

RWANDA / JUDGMENT

PYRAMIDE MINERALS SUPPLY LTD v. BUSINESS ANCHOR RWANDA LTD

RS/INJUST/RCOM 00002/2025/SC

COURT

Supreme Court

DECIDED

30 January 2026

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PYRAMIDE MINERALS SUPPLY LTD v. BUSINESS ANCHOR RWANDA LTD

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Text

Page 1

PYRAMIDE MINERALS SUPPLY LTD v. BUSINESS ANCHOR RWANDA LTD [Rwanda URUKIKO RW'IKIRENGA – RS/INJUST/RCOM 00002/2025/SC (Cyanzayire, P.J., Mukamulisa na Kalihangabo, J.) 30 Mutarama 2026] Amategeko agenga amasezerano – Ikimenyetso cy'amasezerano – Inyandiko iriho umukono igaragaza icyakozwe ikozwe atari mu rwego rw'amasezerano iba ihagije nk'ikimenyetso cy'amasezerano. Incamake y'ikibazo: Pyramide Minerals Supply Ltd yagiranye amasezerano y'ubukode bw'imashini zitandukanye na Business Anchor Rwanda Ltd, bumvikana ko Pyramide Minerals Supply Ltd (PMS) izajya yishyura BAR Ltd 60.000 Frw ku isaha kuri buri mashini, nyuma yo gukora igenzura ry'amasaha yakozwe buri kwezi. Ayo masezerano akaba yaragombaga kumara igihe cy'umwaka. PMS ntiyubahirije amasezerano kuko nyuma yo gusabwa kwishyura umwenda yari igejejemo itabikoze, ibyo bikaba byaratumye BAR Ltd iyirega mu Rukiko rw'Ubucuruzi irusaba gutegeka uregwa kuyishyura umwenda ungana na 169.291.084 Frw, inyungu z'ubukererwe n'igihembo cya Avoka. Urwo Rukiko rwaciye urubanza rwemeza ko ikirego gifite ishingiro, rwemeza ko PMS Ltd yishyura BAR Ltd 196.335.136 Frw akubiyemo 169.291.084

Frw y'umwenda remezo, 26.494.052 Frw y'inyungu z'ubukererwe, 550.000 Frw y'ikurikiranarubanza n'igihembo cya Avoka ndetse na 20.000 Frw y'ingwate y'amagarama. PMS Ltd itishimiye icto cyemezo yajuririye mu Rukiko Rukuru rw'Ubucuruzi, urwo Rukiko mu guca urubanza rwemeza ko ubujurire budafite ishingiro, nta gihindutse ku mikirize y'urubanza rujuririrwa. PMS Ltd yajuririye mu Rukiko rw'Ubujurire, urwo Rukiko rwemeza ko rudafite ububasha, ihita isaba ko urubanza rwaciwe n'Urukiko Rukuru rw'Ubucuruzi rusubirwamo ku mpamvu z'akarengane, irabyemererwa, urubanza ruburanishwa n'Urukiko rw'Ikirenga. Mu miburanire yayo mu rubanza rusubirwamo ku mpamvu z'akarengane urega (PMS Ltd) avuga ko umwenda ungana na 107.706.208 nawo hakaba hari ayishyuhweho hasigara 18.976.600 Frw. avuga kandi ko inyemezabwishyu batemera ari izifite amafishi y'uko imashini zakoze atarashyizwaho umukono n'abagombaga kuzemeza bose, ko zagombaga gushyirwaho umukono na Technical Director, Project Manager ndetse na Chef de Chantier, izindi zikaba zidafite amasezerano zishingiyeho. Asoza avuga ko umucungamutungo inyandiko ye yemeje ko ideni PMS Ltd ibereyemo BAR Ltd nta shingiro ikwiye guhabwa kuko yayikoze atabifitiye ububasha. Uregwa avuga ko yakoze inyemezabwishyu (factures) za EBM zishyura PMS Ltd, iyi nayo ikazakira ndetse igasaba no gusubizwa umusoro (VAT input refund), ariko ikaba itarigeze yishyura izo nyemezabwishyu kandi abo yakoreraga bo barayishyuye; ko umucungamutungo wa PMS Ltd yemeye ko umwenda ibereyemo BAR Ltd ari 181.091.084 Frw, ko ku wa 03/09/2019, havuyemo 11.800.000 frw yari yarishyuye mbere nka avance umwenda usigara ungana na 169.291.084 Frw, ariko ko PMS Ltd itigeze iyishyura kugeza n'ubwo yandikiwe yishyuzwa ariko nabwo ntiyagira icyo isubiza. Isoza ivuga ko amafaranga yishyuye ku mwenda BAR Ltd yari iberewemo ari 11.800.000 gusa, ko kuba PMS Ltd ivuga ko hari ubundi bwishyu yatanze kuri konti bwite ya

