

RWANDA / JUDGMENT

NDATIMANA N'ABANDI vs NYIRANSABIMANA

RSA/RECT/RC00001/2025/CA

COURT

Court of Appeal

DECIDED

19 November 2025

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NDATIMANA N'ABANDI vs NYIRANSABIMANA

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Text

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NDATIMANA N'ABANDI vs NYIRANSABIMANA [Rwanda URUKIKO RW'UBUJURIRE – RSA/RECT/RC00001/2025/CA (Rutazana, P.J.) 19 Ugushyingo 2025] Amategeko yerekeye imiburanishirize y'imanza Mboneyamubano – gukosora cyangwa gusobanura urubanza – amakosa akosorwa – Gukosora amakosa y'imyandikire ntibigomba kugira icyo bihindura ku cyemezo cyafashwe, kandi amakosa akosorwa ni ayakozwe n'umucamanza, si ayakozwe n'umuburanyi. Ariko hashobora kubaho irengayobora nk'igihe umucamanza yasubiye mu makosa yakozwe n'umuburanyi kandi yashoboraga kuyabona akayakosora iyo agenzura neza. Amategeko yerekeye imiburanishirize y'imanza Mboneyamubano – gukosora cyangwa gusobanura urubanza – ikirego gisaba gusobanura urubanza kigomba kugaragaza icyibeshyweho, icyemejwe mu buryo butumvikana cyangwa mu buryo bushobora kumvikana mu buryo bunyuranye. Bityo, hasobanurwa ibyaciweho urubanza bitumvikana mu myandikire yarwo cyangwa bishobora kumvikana mu buryo bunyuranye bitera urujijo mu rubanza (obscurité ou ambiguïté) (...). Incamake y'ikibazo: Uru rubanza rwatangiye Nyiransabimana aregera Urukiko Rwisumbuye rwa

Musanze arusaba gutesha agaciro ibyangombwa bya burundu by'imitungo itimukanwa yasigiwe n'umugabo we Munyamasoko witabye Imana, no gutegeka ko ivanwa mu mazina y'abana be (abaregwa muri uru rubanza) ikandikwa mu mazina ye kuko bayiyandikishijeho mu buryo bunyuranyije n'amategeko bashingiye ku nyandiko y'ubugure yakozwe mu buriganya kuko ngo atayishyizeho umukono. Ndatimana n'abagenzi be baregwa babanje gutanga inzitizi igamije gusaba ko icyo kirego kitakirwa bashingiye ku mpamvu y'uho ari ikirego cy'ubutegetsi, nyuma yo kuyisuzuma Urukiko rwemeza ko nta shingiro ifite. Naho ku bijyanye n'urubanza mu mizi bireguye bavuga ko ikirego cya Nyiransabimana nta shingiro gifite kuko imitungo iburanwa ari we wayibahaye, basobanura ko imwe yayibahaye nk'imminani anabakorera ihererekanyamutungo, indi bamusaba kuyibagurisha aho kugira ngo izagurwe n'abandi, kuko babonaga atangiye kugurisha iyo yari asigaranye; bavuga kandi ko afite ibimutunga kuko nawe yasigaranye imitungo ihagije imwanditseho, indi akaba yarayigurishije. Urukiko mu rubanza RC00050/2022/TGI/MUS, rwemeje ko ikirego cya Nyiransabimana gifite ishingiro, rutegeka ko imitungo iregerwa ari iya Nyiransabimana, rwemeza ko bayiyandikishijeho ku buriganya, rutegeka ko yandikwa kuri Nyiransabimana, runategeka ko Nyiransabimana yishyurwa amafaranga y'ikurikirana rubanza n'igihembo cya Avoka, n'abaregwa. Ndatimana na bagenzi be bose bajurirye Urukiko Rukuru, Urugereko rwa Musanze, Ubujurire bwabo bwandikwa kuri RCA00038/2023/HC/MUS. Mu nama ntegururubanza ababuranyi biyemeje kurangiza ibibazo bari bafitanye binyuze mu bwumvikane bafashijwe n'Umwanditsi w'Urukiko, Urukiko rukora icyemezo cy'ubwumvikane kirangiza urwo rubanza. Urukiko Rukuru, rwemeje muri icyo cyemezo, ko urubanza rujuririrwa ruhindutse ku byo Nyiransabimana yatsindiye, bigasimburwa n'ubwumvikane ababuranyi bagiranye; bwemeza ko Nyiransabimana yegurirwa inzu nini yari asanzwe atuyemo iri mu i Bereshi rya gatanu, yubatswe ku butaka bubaruye kuri UPI: 4/03/08/03/722, n'umuryango w'inzu y'ubucuruzi iherereye ku Kabaya ku butaka bubaruye kuri UPI: 4/03/08/04/2965, kandi abana be bakamuha 200.000Frw buri kwezi. Ndatimana na bagenzi be bose bongeye gutanga ikirego mu Rukiko Rukuru, Urugereko rwa Musanze, barusaba gukosora no gusobanura icyemezo cy'ubwumvikane. Basaba ko aho kwandikwa ko Nyiransabimana" yegukana" inzu nini yari asanzwe atuyemo iri mu i Bereshi rya gatanu yubatswe ku butaka bubaruye kuri UPI: 4/03/08/03/722, handikwa ko "yakodesha" iyo nzu, indi miryango y'ubucuruzi iri muri icyo kibanza iyo

