mu mwaka wa 1994 yahunze hanyuma aho ahungukiye asanga inzu yari atuyemo itunzwe na Bugwiza, akaba, asaba Urukiko kwemeza ko ahabwa umutungo we, no gutesha agaciro icyemezo cy'umutungo cyanditswe kuri Bugwiza, Urwo rubanza rwaburanishijwe Bugwiza adahari kuko yahamagajwe ahatazwi mu buryo bukurikije amategeko ntiyitabe. Urukiko rwemeje ko ikirego cyatanze na Nyirabasinga gifite ishingiro, rutegeka ko Bugwiza asubiza Nyirabasinga umutungo we, ko icyangombwa cy'ubukode burambye cy'umutungo cyanditswe kuri Bugwiza giteshejwe agaciro. Bugwiza yasubirishijemo urubanza rwaciye adahari avuga ko mu kuburanisha urwo rubanza yafashwe nk'aho yabuze kandi atarigeze abura. Bugwiza yasobanuye ko yagiranye amasezeranno y'ubugure bw'inzu iburanwa na Munyamahoro, aho nawe yari yarayiguzwe na Gaga. Ko nyuma yo kuyigura yahise ayivugurura. Ko kandi ayifye

ibyangombwa byose byemewe n'amategeko. Avuga ko bitumvikana ukuntu Nyirabasinga yaza kuyibaza nyuma y'imyaka 26 kandi yarabaga mu Rwanda. Asaba Urukiko, gutesha agaciro ibyangombwa by'inzu Nyirabasinga yabonye yitwaje urubanza yaburanye wenyine. Bugwiza yagobokesheje ku gahato muri urwo rubanza uwitwa Munyamahoro nawe wagobokesheje Gaga, kugirango bagaragaze uko bagiye babona uwo mutungo. Urukiko rwemeje ko kugobokesha Gaga nta shingiro bifite. Urukiko rwemeje ko ikirego cyatanzwe na Bugwiza gifite ishingiro, ko kugobokesha ku gahato Munyamahoro bifite ishingiro, ko urubanza rwasubirishijwemo ruteshejwe agaciro, ko Nyirabasinga ahabwa amafaranga y'agaciro k'inzu ndetse naya gaciro k'ikibanza yari yubatseho. akayahabwa na Bugwiza afatanyije na Munyamahoro, ko kandi Bugwiza agumana umutungo uburanwa. Rwategetse kandi ko icyangombwa cy'ubukode burambye cy'umutungo uburanwa cyanditswe kuri Nyirabasinga giteshejwe agaciro. Bugwiza yajuririye icyo cyemezo mu Rukiko Rukuru, arusaba gutesha agaciro imwe mu byemezo byafashwe mu rubanza rwajuririwe, Munyamahoro gusuzuma niba Urukiko rwaragombaga gutegeka ko we na Bugwiza bafatanyaga kwishyura Nyirabasinga amafaranga y'ingurane ku mutungo uburanwa. Urukiko Rukuru rwaciye rwemeje ko ubujurire bwa Bugwiza bufite ishingiro kuri bimwe, ko ubujurire bwa Munyamahoro bufite ishingiro, ko ubujurire bwuririye ku bundi bwa Macyamura nubwa Nyirabasinga nta shingiro bufite, ko imikirize y'urubanza rwajuririwe ihindutse kuri bimwe, rwemeza ko Bugwiza agumana umutungo uburanwa ugizwe n'inzu n'ikibanza yubatseho, rwemeza kandi ko amafaranga Bugwiza na Munyamahoro bari bategetswe gufatanyaga guha Nyirabasinga ntayo bagomba kumuha.