Page 2

Kambanda Canisius atari ukuri kuko amasezerano yabaye hagati ya sosiyete z'ubucuruzi, binavuze ko n'ubwishyu bwagombaga gukorwa hagati y'izo sosiyete zombi. Bavuga kandi ko kuba hari amafaranga bigaragara ko yavuye kuri konti ya PMS Ltd ntaho bihuriye n'umwenda BAR Ltd yishyura. Incamake y'icyemezo: Inyandiko iriho umukono igaragaza icyakozwe ikozwe atari mu rwego rw'amasezerano iba ihagije nk'ikimenyetso cy'amasezerano. Ikirego nta shingiro gifite. Amategeko yashyigirwaho: Itegeko N° 45/2011 ryo kuwa 25/11/2011 rigenga amasezerano, Ingingo ya 43. Nta manza zifashishijwe Urubanza I. IMITERERE Y'URUBANZA [1] Uru rubanza rukomoka ku masezerano y'ubukode bw'imashini zitandukanye, yabaye mu bihe bitandukanye hagati ya PYRAMIDE MINERALS SUPPLY Ltd (muri uru rubanza yitwa PMS Ltd) na BUSINESS ANCHOR RWANDA Ltd (muri uru rubanza yitwa BAR Ltd). Ayo masezerano yagombaga kumara igihe cy'umwaka. Muri ayo masezerano, bumvikanye ko PMS Ltd izajya yishyura BAR Ltd 60.000 Frw ku isaha kuri buri mashini, nyuma yo gukora igenzura ry'amasaha yakozwe buri kwezi. [2] BAR Ltd ivuga ko PMS Ltd itubahirije amasezerano, na nyuma yo gusabwa ko yakwishyura umwenda yari imaze kugezamo ariko ntiyabikora, bituma ku wa 30/11/2022, BAR Ltd itanga ikirego mu Rukiko rw'Ubucuruzi irusaba ko rwategeka PMS Ltd kwishyura umwenda ungana na 169.291.084 Frw, inyungu z'ubukererwe n'igihembo cya Avoka. [3] PMS Ltd yireguye ivuga ko yemera amasezerano yagiranye na BAR Ltd, ariko ko itemera umwenda yishyuzwa, kuko umwenda

nyawo kandi yemera ari 18.976.600 Frw. Ivuga kandi ko itaryozwa inyungu n'igihembo cya Avoka kuko BAR Ltd ari yo yashoje urubanza nta mpamvu. [4] Mu rubanza RCOM 02098/2022/TC rwaciwe ku wa 01/11/2023, Urukiko rw'Ubucuruzi rwanzuye ko ikirego cya BAR Ltd gifite ishingiro, rwemeza ko PMS Ltd yishyura BAR Ltd 196.335.136 Frw akubiyemo 169.291.084 Frw y'umwenda remezo, 26.494.052 Frw y'inyungu z'ubukererwe, 550.000 Frw y'ikurikiranarubanza n'igihembo cya Avoka ndetse na 20.000 Frw y'ingwate y'amagarama. [5] PMS Ltd yajuririyeye Urukiko Rukuru rw'Ubucuruzi, ivuga ko Urukiko rw'Ubucuruzi rutasobanuye icyo rwashingiyeho rwemeza umwenda, kandi rwaragaragarijwe ko ikimenyetso BAR Ltd yatanze ari igihimbano, rukanga ko kiregerwa nk'inyandiko mpimbano. Yavuze kandi ko Urukiko rukwiye gutegeka ko hakorwa igenzura (audit) ryigenga, kuko impande zombi zitahuje