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nzu irimo igakodeshwa n'abana be; akanakodesha umuryango umwe uri ahitwa ku Kabaya, ngo kuko ariko bari babivuze mu gihe bumvikanaga mu Rukiko ndetse no mu muryango. Basabye kandi ko, imitungo iri mu bibanza bibaruye kuri UPI: 4/03/08/03/722 na UPI: 4/03/08/04/2965 UPI yatandukanywa (subdivision), Nyiransabimana akiyandikishaho inzu nini iri mu i Bereshi rya gatanu n'umuryango w'inzu y'ubucuruzi yahawe iri ku Kabaya. Nyiransabimana yavuze ko ibyo abana be basaba bidakwiye guhabwa ishingiro, kuko ibyanditse mu nyandikomvugo y'inama ntegururubanza n'ibyanditse mu cyemezo cy'ubwumvikane nta kosa ririmo, ndetse nta n'ikidasobanutse kiri mu byo impande zombi zumvikanye; naho ku bijyanye no kuba imitungo yagenewe yagabanywa (subdivision) avuga ko ari ikirego gishya kitigeze kivugwaho mu nama ntegururubanza ngo binashyirwe mu cyemezo cy'ubwumvikane, kandi ko atari kubyemera kuko

bashaka kumuheza mu mitungo yashakanye n'umugabo we no kumuzungura akiriho. Urukiko mu rubanza RS/RECT/RC 00001/2025/HC/MUS rwemeje ko ikirego cyatanze n'abana ba Nyiransabimana nta shingiro gifite, kuko nta kosa ry'inyandikire cyangwa ikidasobanutse mu cyemezo cy'ubwumvikane cyafashwe mu rubanza RCA00038/2023/HC/MUS. ko ibyo basaba ataribyo bumvikanye; kandi ko n'ibijyanye no kuba imitungo Nyiransabimana yahawe yagabanywamo ibice "subdivision", ari ikirego gishya batanze nyuma y'inyaka hafi itatu basinye inyandiko y'ubwumvikane. Ndatimana na bagenzi be, bajuririje Urukiko rw'Ubujurire, bavuga ko Urukiko Rukuru, Urugereko rwa Musanze rwemeje ko nta kigomba gukosorwa cyangwa gusobanurwa mu cyemezo cy'ubwumvikane cyafashwe mu rubanza RCA00038/2023/HC/MUS, rwirengagije ko ibyo ababuranyi bemeranyijwe bitandukanye nibyanditswe mu cyemezo cy'Urukiko ku bwumvikane bwabo. Nyiransabimana avuga ko ubujurire bwa Ndatimana n'abavandimwe be nta shingiro bufite, kuko ibyo bumvikanyeho mu nama ntegururubanza ari byo byanditswe mu cyemezo cy'ubwumvikane. Urukiko mu rubanza RSA/RECT/RC00001/2025/CA, rwemeje ko ntacyo gukosora mu myandikire y'icyemezo kiregerwa ariko ko bigomba kumvikana ko ubureganzira Nyiransabimana afite kuri iyo mitungo yombi ari ubwo kujya ayikuramo ibimufasha mu mibereho ye mu gihe cyose akiriho, ko atahawe imitungo yose iri mu bibanza bibaruye kuri UPI:4/03/08/03/722 na UPI: 4/03/08/04//2965 ku buryo yamwandikwaho. Incamake y'icyemezo:1. Gukosora amakosa y'inyandikire ntibigomba kugira icyo bihindura ku cyemezo cyafashwe, kandi amakosa akosorwa ni ayakozwe n'umucamanza, si ayakozwe n'umuburanyi. Ariko hashobora kubaho irengayobora nk'igihe umucamanza yasubiye mu makosa yakozwe n'umuburanyi kandi yashoboraga kuyabona akayakosora iyo ajenzura neza.

2. Ikirego gisaba gusobanura urubanza kigomba kugaragaza icyibeshyweho, icyemejwe mu buryo butumvikana cyangwa mu buryo bushobora kumvikana mu buryo bunyuranye. Bityo, hasobanurwa ibyaciweho urubanza bitumvikana mu myandikire yarwo cyangwa bishobora kumvikana mu buryo bunyuranye bitera urujijo mu rubanza (obscurité ou ambiguïté) (...). Ubujurire bufite ishingiro kuri bimwe. Amategeko yashingiweho: Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, Ingingo ya 140, igika cya mbere Imanza zifashishijwe: Urubanza RS/RECT/RC 00003/2021/SC, haburana Musefano Juvens rwaciwe n'Urukiko rw'Ikirenga ku wa 18/02/2022. igika cya 11. Urubanza RS/INTER/CIV0001/14/CS, haburana SOCOBICO INDUSTRIES S.A, RLR V.2 – 2016.