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Nyirabasinga ntiyishimiye imikirize y'urubanza, arujuririra mu Rukiko rw'ubujurire. Mu Rukiko rw'Ubugurire habanje gusuzumwa Inzitizi y'iburabubasha bw'Urukiko yazamuwe na Munyamahoro avuga ko Urukiko rw'ubujurire rudafite Ububasha kuko indishyi zarugenwemo zitarengeje iziteganyijwe n'Amategeko. Bugwiza na Nyirabasinga bo bavuga ko Urukiko rufite Ububasha kuko icyaregwe atari indishyi ahubwo ari inzu n'ikibanza yubatseho ko kandi hari igenagaciro rigaragaza ko Umutungo uburanwa ufite agaciro gateganywa n'amategeko. Urukiko rwemeje ko nta bubasha rufite kuko rushingira ububasha bwarwo ku gaciro k'ikiburanwa kagenwe n'umuhanga, mu gihe gusa icyaburanwe kitagenewe agaciro mu mafaranga mu manza zabanje. Incamake y'icyemezo: 1. Ububasha bw'Urukiko rw'Ubugurire ku bujurire bwa kabiri bushingira ku gaciro k'ikiburanwa kagenwe n'umuhanga mu gihe gusa icyaburanwe kitagenewe agaciro mu mafaranga mu manza zabanje. Bityo iyo mu Nkiko zabanje, ikiburanwa cyagenewe agaciro kari muni y'ateganyijwe n'Amategeko ntabwo ubujurire bwa kabiri bwakirwa. Amategeko yashingiweho: Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, Ingingo ya 52, y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuru, iz'umurimo n'iz'ubutegetsi, ingingo 111 Imanza zifashishijwe: Urubanza RCOMAA00004/2020/CA rwa Mabuye Joseph n'abandi v. Shane Martin Dale n'undi, rwaciye n'Urukiko rw'Ubugurire ku wa 12/12/2020. Urubanza I. IMITERERE Y'URUBANZA [1] Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Gasabo, Nyirabasinga Génèreuse arega Bugwiza Marie Gloria avuga ko mu mwaka wa 1994 yahungiyemo mu gihugu cya Congo, agasiga

imitungo itandukanye irimo n'inzu yari atuyemo yari yarashakanye n'umugabo we wapfuye witwaga Nshunguyinka Jean Bosco, ahungutse mu mwaka wa 2012 asanga iyo mitungo ye yarigaruriwe n'abandi bantu, imwe arayisubizwa hasigara inzu yari atuyemo yo itunzwe na Bugwiza Marie Gloria, ikaba iherereye mu Mudugudu w'Ingeri, Akagari ka Bibare, Umurenge wa Kimironko, Akarere ka Gasabo, asaba Urukiko kwemeza ko ahabwa umutungo we, gutesha agaciro icyemezo cy'umutungo ubaruye kuri UPI: 1/02/09/01/1573 cyanditswe kuri Bugwiza Marie Gloria, no kumugenera indishyi mbonezamusaruro z'imyaka itanu zingana na 15.000.000Frw hishyurwa 200.000 Frw y'ubukode buri kwezi, zibarwa kuva igihe yatangiriye kuwukurikirana ahungutse mu mwaka wa 2012, 1.000.000Frw yatakaje akurikirana icyo kibazo na 1.000.000Frw y'igihembo cya Avoka, yose hamwe akaba 17.000.000Frw. Urwo rubanza rwaburanishijwe Bugwiza Marie Gloria adahari kuko yahamagajwe ahatazwi mu buryo bukurikije amategeko ntiyitabe.