Page 3

ingano y'umwenda uburanwa. BAR Ltd yireguye ivuga ko ubujurire bwa PMS Ltd budafite ishingiro kuko hari ibimenyetso bigaragaza ko yakodesheje imashini zikora imihanda, agasanga rero ubwo bujurire ari uburyo bwo gutinza urubanza, inasaba ko habaho irangizarubanza ry'agateganyo. [6] Mu rubanza RCOMA 00568/2023/HCC rwaciwe ku wa 12/04/2024, Urukiko Rukuru rw'Ubucuruzi rwanzuye ko ubujurire bwa PMS Ltd nta shingiro bufite, rutegeka ko nta gihindutse ku mikirize y'urubanza RCOM 02098/2022/TC, rwaciwe n'Urukiko rw'Ubucuruzi ku wa 01/11/2023, ko kandi ibyemejwe muri urwo rubanza bishyirwa mu bikorwa, rwemeza ko 40.000 Frw y'ingwate y'amagarama PMS Ltd yishyuye ijurira aherera ku Isanduku ya Leta. [7] PMS Ltd yatanze ubundi bujurire mu Rukiko rw'Ubujurire ariko ntibwakirwa. Mu rubanza RCOMAA 00023/2024/CA rwaciwe ku wa 27/11/2024, Urukiko rw'Ubujurire rwanzuye ko inzitizi y'iburabubasha yatanze na BAR Ltd ifite ishingiro, rwemeza ko ubujurire bwa PMS Ltd butakiriwe kuko butari mu bubasha bw'Urukiko rw'Ubujurire, rutegeka PMS Ltd kwishyura BAR Ltd 500.000 Frw y'igihembo cya Avoka, 200.000 Frw y'ikurikiranarubanza, kuri urwo rwego, ruvuga ko ingwate y'amagarama yatanze ahwanye n'ibyakozwe mu rubanza. [8] Ku wa 02/12/2024, PMS Ltd yandikiye Perezida w'Urukiko rw'Ubujurire, isaba ko urubanza RCOMA 00568/2023/HCC rwaciwe n'Urukiko Rukuru rw'Ubucuruzi ku wa 12/04/2024 rusubirwamo ku mpamvu z'akarengane. Perezida w'Urukiko rw'Ubujurire amaze gusuzuma ubwo busabe, yandikiye Perezida w'Urukiko rw'Ukirenga asaba ko urwo rubanza rusubirwamo, maze mu cyemezo No 021/CJ/2025 cyo ku wa 05/09/2025, yemeza ko rwoherezwa mu Bwanditsi bw'Urukiko rw'Ukirenga kugira ngo ruzongere ruburanishwe, rwandikwa kuri RS/INJUST/RCOM 00002/2025/SC. [9] PMS Ltd ivuga ko akarengane kayo gashingiye ku kuba mu rubanza rusubirwamo ku mpamvu z'akarengane, Urukiko Rukuru rw'Ubucuruzi rwarirengagije ibimenyetso yatanze bigaragaza ingano nyakuri y'umwenda isigaje kwishyura BAR Ltd, kandi ko inkiko zanze ko hakorwa igenzura (audit) ryigenga ryari kugaragaza ingano y'umwenda nyakuri ugomba kwishyurwa. [10] BAR Ltd ivuga ko nta bimenyetso inkiko zirengagije kuko zasobanuye impamvu zashingiyeho, kandi ko kuba zitarategetse ko hakorwa igenzura (audit) ryigenga bitaba impamvu y'akarengane, kuko Urukiko ari rwo rureba niba ibimenyetso bidahagije, akaba ari rwo rutegeka ibindi bigomba gukorwa. [11] Urubanza rwaburanishijwe mu ruhame ku wa 10/12/2025, PMS Ltd ihagarariwe na Me Zitoni Pierre Claver, naho ku ruhande rwa BAR Ltd hitabye Kambanda