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Urubanza RS/INTER/RC 00001/2022/SC, haburana Ntagungira, rwaciwe n'Urukiko rw'Ikirenga kuwa 18/11/2022, igika cya 11. Urubanza. I. IMITERERE Y'URUBANZA [1] Nyiransabimana Elisabeth yaregeye Urukiko Rwisumbuye rwa Musanze arusaba gutesha agaciro ibyangombwa bya burundu by'imitungo itimukanwa yavuzwe haruguru (mu kiburanwa) yasigiwe n'umugabo we Munyamasoko Adrien witabye Imana, no gutegeka ko ivanwa mu mazina y'abana be (abaregwa muri uru rubanza) ikandikwa mu mazina y Nyiransabimana Elisabeth kuko bayiyandikishijeho mu buryo butari bwo, bitwaje inyandiko yo ku wa 31/12/2016 bavuga ko igaragaza ko yabagurishije imitungo ye yose, nyamara iyo nyandiko yarakozwe mu buryo bw'uburiganya kuko

umukono uyiraho atari uwe. [2] Abaregwa babanje gutanga inzitizi igamije gusaba ko icyo kirego kitakirwa bashingiye ku mpamvu y'uko ari ikirego cy'ubutegetsi, nyuma yo kuyisuzuma Urukiko rwemeza ko nta shingiro ifite. Naho ku bijyanye n'urubanza mu mizi abaregwa bireguye bavuga ko ikirego cya Nyiransabimana Elisabeth nta shingiro gifite kuko imitungo iburanwa ari we wayibahaye, basobanura ko imwe yayibahaye nk'iminani anabakorera ihererekanyamutungo, indi bamusaba kuyibagurisha aho kugira ngo izagurwe n'abandi, kuko babonaga atangiye kugurisha iyo yari asigaranye ; bavuga kandi ko afite ibimutunga kuko nawe yasigaranye imitungo ihagije yanditse mu mazina ye indi akaba yarayigurishije agakuramo amafaranga. [3] Mu rubanza RC00050/2022/TGI/MUS rwaciwe n'Urukiko Rwisumbuye rwa Musanze ku wa 22/06/2023 rwemeje ko ikirego cya Nyiransabimana Elisabeth gifite ishingiro, rutegeka ko imitungo ibaruye kuri : UPI: 4/03/08/03/722, UPI: 4/03/08/04/2965, UPI:4/03/08/04/4659, UPI:4/03/08/04/4504, UPI : 4/03/08/04/5354, UPI:4/03/08/04/4529, UPI:4/03/08/01/2088,UPI : 4/03//08/04/2982,ari iya Nyiransabimana Elisabeth, rutegeka ko ivanwa mu mazina ya Nsanzineza Anastase, Nahimana Eustache, Nyiraguhirwa Primitive, Uwiragiye Sophie, Uwiduhaye Zachie, Ndatimana Charles, Manishimwe Aline na Munyaneza Joseph kuko bayiyandikishijeho ku buriganya, ikandikwa kuri Nyiransabimana Elisabeth kuko ari iye. Urukiko kandi rwategetse abaregwa gufatanya kwishyura Nyiransabimana Elisabeth 100.000Frw y'ikurikiranarubanza, 500.000Frw y'igihembo cya Avoka, 200.000Frw y'indishyi z'akababaro na 20.000Frw yatanzeho ingwate y'amagarama arega. [4] Abaregwa bose bajurirye Urukiko Rukuru, Urugereko rwa Musanze, ubujurire bwabo bwandikwa kuri RCA00038/2023/HC/MUS. Mu nama ntegurarubanza y'urwo rubanza yabaye ku wa 30/11/2023, ababuranyi bafashijwe n'Umwanditsi w'Urukiko biyemeje kurangiza ibibazo bari bafitanye binyuze mu bwumvikane, ibyo bemeranyijweho bishyirwa mu cyemezo cy'ubwumvikane kirangiza urwo rubanza. [5] Muri icyo cyemezo, Urukiko Rukuru, Urugereko rwa Musanze rwemeje ko urubanza RC00050/2023/TGI/MUS rwaciwe n'Urukiko Rwisumbuye rwa Musanze ku wa 22/06/2023 ruhindutse ku byo Nyiransabimana Elisabeth yari yaratsindiye, bigasimburwa n'ubwumvikane ababuranyi bagiranye mu nama ntegurarubanza bafashijwe n'Umwanditsi w'Urukiko; ubwo bwumvikane bukaba ari uko Nyiransabimana Elisabeth yegurirwa inzu nini yari asanzwe atuyemo iri mu i Bereshi rya gatanu, yubatswe ku butaka bubaruye kuri UPI: 4/03/08/03/722, n'umuryango w'inzu y'ubucuruzi iherereye ku Kabaya ku butaka bubaruwe kuri UPI: 4/03/08/04/2965, kandi abana be bakamuha 200.000Frw buri kwezi bahereye ku wa 30/01/2024 mu gihe cy'amezi atanu (5), bakazaba barangije kuyamuha bitarenze ku wa 30/05/2024; ibimaze kuvugwa bigashyirwa mu bikorwa no mu buryo byasobanuwe haruguru, impaka zari mu rubanza RCA00038/2023/HC/MUS zikaba zirangijwe burundu n'ubu buhuza. [6] Ku wa 27/03/2025, abana ba Nyiransabimana Elisabeth bavuzwe haruguru bongeye gutanga ikirego mu Rukiko Rukuru, Urugereko rwa Musanze, barusaba gukosora no gusobanura icyemezo cy'ubwumvikane