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- [2] Urukiko Rwisumbuye rwa Gasabo rwaciye urubanza RC 00078/2018/TGI/GSBO, rwemeza ko ikirego cyatanze na Nyirabasinga Génèreuse gifite ishingiye. Rwemeza kandi rutegeka ko Bugwiza Marie Gloria asubiza Nyirabasinga Génèreuse umutungo we ugizwe n'inzu n'ikibanza yubatsheho biherereye mu Mudugudu w'Ingeri Akagari ka Bibare Umurenge wa Kimironko, Akarere ka Gasabo, ubaruye kuri UPI 1/02/09/01/1573, ko kandi icyangombwa cy'ubukode burambye cy'umutungo ugizwe n'inzu n'ikibanza yubatsheho giteshejwe agaciro, Umubitsi w'impapurompamo z'ubutaka akaba agomba kucyandika kuri Nyirabasinga Génèreuse. Rutegeka Bugwiza Marie Gloria kwishyura Nyirabasinga Génèreuse 500.000Frw y'igihembo cya Avoka, na 150.000Frw y'ikurikiranarubanza, no kumwishyura 50.000 Frw y'amagarama y'Urukiko. [3] Ku wa 03/04/2020, Bugwiza Marie Gloria yasubirishijemo urubanza RC00078/2018/TGI/GSBO, ikirego cye cyandikwa kuri RC00147/2020/TGI/GSBO, avuga ko mu kuburanisha urubanza RC 00078/2018/TGI/GSBO yafashwe nk'aho yabuze kandi atarigeze abura. Mu rubanza rubanziriza urundi rwaciye ku wa 29/10/2020, Urukiko Rwisumbuye rwa Gasabo rwemeje ko ikirego cye cyakiriwe. [4] Bugwiza Marie Gloria yasobanuye ko ku wa 28/07/2007 yagiranye amasezeranno y'ubugure bw'inzu iburanwa na Munyamahoro Seth, aho yamwishyuye 13.500.000Frw, ko iyo nzu Munyamahoro Seth nawe yari yarayiguzwe na Gaga John mu mwaka wa 2001 kuri 1.000.000Frw, ari annexe y'inzu nini GAGA John yabagamo mu kibanza gifite 20 m kuri 40 m. Ko we akimara kuyigura yahise ayivugurura ashiraho amabati mashya akanahindura igisenge ashiraho ikigezweho, agashyiramo toilette ebyiri (2) na douche ebyiri (2), akayongerera agaciro karengeje 80.000.000Frw. Ko kandi ayifiye ibyangombwa byose byemewe n'amategeko y'u Rwanda, akaba ayisorerera, bikaba bitumvikana ukuntu Nyirabasinga Génèreuse nyuma y'imyaka 26 yaza kuyibaza kandi yarabaga mu Rwanda. [5] Asaba Urukiko, gutesha agaciro ibyangombwa by'inzu Nyirabasinga Génèreuse yahawe yitwaje urubanza yaburanye wenyine, we adahari, atararumenyeshejwe, kwemeza ko inzu n'ikibanza irimo kiri mu Mudugudu w'Ingeri, Akagari ka Bibare, Umurenge wa Kimironko, Akarere ka Gasabo, Umujyi wa Kigali ko ari iye, no kumuha indishyi z'akababaro zingana 2.000.000Frw, 14.000.000Frw y'ikurikiranarubanza

14.000.000Frw, 1.000.000Frw y'igihembo cya Avoka n'indishyi mbonezamusaruro z'ubukode bwayo kuko yakodeshwaga 250.000Frw ku kwezi, hakaba hashize amezi 12 Nyirabasinga Génèreuse yarakuyemo abayikodeshaga yari yashyizemo, zikabarwa kuva ku wa 20/02/2020 kugeza aho urubanza ruzarangirira. [6] Bugwiza Marie Gloria yagobokesheje ku gahato muri urwo rubanza uwitwa Munyamahoro Seth kugira ngo azasobanure uburyo ari we wamugurishije inzu iburanwa n'uburyo we yayibonyemo, Macyamura Aaron wasinye ku masezerano y'ubugure ubwo yaguraga iyo nzu kugira ngo aze abisobanure, na Maniraho Narcisse wakiraga amafaranga y'ubukode bw'iyi nzu kugira ngo aze abisobanure kuko atamuzi. Uhagarariye Munyamahoro Seth yasabye ko John Gaga agobokeshwa mu rubanza, kubera ko ahaburanwa ari we wahamugurishije nawe ahagurisha Bugwiza Josephine. Uhagarariye Macyamura Aaron wagobokeshejwe avuga ko asaba kuvanwa mu rubanza kuko nta nyungu arufitemo, ko ntaho ahuriye n'umutungo uburanwa. Urukiko Rwisumbuye rwa Gasabo rwemeje ko kugobokesha Gaga John nta shingiro bifite kuko nta nyungu afite mu rubanza, rwemeza ko iburanisha rikomeza.