Canisius, umuyobozi wayo, yunganiwe na Me Murangwa Faustin. Mu iburanisha, ababuranyi bagiye impaka ku bijyanye no kumenya ingano y'umwenda PMS Ltd igomba kwishyura BAR Ltd, no kumenya ishingiro ry'indishyi zisabwa mu rubanza. Iburanisha ryarapfundikiwe, ababuranyi bamenyeshwa ko urubanza ruzasomwa ku wa 30/01/2026. II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

- 1) Kumenya ingano y'umwenda PMS Ltd ibereyemo BAR Ltd

Page 4

[12] Me Zitoni Pierre Claver uhagarariye PMS Ltd avuga ko nta mwenda ungana na 169.291.084 Frw ukomoka ku masezerano yo ku wa 04/01/2019 y'ubukode bw'imashini ifite plaque RAD 115 yo mu bwoko bwa Caterpillar Grader, PMS Ltd ibereyemo BAR Ltd. Avuga kandi ko kuba PMS Ltd yarakiriye inyandiko zishyura igashyiraho n'ibirango byayo (accusée de réception), cyangwa kuba muri EBM hagaragaramo inyemezabwishyu zakozwe na BAR Ltd atari ikimenyetso cy'uko PMS Ltd yemera uwo mwenda, kuko BAR Ltd yakoze inyemezabwishyu uko ibishaka, cyane ko mbere bitasabaga kubanza gusaba purchase code nk'uko biri ubu. Anavuga ko, kuba PMS Ltd yaramenyekanishije izo nyemezabwishyu kugira ngo isabe VAT input refund bitavuze byanze bikunze ko yemeraga inyemezabwishyu zakozwe na BAR Ltd, usibye no kuba nta bimenyetso BAR Ltd itanga byerekana ko yasubijwe amafaranga. [13] Asobanura ko ku mwenda ungana na 107.706.208 Frw PMS Ltd yemera, hari ayo yishyuyeho, ubu hakaba hasigaye umwenda ungana na 18.976.600 Frw, ibyo bikaba bigaragazwa n'inyandiko za bank (bank statements) za PMS Ltd zo muri BPR Bank ndetse no muri ECOBANK zigaragaza uko bagiye bishyura. Yongeraho kandi ko mu gihe impaka zidakemuwe hashingiwe ku bimenyetso impande zombi zatanze, cyane ko buri ruhande rutsimbaraye ku mibare rwitangiye; Urukiko rwashyiraho impuguke yigenga (independent expert) kugira ngo ikore igenzura ry'uwo mwenda. [14] Asobanura ko inyemezabwishyu batemera ari izifite amafishi y'uko imashini zakoze atarashyizweho umukono n'abagombaga kuzemeza bose, ko zagombaga gushyirwaho umukono na Technical Director, Project Manager ndetse na Chef de Chantier, izindi zikaba zidafite amasezerano zishingiye. [15] Asoza kuri iyi ngingo avuga ko PMS Ltd itemera inyandiko yakozwe n'umucungamari wayo (comptable) igaragaza ko ibereyemo BAR Ltd umwenda ungana na 181.091.084 Frw, kuko yakozwe n'utabifitiye ububasha, abikora ashingiye ku nyungu ze bwite, akaba ari yo mpamvu basabaga ko ahamagazwa kugira ngo abibazwe. [16] Kambanda Canisius uhagarariye BAR Ltd ndetse na Me Murangwa Faustin umwunganira bavuga ko sosiyete baburanira yakoze inyemezabwishyu (factures) za EBM zishyura PMS Ltd, iyi nayo ikazakira ndetse igasaba no gusubizwa umusoro (VAT input refund), ariko ikaba itarigeze yishyura izo nyemezabwishyu kandi abo yakoreraga bo barayishyuye. Bavuga ko umucungamutungo wa PMS Ltd yemeye ko umwenda ibereyemo BAR Ltd ari 181.091.084 Frw, ko ku wa 03/09/2019, havuyemo 11.800.000 frw yari yarishyuye mbere nka avance umwenda usigara ungana na 169.291.084 Frw, ariko ko PMS Ltd itigeze yishyura kugeza n'ubwo yandikiwe yishyuzwa ariko nabwo ntiyagira icyo isubiza. [17] Bakomeza bavuga ko igenzura ryigenga (audit) PMS Ltd isaba ko ryakorwa, abona atari ngombwa kuko nta kibazo cy'imibare cyigeze kihaba na