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cyavuzwe haruguru, cyafashwe mu rubanza RCA00038/2023/HC/MUS; bavuga ko bifuzwa ko muri icyo cyemezo aho kwandika ko Nyiransabimana Elisabeth "yegukana" inzu nini yari asanzwe atuyemo iri mu i Bereshi rya gatanu yubatswe ku butaka bubaruye kuri UPI: 4/03/08/03/722,

handikwa ko “yakodesha” iyo nzu, indi miryango y’ubucuruzi iri muri icyo kibanza iyo nzu irimo igakodeshwa n’abana be; akanakodesha umuryango umwe uri ahitwa ku Kabaya, ngo kuko ariko bari babivuze mu gihe bumvikanaga mu Rukiko ndetse no mu muryango. [7] Bavuze kandi ko mu gihe amategeko yaba abyemera na Nyiransabimana Elisabeth akabyemera, imitungo iri mu bibanza bibaruye kuri UPI: 4/03/08/03/722 na UPI: 4/03/08/04/2965UPI yatandukanywa (subdivision), Nyiransabimana Elisabeth agahabwa kandi akiyandikishaho inzu nini iri mu i Bereshi rya gatanu n’umuryango w’inzu y’ubucuruzi yahawe iri ku Kabaya. [8] Nyiransabimana Elisabeth (wari wahamagajwe n’Urukiko) yavuze ko ibyo abana be basaba bidakwiye guhabwa ishingiro, kuko ibyanditse mu nyandikomvugo y’inama ntegurarubanza n’ibyanditse mu cyemezo cy’ubwumvikane nta kosa ririmo, ndetse nta n’ikidasobanutse kiri mu byo impande zombi zumvikanye; naho ku bijyanye no kuba imitungo yagenewe yagabanywa (subdivision) avuga ko ari ikirego gishya kitigeze kuvugwaho mu nama ntegurarubanza ngo binashyirwe mu cyemezo cy’ubwumvikane, kandi ko atari kubyemera kuko bashaka kumuheza mu mitungo yashakanye n’umugabo we no kumuzungura akiriho. [9] Mu rubanza RS/RECT/RC00001/2025/HC/MUS rwaciwe n’Urukiko Rukuru, Urugereko rwa Musanze ku wa 26/06/2025, rwemeje ko ikirego cyatanze n’abana ba Nyiransabimana Elisabeth nta shingiro gifite, kuko nta kosa ry’imyandikire cyangwa ikidasobanutse mu cyemezo cy’ubwumvikane cyafashwe mu rubanza RCA00038/2023/HC/MUS; ko ibyo basaba ko handikwa ko Nyiransabimana Elisabeth akodesha imitungo yavuzwe haruguru yahawe aho kuba kuyegukana ataribyo bumvikanye; n’ibijyanye no kuba imitungo iri muri UPI: 4/03/08/03/722 na UPI:4/03/08/04/2965 yatandukanywa (subdivision) Nyiransabimana Elisabeth akiyandikishaho iyo mitungo yahawe (inzu nini iri mu i Bereshi rya gatanu n’umuryango w’inzu y’ubucuruzi yahawe iri ku Kabaya) Urukiko ruvuga ko ari ikirego gishya batanze nyuma y’imyaka hafi itatu basinye inyandiko y’ubwumvikane. [10] Munyaneza Joséph, Nahimana Eustache, Nyiraguhirwa Primitive, Uwiragiye Sophie, Nsanzineza Anastase, Uwiduhaye Zachie, Ndatimana Charles na Manishimwe Aline bajuririye Urukiko rw’Ubujurire, ubujurire bwabo bwandikwa kuri RSA/RECT/RC 00001/2025/CA, ruburanishwa ku wa 05/11/2025, Me Mukeshimana Providence yunganiye Nahimana Eustache akanahagararaira abandi bajuriye bose; naho Nyiransabimana Elisabeth yunganiye na Me Mpirikanyi Gaspard. [11] Mu myanzuro y’ubujurire no mu miburanire yabo, abajuriye bavugaga ko Urukiko Rukuru, Urugereko rwa Musanze rwemeje ko nta kigomba gukosorwa cyangwa gusobanurwa mu cyemezo cy’ubwumvikane cyafashwe mu rubanza RCA00038/2023/HC/MUS, rwirengagije ko ibyo ababuranyi bemeranyijwe byanagombaga kwandikwa muri icyo cyemezo, ari uko imitungo (imirima) ibaruye ku mubyeyi wabo Nyiransabimana Elisabeth nta wemerewe kuyivogera kandi nawe akaba atemerewe kuvogera imitungo ibaruye ku bana be, kandi igipangu kibaruye ku bana Nyiransabimana Elisabeth yemerewe kwishyuzamo umuryango umwe wo mu i Bereshi rya gatanu uri ku butaka bubaruye kuri UPI: 4/03/08/03/722 n’undi muryango umwe wo ku Kabaya uri ku butaka bubaruye kuri UPI: 4/03/08/04/2965. [12] Nyiransabimana Elisabeth n’umwunganira bavugaga ko ubujurire bwa Munyaneza Joséph n’abavandimwe be nta shingiro bufite, kuko ibyo bumvikanyeho mu nama ntegurarubanza ari byo byanditswe mu cyemezo cy’ubwumvikane. [13] Hashingiwe kuri izo mpaka, Urukiko rurasuzuma ikibazo cyo kumenya niba hari ibigomba gukosorwa no gusobanurwa mu cyemezo cy’ubwumvikane mu rubanza RCA00038/2023/HC/MUS.