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- [7] Ku wa 03/03/2021, Urukiko Rwisumbuye rwa Gasabo rwakijije urwo rubanza, rwemeza ko ikirego cyatanze na Nyirabasinga Génèreuse gifite ishingiro, ko kugobokesha ku gahato Munyamahoro Seth na Macyamura Aaron bifite ishingiro, ariko ko kugobokesha ku gahato Maniraho Narcisse nta shingiro bifite, ko urubanza RC00078/2018/TGI/GSBO rwaciye n'Urukiko Rwisumbuye rwa Gasabo ku wa 13/03/2019 rwasubirishijwemo ruteshejwe agaciro, ko Nyirabasinga Génèreuse ahabwa 500.000Frw y'agaciro k'inzu yasize ahunga mu mwaka wa 1994 na 39.900.000Frw y'agaciro k'ikibanza yari yubatsheho gifite ubu nk'uko kagaragazwa na expertise, amafaranga y'agaciro k'inzu yose uko ari 40.400.000Frw akayahabwa na Bugwiza Marie Gloria afatanyije na Munyamahoro Seth, ko kandi Bugwiza Marie Gloria agumana umutungo uburanwa ugizwe n'inzu n'ikibanza yubatsheho biherereye mu Mudugudu w'Ingeri, Akagari ka Bibare, Umurenge wa Kimironko, Akarere ka Gasabo, ubaruye kuri UPI:1/02/09/01/1573. [8] Rutegeka kandi ko icyangombwa cy'ubukode burambye cy'umutungo wavuzwe haruguru cyanditswe kuri Nyirabasinga Génèreuse giteshejwe agaciro, Umubitsi w'impapururompamo z'ubutaka akaba agomba kucyandika kuri Bugwiza Marie Gloria. Rutegeka Nyirabasinga Génèreuse guha Bugwiza Marie Gloria 2.000.000Frw y'indishyi z'akababaro, 3.000.000Frw y'indishyi mbonezamusaruro, yose hamwe akaba 5.000.000Frw. Rutegeka kandi ko ingwate y'amagarama y'urubanza Nyirabasinga Génèreuse na Bugwiza Marie Gloria batanze barega ihwanye n'ibyakozwe mu rubanza. [9] Bugwiza Marie Gloria yajuririye icyo cyemezo mu Rukiko Rukuru, arusaba gutesha agaciro imwe mu myanzuro y'urubanza rwajuririwe, n'indishyi zitandukanye. Munyamahoro Seth nawe ajurira asaba Urukiko Rukuru gusuzuma niba Gaga John na Nyirakarera Belancille nyirabukwe wa Nyirabasinga Génèreuse baragombaga kugobokeshwa mu rubanza RC00147/2020/TGI/GSBO, gusuzuma niba Urukiko rwaragombaga gutegeka ko we na Bugwiza Marie Gloria bafatanyaga kwishyura Nyirabasinga Génèreuse 40.400.000Frw, anasaba indishyi zitandukanye. Izo manza zarahurijwe ziburanishwa mu rubanza rumwe.

[10] Ku wa 09/07/2021, Urukiko Rukuru rwaciye urubanza RCA00064/2021/HC/KIG & RCA00099/2021/HC/KIG, rwemeza ko ubujurire bwa Bugwiza Marie Gloria bufite ishingiro kuri bimwe, ko ubujurire bwa Munyamahoro Seth bufite ishingiro, ko ubujurire bwuririye ku bundi bwa Macyamura Aaron bufite ishingiro, ko ubujurire bwuririye ku bundi bwa Nyirabasinga Génèreuse nta shingiro bufite, ko imikirize y'urubanza rwajuririwe ihinditse kuri bimwe, rwemeza ko Bugwiza Marie Gloria agumana umutungo uburanwa ugizwe n'inzu n'ikibanza yubatseho nk'uko byari byemejwe mu rubanza rwajuririwe, ko 40.400.000Frw (agizwe na 500.000Frw y'agaciro k'inzu Nyirabasinga Génèreuse yasize ahunga mu mwaka wa 1994 na 39.900.000Frw y'agaciro k'ikibanza inzu yubatsemo) Bugwiza Marie Gloria na Munyamahoro Seth bari bategetswe gufatanya guha Nyirabasinga Génèreuse ntayo bagomba kumuha kubera impamvu zasobanuwe, ko 2.000.000 Frw y'indishyi z'akababaro na 3.000.000Frw y'indishyi mbonezamusaruro, Nyirabasinga Génèreuse yari yategetswe guha Bugwiza Marie Gloria mu rubanza rwajuririwe adahindutse. Rutegeka Nyirabasinga Génèreuse guha Bugwiza Marie Gloria 200.000Frw y'ikurikiranarubanza yiyongera kuyo yari yategetswe kumuha mu rubanza rwajuririwe, akamusubiza 40.000 Frw yatanzeho ingwate y'amagarama mu Rukiko Rukuru. Rutegeka Nyirabasinga Génèreuse guha Munyamahoro Seth 100.000Frw y'ikurikiranarubanza na 750.000Frw y'igihembo cya Avoka, akamusubiza na 40.000Frw yatanzeho ingwate y'amagarama ajurira. Rutegeka Bugwiza Marie