PMS Ltd ubwayo ikaba yemera uwo mwenda. Bavuga ko nta kimenyetso PMS Ltd yigeze itanga kivuguruza inyemezabwishyu yahawe, bityo ko inzira yiyambaje ari uburyo bwo gutinza irangizwa ry'urubanza. [18] Basobanura ko ibyakozwe byose byashingiye ku masezerano atandukanye bagiranye, ko hatakodeshejwe imashini imwe gusa, ahubwo zari imashini zitandukanye, ayo masezerano akaba ari aya akurikira: ayo ku wa 30/01/2018, hakodeshejwe imashini ifite plaque RAB 978 Y, ayo ku wa 03/02/2018, hakodeshwa imashini ifite plaque RAC 596 Y; ayo ku wa 04/01/2019, hakodeshwa

Page 5

imashini ifite plaque RAD 115M, ayo ku wa 04/01/2019, hakodeshejwe imashini ifite plaque RAD 847 W, ayo ku wa 04/01/2019 hakodeshejwe imashini ifite plaque RAD 104 M, ndetse n'ayo ku wa 26/03/2019, hakodeshejwe imashini ifite plaque RAD 582 S. [19] Bavuga kandi ko kuba hararegewe gusa amasezerano yo ku wa 04/01/2019 ajyanye n'imashini ifite plaque RAD 115 yo mu bwoko bwa Caterpillar Grader, ari ukwibeshya kwabayeho ariko ko mu nkiko zakurikiye BAR Ltd yagiye isaba ko iryo kosa ryakosorwa kuko yo itanga ibisobanuro by'ikirego itashingiraga ku masezerano yo ku wa 04/01/2019 gusa. [20] Bakomeza bavuga ko PMS Ltd idakwiye guhakana inyandiko yishyuzwa kuko icyashingiweho ikorwa ari delivery notes kandi zo ikaba izemera. Basanga kandi ikindi gishimangira ko PMS Ltd idahakana inyemezabwishyu ari uko yazakiranye na EBM yazo kandi PMS Ltd igasaba na refund, ko icyo ari gihamya ko nta kibazo kiri mu mibare, kuko utasohora inyemezabwishyu ya EBM utayemeranyijeho n'uyihabwa. [21] Basaza bavuga ko amafaranga yishyuwe ku mwenda BAR Ltd yari iberewemo ari 11.800.000 gusa, ko kuba PMS Ltd ivuga ko hari ubundi bwishyu yatanze kuri konti bwite ya Kambanda Canisius atari ukuri kuko amasezerano yabaye hagati ya sosiyete z'ubucuruza, binavuze ko n'ubwishyu bwagombaga gukorwa hagati y'izo sosiyete zombi. Bavuga kandi ko kuba hari amafaranga bigaragara ko yavuye kuri konti ya PMS Ltd ntaho bihuriye n'umwenda BAR Ltd yishyuzwa. UKO URUKIKO RUBIBONA [22] Muri uru rubanza, ikibazo kigomba gusuzumwa ni ukumenya niba hari umwenda PMS Ltd ibereyemo BAR Ltd n'uko ungana. Ababuranyi bemeranya ko PMS Ltd yakodesheje imashini za BAR Ltd kandi ko hari umwenda utarishyurwa. Icyo batemeranyaho ni ingano y'uwo mwenda, ndetse PMS Ltd ikavuga ko ikirego cyatanzwe kireba gusa imashini ifite ibirango bya RAD 115M. Urukiko rurabanza gusuzuma niba koko ikirego cyatanzwe kireba iyo mashini gusa, hanyuma rubone gusuzuma ingano y'umwenda uburanwa n'utarishyurwa. [23] Ku bijyanye no kumenya niba ikirego kireba imashini RAD 115 M yonyine: Ingingo ya 6 (1) y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruza, iz'umurimo n'iz'ubutegetsi iteganya ko ikiburanwa kigenwa n'ibisabwa na buri muburanyi kandi ko ibisabwa bigaragarira mu myanzuro iregera urukiko n'imyanzuro yo kwiregura, bigashimangirwa burundu mu nama ntegururubanza ku manza iteganyijwemo. [24] Dosiye igaragaza ko ikirego cyatanzwe ari "kuregera kwishyura umwenda ungana na 169.291.084 Frw", mu bisobanuro bitangwa na BAR Ltd akaba ari ho hagaragaramo imashini RAD 115 M. Dosiye igaragaza kandi amasezerano atandukanye yagiye asinywa hagati y'ababuranyi kandi ku modoka zitandukaye, aya akaba ari yo ashingirwaho mu kugaragaza inkomoko y'umwenda wishyuzwa n'ingano yawo. Urukiko rurasanga ikiburanwa ari umwenda ungana na 169.291.084 Frw nk'uko inkomoko yawo isobanuye