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II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA Kumenya niba hari ibigomba gukosorwa no gusobanurwa mu cyemezo cy'ubwumvikane mu rubanza RCA00038/2023/HC/MUS. [14] Me Mukeshimana Providence wunganira Nahimana Eustache akanahagararira abandi bajuriye, avuga ko ubujurire bwabo bugamije kugaragaza ko Urukiko Rukuru, Urugereko rwa Musanze rwemeje ko ikirego cyabo nta shingiro gifite, rwirengagije ibimenyetso batanze bigaragaza amakosa ari mu cyemezo cy'ubwumvikane cyafashwe mu rubanza RCA00038/2023/HC/MUS kandi ko kidasobanutse. Basobanura ko impande zombi zitumvikanye ko Nyiransabimana Elisabeth yeguriwe umuryango umwe uri mu i Bereshi rya gatanu ku butaka bubaruye kuri UPI: 4/03/08/03/722 n'undi muryango umwe wo ku Kabaya uri ku butaka bubaruye kuri UPI: 4/03/08/04/2965, ko ahubwo icyo bumvikanye ari uko azajya yishyura iyo miryango mu gihe cyose akiriho; bityo ijamba "kwegurirwa" bakaba baribona nk'amakosa y'inyandikire no kudasobanuka kw'icyemezo kuko byanditse uko batabyemeranyijweho, hashingiwe ku nyandiko y'ubwumvikane yo ku wa 21/11/2023 yashyikirijwe Urukiko; ndetse no ku rupapuro rwa gatatu rw'inyandikomvugo y'inama ntegurarubanza yo ku wa 30/11/2023 Nyiransabimana Elisabeth akaba yariyemereye ko ahabwa imiryango ikodeshwa. [15] Nahimana Eustache na Me Mukeshimana Providence umwunganira akanahagararira abandi bajuriye, basobanura ko kuba barasabye gukosora no gusobanura icyo cyemezo cy'ubwumvikane nyuma y'imyaka hafi itanu (5) byatewe n'uko Nyiransabimana Elisabeth yitwaje amakosa ari muri icyo cyemezo maze agashaka kwiandikishaho umutungo wose uri ku butaka bubaruye kuri UPI : 4/03/08/03/722 n'uri ku bubaruye kuri UPI : 4/03/08/04/2965. [16] Bakomeza basobanura ko n'ubwo bemera ibikubiye mu cyemezo cy'ubwumvikane, basaba ko ijamba "kwegurira" ryashyizwemo rikosorwa kuko nta mutungo bamweguriye, hakandikwamo ko "azakomeza kwishyura no kwakira ubukode bwaho" kuko ari byo byumvikanyweho. Bavuga kandi ko ikirego cyabo gisaba gukosoza no gusobanura icyemezo cy'ubwumvikane cyafashwe n'Urukiko cyagombaga gusuzumwa n'Umucamanza wacyanditse kuko yari akiri muri urwo Rukiko, kuko yari gusobanukirwa neza amakosa yagikozwemo, akabona ko ijamba "kwegurirwa" ryanditswe kubera kwibeshya. [17] Basaba ko mu gihe Urukiko rwasanga nta gikeneye gukosora cyangwa gusobanurwa, kandi bikaba bishooka ndetse na Nyiransabimana Elisabeth akabyemera, rwakwemeza ko imitungo iri ku butaka bwavuzwe haruguru (UPI: 4/03/08/03/722 na UPI: 4/03/08/04/2965) itandukanywa (subdivision), Nyiransabimana Elisabeth akandikwaho inzu nini iri mu i Bereshi rya gatanu n'umuryango umwe w'ubucuruzi uherereye ku Kabaya, indi mitungo iri kuri ubwo butaka ikandikwa ku bana be. [18] Nyiransabimana Elisabeth n'umwunganira bavuga ko ubujurire bwatanzwe na Nahimana Eustache na bagenzi be nta shingiro bufite. Basobanura ko yemera ko ubutaka bubaruye kuri UPI: 4/03/08/03/722 na UPI: 4/03/08/04/2965 buriho imitungo igizwe n'inzu z'ubucuruzi kandi ko ubwo butaka bubaruye ku bana be, ariko ko mu nama y'umuryango yemeye ko imitungo abana be bari bariyandikishijeho ibagumaho, nawe akagumana inzu zubatse ku butaka bubaruye kuri UPI zavuzwe haruguru kuko yari yarazubatswe ateganyiriza amasaziye ye; kandi ko mu nama ntegurarubanza yasabye gutunga iyo mitungo iri mu i Bereshi rya gatanu n'iri ku Kabaya, isigaye akaba ariyo yandikwa ku bana be. [19] Nyiransabimana Elisabeth n'umwunganira bavuga ko bashingiye kuri ibyo bisobanuro no ku biteganywa n'ingingo ya 140 (1)