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Gloria guha Macyamura Aaron 100.000Frw y'ikurikiranarubanza na 750.000Frw y'igihembo cya Avoka. [11] Nyirabasinga Génèreuse ntiyishimiye imikirize y'urubanza, arujuririra muri uru Rukiko, ubujurire bwe buhabwa RCAA00014/2021/CA. [12] Urubanza rwaburanishijwe mu ruhame ku wa 05/01/2022, Nyirabasinga Génèreuse yunganiwe na Me Hakizimana Gérard, Bugwiza Marie Gloria yunganiwe na Me Ngarambe Lambert, Macyamura Aaron ahagarariwe na Me Nyungura Joseph, naho Munyamahoro Seth na Maniraho Narcisse batitabye, ariko barahamagajwe mu buryo bukurikije amategako, Urukiko rwemeza ko urubanza ruburanishwa Munyamahoro Seth na Maniraho Narcisse badahari, urubanza ruciwe rugafatwa nk'aho bise bari bahari, haburanishwa inzitizi y'iburabubasha bw'Urukiko rw'Ubujurire n'inzitizi yo kumenya niba Nyirabasinga Génèreuse adafite inyungu n'ububasha zatanze na Munyamahoro Seth. II. IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO 1. Kumenya niba ubujurire bwa Nyirabasinga Génèreuse butari mu bubasha bw'Urukiko rw'Ubujurire [13] Mu mwanzuro wa Munyamahoro Seth, ashingiye ku ngingo ya 52, igika cya kabiri, agace ka 8, y'Itegeko N° 30/2018 ryo ku wa 02/06/201 rigena ububasha bw'inkiko, iteganya ko Urukiko rw'Ubujurire rufite kandi ububasha bwo kuburanisha mu rwego rw'ubujurire bwa kabiri imanza zaciwe n'Urukiko Rukuru, iyo izo manza zagenwemo n'urukiko indishyi zingana nibura 75.000.000Frw cyangwa zifite agaciro kagenwe n'umucamanza mu gihe habaye impaka kangana na 75.000.000Frw, asaba Urukiko rw'Ubujurire kutakira ubu bujurire, kubera ko agaciro k'umutungo uburanwa Nyirabasinga Génèreuse yita uwe kagenwe n'Urukiko mu rubanza RCA00064/2021/HC/KIG-RCA00099/2021/HC/KIG rujuririrwa kangana na 40.000.000Frw gahwanye n'ikibanza n'ibyari kuri ubwo butaka. [14] Avuga kandi ko Nyirabasinga Génèreuse mu kurega yakoresheje igenagaciro

rigaragaza ko umutungo uburanwa ufite agaciro ka 61.723.816Frw, ko yaburanye ikibanza n'inzu yasize aho kuba inzu ya Bugwiza Marie Gloria, maze Urukiko Rwisumbuye rwa Gasabo rukemeza ko umutungo aregera ufite agaciro kangana na 40.000.000Frw; bityo ko ubujurire bwa Nyirabasinga Génèreuse butagomba kwakirwa. [15] Me Hakizimana Gérard wunganira Nyirabasinga Génèreuse avuga ko bashigiye ku ngingo ya 52, igika cya 4, y'Itegeko N° 30/2018 ryerekeye ububasha bw'inkiko, ivuga ko iyo icyaburanwe kitagenewe agaciro mu mafaranga mu manza zabanje, kigomba kuba gifite agaciro nibura kangana na 75.000.000Frw kagenwe n'umuhanga iyo bibaye ngombwa, basanga Urukiko rw'Ubujurire rufite ububasha kuko ikiburanwa gifite agaciro karenze 75.000.000Frw. Ko inzitizi itangwa na Munyamahoro Seth nta shingiro ifite, kuko icyaburanwe mu rubanza RCA00064/2021/HC/KIG- RCA00099/2021/HC/KIG rujuririrwa atari indishyi, ko ahubwo ari inzu n'ikibanza yubatsemo, ko kandi expertise ziri muri dosiye, yaba iya Nyirabasinga Génèreuse cyangwa iya Bugwiza Marie Gloria zigaragaza ko uwo mutungo urengeje agaciro ka 75.000.000Frw. Ko 40.000.000Frw Munyamahoro Seth avuga ari izemejwe mu rubanza rwaciwe n'Urukiko Rwisumbuye rwa Gasabo