y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, basanga nta kosa ry'imyandikire riri mu cyemezo cy'ubwumvikane cyafashwe mu rubanza RCA00038/2023/HC/MUS, ko ahubwo abajuriye basaba Urukiko guhindura ibyumvikanyweho kandi bidashoboka. Bavuga kandi ko nta kidasobanutse mu cyemezo cy'ubwumvikane, ku buryo Urukiko rwagisobanura.

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UKO URUKIKO RUBIBONA [20] Impaka kuri iyi ngingo zishingiye ku kumenya niba mu cyemezo cy'ubwumvikane mu rubanza RCA00038/2023/HC/MUS harimo ibigomba gukosorwa no gusobanurwa. [21] Ingingo ya 140, 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 urubanza rukosora urundi rukosora gusa amakosa y'imyandikire. [22] Ibijyanye no gukosora urubanza kandi Urukiko rw'Ikirenga rwabisobanuye mu rubanza RS/RECT/RC00003/2021/SC rwaciye ku wa 18/02/2022 ku kirego cyari cyatanze na Musefano Juvens. Mu gika cya 11 Urukiko rwatanze umurongo ukurikira : "Gukosora amakosa y'imyandikire ntibigomba kugira icyo bihindura ku cyemezo cyafashwe, kandi amakosa akosorwa ni ayakozwe n'umucamanza, si ayakozwe n'umuburanyi. Ariko hashobora kubaho irengayobora nk'igihe umucamanza yasubiye mu makosa yakozwe n'umuburanyi kandi yashoboraga kuyabona akayakosora iyo agenzura neza". [23] Ku bijyanye no gusobanura urubanza, Urukiko rw'Ikirenga mu rubanza RS/INTER/CIV0001/14/CS1 rwaciye ku wa 20/06/2014, rwasobanuye ko ikirego gisaba gusobanura urubanza kigomba kugaragaza icyibeshyweho, icyemejwe mu buryo butumvikana cyangwa mu buryo bushobora kumvikana mu buryo bunyuranye. Naho mu rubanza RS/INTERT/RC 00001/2022/SC2 rwaciye ku wa 18/11/2022, mu gika cya 11 Urukiko rw'Ikirenga rwasobanuye ko hasobanurwa ibyaciweho urubanza bitumvikana mu myandikire yarwo cyangwa bishobora kumvikana mu buryo bunyuranye bitera urujijo mu rubanza (obscurité ou ambiguïté) (...). [24] Ku birebana n'uru rubanza, dosiye yarwo igaragaza ko ibikubiye mu cyemezo cy'ubwumvikane kirangiza urubanza RCA00038/2023/HC/MUS cyasabiwe gukosorwa no gusobanurwa, bishingiye ku byo ababuranyi bumvikanyeho babifashijwemo n'Umwanditsi w'Urukiko Rukuru, Urugereko rwa Musanze, mu nama ntegurarubanza yakozwe ku wa 21/11/2023; ibyo bumvikanyeho bikaba bikubiye mu Nyandikomvugo y'iyi nama ntegurarubanza ababuranyi bose bashyizeho umukono bemeza ko ibiyivugwamo ari byo bumvikanyeho kandi ko birangiza urubanza bari bafitaye. [25] Dosiye kandi igaragaza ko muri icyo nyandikomvugo y'Inama ntegurarubanza havugwamo ko nyuma y'uko impande zombi zigaragaje ubushake bwo gukemura ikibazo mu bwumvikane, abana ba Nyiransabimana Elisabeth bamusabye ko imitungo yari isanzwe ibanditseho (ari nayo yaregeye asaba ko ayisubizwa) yakomeza kubandikwaho, arabyemera, avuga ko yemera rwose ko batayiyandikishijeho mu buriganya nk'uko yabivugaga mu manza, ahubwo ko yayibahaye, bityo ko bakomeza kuyandikwaho; ariko nawe asaba ko bamuha icyo yajya avanamo imibereho (ngo nk'imiryango ikodeshwa bigakomeza), by'umwihariko asaba ko bareka agatunga inzu nini yari asanzwe atuyemo mu ibereshi rya gatanu yubatswe ku butaka bubaruye kuri UPI: 4/03/08/03/722 n'umuryango w'inzu y'ubucuruzi iherereye ku Kabaya yubatse ku butaka bubaruye kuri UPI: 4/03/08/04/965; yazamara kurangiza urugendo rwe hano ku isi

abana be bakabona kubyegukana burundu, kandi bakaba batemerewe kugurisha iyo mutingo cyangwa kuhakora ikindi kintu batabyumvikanyeho. Yasabye kandi ko bafatanyaga kumwishyura amafaranga yakoresheje mu manza, bakajya bamwishyura 200.000Frw buri kwezi guhera ku wa 30/01/2024 kugeza ku wa 30/05/2024. Ibi yasabye abana be barabimwemeraye. [26] Dosiye inagaragaza ko muri icyo nyandikomvugo y'Inama Ntegurarubanza havugwamo ko umwanzuro ufashwe ari uko hashingiwe ku mategeko ateganyaga ko mu nama ntegurarubanza ababuranyi bemerewe kumvikana ku mpaka bari bafitanye zikarangira, hashingiwe kandi ku byifuzo by'ababuranyi ku mpande zombi bifuzaga ko urubanza rwaciwe n'Urukiko Rwisubuye rwa Musanze byasimbuzwa ibyo bemeranyije mu nama ntegurarubanza, hemejwe ko ibikubiye mu buhuza bukorewe mu Rukiko ari byo byahabwaga ishingiro,

1 Reba urubanza N° RS/INTER/CIV0001/14/CS (RE SOCOBICO INDUSTRIES S.A), RLR V.2 – 2016. 2 Reba urubanza N° RS/INTERT/RC 00001/2022/SC (RE NTAGUNGIRA), igika cya 11.

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imitungo yanditse ku bana be igakomeza ikabandikwaho, itambamira Nyiransabimana Elisabeth n'abana be bari barashyize kuri icyo mitungo bakarivanishamo; ibyo bemeranyijwe byafasha Nyiransabimana Elisabeth mu mibereho ye akaba aribyo afata, naho ibyazahinduka mu bihe biri imbere bikazakorwa ari uko babiganiriyeho nk'umuryango bakabiha umujyo ukwiriye. [27] Dosiye kandi igaragaza ko mu cyemezo gisabirwa gukosorwa, ku bijyanye n'ibyo Nyiransabimana Elisabeth yasabye ko yajya avanamo imibereho, Urukiko rwagaragaje ko ibyemeranyijweho n'impande zombi mu bwumvikane ari uko ibyo yari yatsindiye mu rubanza RCA00038/2023/HC/MUS byose byasimbuzwa no kwegurirwa inzu yavuzwe haruguru iri mu ibereshi rya gatanu ku butaka bubaruye kuri UPI : 4/03/08/03/722 hamwe n'umuryango w'inzu y'ubucuruzi iherereye ku Kabaya ku butaka bubaruye kuri UPI : 4/03/08/04/2965. [28] Urukiko rurusanga ibyo abareze basaba ko icyemezo cy'ubwumvikane gikosorwa aho kwandikamo ko Nyiransabimana Elisabeth yeguriwe imitungo yavuzwe haruguru hakandikwamo ko ayikodesha, bitahabwaga ishingiro kuko hashingiwe ku murongo wavuzwe haruguru mu gika cya 22 watanze n'Urukiko rw'Ikirenga mu rubanza RS/RECT/RC 00003/2021/SC, ibyo bitafatwa nko gukosora amakosa y'imyandikire kuko byaba ari ugusimbuzwa amagambo abiri kandi atavugaga kimwe. [29] Urukiko rurasanga n'ibisabwaga n'abareze by'uko bibaye ngombwa hategekwe ko imitungo itejwe impaka itandukanywa (subdivision), icyo bemeye ko Nyiransabimana Elisabeth akodesha iri mu bibanza kibaruye kuri UPI: 3/04/08/03/722 na UPI: 3/04/08/04/2965 ikamwandikwaho, isigaye ikandikwa ku bana be, nabyo bitasuzumwaga muri uru rubanza kuko bidahuye n'icyaregewe (gukosora no gusobanura icyemezo cy'Urukiko). [30] Urukiko rw'Ubujurire rurasanga ahubwo hashingiwe ku byagaragajwe haruguru (mu bika bya 24- 27), igikwiriye gukorwa ari ugusobanura uburyo ibikubiye mu cyemezo cy'ubwumvikane bigomba kumvikana, kuko ababuranyi babyumva mu buryo butandukanye ; Nyiransabimana Elisabeth avugaga ko bivuze ko inzu n'umuryango w'ubucuruzi byavuzwe haruguru yabihawe ku buryo yemerewe kubyibazaho, mu gihe abana be bavugaga ko icyo bumvikanye ari uko icyo mitungo ayikodesha ikavamo ibimufaha mu mibereho ye mu gihe akiriho. Uru Rukiko narwo rukabwaga ibyo Urukiko rwavuze ko byumvikanyweho biteye urujijo harebwe ibivugwaga mu Nyandikomvugo y'Inama Ntegurarubanza yakorewemo