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aho rwemeje ko ibyo Nyirabasinga Génèreuse aregera atabihabwa byose, ko kandi urwo rubanza rwajuririwe mu Rukiko Rukuru, ko agaciro k'ikiburanwa kangana 76.816.093Frw. [16] Avuga kandi ko expertise ya 61.723.816Frw ari iy'umutungo utaburanwa wa Macyamura Aaron, ko baregeye inzu n'ikibanza yubatsemo. Ko kandi urega n'uregwa bemeranya ko ikiburanwa kirengeje 75.000.000Frw. Abajijwe impamvu ububasha bw'Urukiko butashingira ku ndishyi zagenwe mu rubanza ahubwo bugashingira ku igenagaciro ryatanzwe n'ababuranyi, avuga ko ububasha bw'Urukiko bushingirwa ku ndishyi mu gihe ari zo zaregewe, ariko ko muri uru rubanza atari indishyi zaregewe, atari nacyo cyaburanwe, bityo ko basanga ubu bujurire buri mu bubasha bw'Urukiko rw'Ubujurire. [17] Bugwiza Marie Gloria avuga ko Urukiko rw'Ubujurire rufite ububasha bwo kuburanisha ubu bujurire kubera ko ikiburanwa kirengeje 75.000.000Frw. Avuga kandi ko nubwo atari umunyamategeko ariko yasomye itegeko ararisobanukirwa, ko Nyirabasinga Génèreuse atigeze aregera indishyi, ko rero ingingo ivuga ku ndishyi Munyamahoro ashingiraho itahabwa ishingiro kuko umucamanza wo mu Rukiko Rwisumbuye rwa Gasabo yatanze indishyi kandi atari zo zaregewe, ko inzitizi yatanze na Munyamahoro Seth nta shingiro ifite. [18] Me Ngarambe Lambert wunganira Bugwiza Marie Gloria avuga ko umutungo uburanwa wagenewe agaciro kandi agaciro karenze 75.000.000Frw, ko rero Urukiko rw'Ubujurire rufite ububasha hashingiwe ku biteganywa n'ingingo ya 52, igika cya 4, y'Itegeko N° 30/2018 ryerekeye ububasha bw'inkiko. Avuga kandi ko nta mpaka ku gaciro kikiburanwa zigeze zibaho mu rubanza rujuririrwa, ko indishyi zatanze atari agaciro k'ikiburanwa. [19] Me Nyungura Joseph uhagarariye Macyamura Aaron avuga ko ntacyo avuga ku nzitizi yatanze na Munyamahoro Seth kuko uwajuriye atari we wazanye Macyamura Aaron mu rubanza. UKO URUKIKO RUBIBONA [20] Ingingo ya 52, igika cya 2, agace ka 8, y'Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, iteganya ko: "Urukiko rw'Ubujurire rufite kandi ububasha bwo kuburanisha mu rwego rw'ubujurire bwa kabiri imanza zaciwe n'Urukiko Rukuru, iyo izo manza: 8° zagenwemo n'urukiko indishyi zingana nibura na miliyoni mirongo irindwi n'eshanu z'amafaranga y'u

Rwanda (75.000.000 Frw) cyangwa zifite agaciro kagenwe n'umucamanza mu gihe habaye impaka kangana na miliyoni mirongo irindwi n'eshanu z'amafaranga y'u Rwanda (75.000.000 Frw)" [21] Ingingo ya 52, igika cya 4, y'Itegeko N° 30/2018 rivuzwe haruguru, ikavuga ko: "iyi icyaburanwe kitagenewe agaciro mu mafaranga mu manza zabanje, kigomba kuba gifite agaciro nibura kangana na miliyoni mirongo irindwi n'eshanu z'amafaranga y'u Rwanda (75.000.000Frw) kagenwe n'umuhanga iyo bibaye ngombwa". [22] Ikibazo nyamukuru kigomba gusuzumwa muri uru rubanza, ni kumenya ikigomba gushingirwaho mu kwemeza ko uru Rukiko rufite ububasha cyangwa rutabufite hagati y'indishyi zagenwe n'Urukiko n'igenagaciro ryatanzwe na Nyirabasinga Génèreuse.