ubwumvikane. [31] Urukiko rw'Ubujurire rurasanga nk'uko byagaragajwe haruguru, harebewe hamwe ibyasabwe na buri ruhande kandi rukabyemererwa n'urundi mu Nama Ntegururubanza, ibyumvikanyweho ari uko ku ruhande rumwe imitungo Nyiransabimana Elisabeth yari yaregeye, yanditse ku bana be, yemera ko yayibahaye ikaba ari iyabo kandi ikaba igomba gukomeza kubandikwaho n'itambama ryari ryarashyizwe kuri iyo mitungo rikavanwamo; naho ku rundi ruhande abana be nabo bakaba baremeye ko inzu nini iri mu ibereshi rya gatanu ku butaka bubaruye kuri UPI: 4/03/08/03/722 n'umuryango w'inzu y'ubucuruzi iherereye ku Kabaya ku butaka bubaruye kuri UPI: 4/03/08/04/2965 abihabwa kugira ngo ajye abikuramo ibimufasha mu mibereho ye mu gihe azaba akiriho. [32] Urukiko rw'Ubujurire rushingiye ku bimaze gusobanurwa, rurasanga icyo impande zombi zumvikanye ari uko ibintu bisubira uko byari bimeze mbere y'uko Nyiransabimana Elisabeth arega, ni ukuvuga ko imitungo yari yanditse ku bana be ikomeza kubandikwaho (nawe iyari imwanditseho igakomeza kumwandikwaho), harimo n'imitungo ibaruye kuri UPI: 4/03/08/03/722 na UPI: 4/03/08/04/2965 zavuzwe haruguru kuko nayo iri muyo yari yaregeye asaba ko imwandikwaho, bikaba rero byumviana ko humvikanywe ko ikomeza kwandikwa ku bana be. [33] Urukiko rurasanga hashingiye ku byasobanuwe byose, ibyemejwe mu cyemezo cy'ubwumvikane mu rubanza RCA00038/2023/HC/MUS ku bijyanye n'inzu nini Nyiransabimana Elisabeth yari asanzwe atuyemo iherereye mu i Bereshi rya gatanu yubatswe ku butaka bubaruye kuri UPI:4/03/08/03/722, n'umuryango w'inzu y'ubucuruzi iherereye ku Kabaya yubatswe ku butaka bubaruye kuri UPI: 4/03/08/04//2965 bigomba

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kumvikana ko ubureganzira Nyiransabimana Elisabeth afite kuri iyo mitungo yombi, ari ubwo kuba yarayihawe ngo ajye ayivanamo ibimufasha mu mibereho ye mu gihe cyose akiriho, ko rero atahawe imitungo yose iri mu bibanza bibaruye kuri UPI:4/03/08/03/722 na UPI: 4/03/08/04//2965 ku buryo yamwandikwaho, kandi nk'uko byasobanuwe iyo mitungo isanzwe yanditse ku bana be kandi impande zombi zaremeranyijwe ko ikomeza kubandikwaho. III. ICYEMEZO CY'URUKIKO [34] Rwemeje ko ubujurire bwatanze na Munyaneza Joséph, Nahimana Eustache, Nyiraguhirwa Primitive, Uwiragiye Sophie, Nsanzineza Anastase, Uwiduhaye Zachie, Ndatimana Charles na Manishimwe Aline bufite ishingiro kuri bimwe. [35] Rwemeje ko nta makosa y'imyandikire yagaragajwe agomba gukosorwa mu cyemezo cy'ubwumvikane mu rubanza RCA00038/2023/HC/MUS. [36] Rwemeje ko ibyemejwe mu cyemezo cy'ubwumvikane mu rubanza RCA00038/2023/HC/MUS ku bijyanye n'inzu nini Nyiransabimana Elisabeth yari asanzwe atuyemo iherereye mu i Bereshi rya gatanu yubatswe ku butaka bubaruye kuri UPI:4/03/08/03/722, n'umuryango w'inzu y'ubucuruzi iherereye ku Kabaya yubatswe ku butaka bubaruye kuri UPI: 4/03/08/04//2965 bigomba kumvikana ko ubureganzira Nyiransabimana Elisabeth afite kuri iyo mitungo yombi ari ubwo kujya ayikuramo ibimufasha mu mibereho ye mu gihe cyose akiriho, ko atahawe imitungo yose iri mu bibanza bibaruye kuri UPI:4/03/08/03/722 na UPI: 4/03/08/04//2965 ku buryo yamwandikwaho. [37] Rwemeje ko uru rubanza rwuzuzwa urubanza RCA00038/2023/HC/MUS rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze ku wa 30/11/2023. [38] Ruvuze ko amagarama y'urubanza aherera ku Isanduku ya Leta.

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