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[23] Dosiye igaragaza ko Nyirabasinga Génèreuse atanga ikirego mu Rukiko Rwisumbuye rwa Gasabo yararegeye inzu n'ikibanza yubatseho biherereye mu Mudugudu w'Ingeri, Akagari ka Bibare, Umurenge wa Kimironko, Akarere ka Gasabo, urwo Rukiko rwemeza ko Nyirabasinga Génèreuse ahabwa na Bugwiza Marie Gloria afatanyanyije na Munyamahoro Seth 40.400.000Frw, agizwe na 500.000Frw y'agaciro k'inzu yasize ahunga mu mwaka wa 1994 na 39.900.000Frw y'agaciro k'ikibanza yari yubatseho gifite ubu nk'uko kagaragazwa n'igenagaciro, Nyirabasinga Génèreuse ntiyajuririye urwo rubanza, bivuze ko yemeye indishyi yagenewe n'urwo Rukiko. Ku bujurire bwatanzwe na Bugwiza Marie Gloria na Munyamahoro Seth, Urukiko Rukuru rwemeje ko 40.400.000Frw, Bugwiza Marie Gloria na Munyamahoro Seth bari bategetswe guha Nyirabasinga Génèreuse ntayo bagomba kumuha. [24] Urukiko rurasanga ububasha bw'Urukiko bushingira ku gaciro k'ikiburanwa kagenwe n'umuhanga, mu gihe gusa icyaburanwe kitagenewe agaciro mu mafaranga mu manza zabanje. Urukiko rurasanga muri uru rubanza, icyaburanwe cyagenewe agaciro ka 40.400.000 Frw n'Urukiko Rwisumbuye rwa Gasabo nyuma y'impaka ku kiburanwa hagati y'ababuranyi, urwo Rukiko rugashingiraho rutegeka Bugwiza Marie Gloria gufatanya na Munyamahoro Seth kwishyura Nyirabasinga Génèreuse 40.400.000Frw, Urukiko rurasanga izo ndishyi zagenwe n'Urukiko, ari zo zigomba gushingirwaho kugira ngo hamenyekane niba ubujurire bwa Nyirabasinga Génèreuse buri mu bubasha bw'uru Rukiko, bityo ibisabwa na Nyirabasinga Génèreuse na Bugwiza Marie Gloria ko ububasha bw'Urukiko bwashingira ku igenagaciro ryagaragajwe n'umuhanga, nta shingiro bifite. [25] Ku byerekeye ibuvugwa na Nyirabasinga Génèreuse ndetse na Bugwiza Marie Gloria, ko icyaregewe muri uru rubanza atari indishyi, ko rero ububasha bw'Urukiko budakwiye gushingira ku ndishyi, nta shingiro byahabwa kuko, nk'uko byasobanuwe haruguru, ikiburanwa cyagenewe agaciro mu mafaranga, arizo zitwa indishyi, bityo izo ndishyi ni zo zigomba gushingirwaho mu gusuzuma niba, ubu bujurire buri mu bubasha bw'uru Rukiko. Iyi myumvire ni nayo yashingiweho mu rubanza RCOMAA00004/2020/CA rwa Mabuye Joseph na bagenzi be baburana na Shane Martin Dale na Mugiraneza Pascal, aho uru Rukiko rwashingiye ku mafaranga yemejwe n'Urukiko Rukuru rw'Ubucuruzi angana na 71.237.742Frw mu kugena ububasha bw'uru Rukiko, runemeza ko igenagaciro ry'umutungo wa Warehouse Ltd ryagaragaje ko uwo mutungo ufite agaciro ka 247.477.000Frw ritagomba gushingirwaho,

kuko ritigeze ryemezwa n'Urukiko1. [26] Hashingiwe ku bisobanuro bimaze gutangwa no ku ngingo z'amategeko zavuzwe haruguru, Urukiko rw'Ubujurire rurasanga ubujurire bwa Nyirabasinga Génèreuse butari mu bubasha bw'uru Rukiko, kuko nta ndishyi zingana nibura na 75.000.000Frw zagenwe n'Urukiko, bikaba rero bitakiri ngombwa gusuzuma indi nzitizi yatanzwe na Munyamahoro Seth. 2.Kumenya ishingirory'amafaranga y'ikurikiranarubanza n'igihembo cy'avoka asabwa muri uru rubanza [27] Mu mwanzuro wa Munyamahoro Seth ashingiye ku ngingo ya 110 n'ya 111 z'Itegeko N° 22/2018 ryo ku wa 29/04/2021, ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'umurimo n'iz'ubutegetsi, asaba Urukiko rw'Ubujurire gutegeka Nyirabasinga Génèreuse 1 Reba urubanza n° RCOMAA 00004/2020/CA rwa MABUYE Joseph na bagenzi be baburana na SHANE Martin Dale na MUGIRANEZA Pascal, rwaciwe n'Urukiko rw'Ubujurire ku wa 12/12/2020, igika cya 19 n'icya 20.

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kumwishyura 1.000.000Frw y'igihembo cya Avoka na 300.000Frw y'ikurikiranarubanza, yose hamwe akaba 1.300.000Frw. [28] Me Nyungura Joseph, uhagarariye Macyamura Aaron, avuga ko bashingiye ku 154 y'Itegeko ryerekeye imiburanishirize y'imanza z'imhonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, Macyamura Aaron asaba 1.000.000Frw y'ikurikiranarubanza n'igihembo cya Avoka, akayasaba Bugwiza Marie Gloria kuko ari we wamuzanye mu rubanza. [29] Me Hakizimana Gérard, wunganira Nyirabasinga Génèreuse, avuga ko indishyi Munyamahoro Seth asaba ntazo yahabwa kuko kuva urubanza rwatangira atari Nyirabasinga Génèreuse wamuzanye mu rubanza, ko rero nta ndishyi izo ari zo zose yamuha. UKO URUKIKO RUBIBONA [30] Ingingo ya 111 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, iteganya ibikurikira: "Ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikira ku kirego cy'iremezo kigamije kwishyura ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishirizwa rimwe n'ikirego cy'iremezo. Gishobora kandi kwakirwa kikanaburanishwa n'yo ikirego cy'iremezo cyaba kitakiriwe." [31] Urukiko rurasanga Munyamahoro Seth akwiye guhabwa gusa amafaranga y'ikurikiranarubanza kuko bigaragara ko kubera ubu bujuriye, yakoze imyanzuroyo kwiregura, anitabira inama ntegarurubanza, ariko akaba adakwiye guhabwa igihembo cya Avoka kubera ko nta kigaragaza ko yayatanze cyane ko nta Avoka we witabiriye iburanisha; bityo mu bushishozi bw'Urukiko rumugeneye 200.000Frw y'ikurikiranarubanza, agomba gutangwa na Nyirabasinga Génèreuse. [32] Ku byerekeranye na 1.000.000Frw y'ikurikiranarubanza n'igihembo cya Avoka, Macyamura Aaron asaba Bugwiza Marie Gloria kuko ari we wamuzanye mu rubanza, Urukiko rurasanga atasuzumwa muri uru rubanza kuko rugarukiye ku nzitizi y'iburabubasha bw'uru Rukiko kandi akaba atayasabye uwajuriye. III. ICYEMEZO CY'URUKIKO [33] Rwemeje ko inzitizi y'iburabubasha bw'Urukiko rw'Ubujurire yatanzwe na Munyamahoro Seth ifite ishingiro. [34] Rwemeje ko ubujurire bwa Nyirabasinga Génèreuse butari mu bubasha bw'Urukiko rw'Ubujurire. [35] Rutegetse Nyirabasinga Génèreuse kwishyura Munyamahoro Seth 200.000Frw y'ikurikiranarubanza, kuri uru rwego. [36] Ruvuze ko amagarama yatanzwe ahwanye n'ibyakozwe mu rubanza.

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