mu myanzuro n'imiburanire ya BAR Ltd, bityo ibivugwa na PMS Ltd ko haregewe gusa amasezerano ajyanye n'imashini ifite plaque RAD 115 bikaba nta shingiro bifite.

Page 6

[25] Ku bijyanye n'ingano y'umwenda uburanwa, Urukiko rurasanga impaka zishingiye ku mafishi yuzuzwaga igihe imashini zikodeshwa zabaga ziri mu kazi, PMS Ltd ikavuga ko hari izo itemera kuko zikemangwa igatanga impamvu izikemanga, ndetse igasaba ko hashyirwaho igenzura (audit) ryagaragaza ingano y'umwenda ibereyemo BAR Ltd. Urukiko rurasuzuma ibijyanye n'izo mpamvu, runarebe niba koko hakenewe umuhanga/igenzura (audit) cyangwa ko hakwiye guhamagazwa uwahoze ari umucungamari wa PMS gusobanura ibijyanye n'inyemezabwishyu yakiriye. [26] PMS Ltd ivuga ko yemera inyemezabwishyu 12 kuri 28 zatanze na BAR Ltd, ikavuga ko izindi 16 itazemera ku mpamvu z'uko imwe itagaragarizwa icyo yatangiye, ko izindi (4) zigaragaraho amafaranga menshi kurusha ayo yemera, hakaba hari izindi (6) zitanyuze mu nzira nyazo kuko zagombaga gusinywa na Technical Director, Project Manager ndetse na Chef de Chantier, mu gihe izindi (5) ivuga ko nta masezerano zishingiyeho ahari kandi nazo zitemejwe na Technical Director. Kuba hari inyemezabwishyu PMS Ltd itemera ivuga ko bishingiye ku mafishi yuzuzwaga igihe imashini zabaga ziri mu kazi ayo mafishi akaba agaragaraho ibibazo bituma bayakemanga. [27] Mu gusuzuma ayo mafishi hagaragara ibi bikurikira:

- a) Inyemezabwishyu No 091/2018: PMS Ltd ivuga ko idaherekejwe n'ifishi igaragaza imashini ijyanye nayo, amasaha yakoze ndetse n'uwayikoresheye. Urukiko rurasanga iyi nyemezabwishyu iherekejwe na sheki PMS Ltd yishyuriyeho avansi, kandi ntihakana ko iyo avansi yishyurwe, bityo PMS Ltd ntaho yahera iyihakana kandi nta n'icyo BAR Ltd iyishyuzaho.
- b) Inyemezabwishyu PMS Ltd ivuga ko zitanyuze mu nzira nyazo kuko zagombaga gusinywa na Technical Director, Project Manager ndetse na Chef de Chantier: Urukiko rurasanga inyemezabwishyu zose BAR Ltd yatanze ziherekejwe n'amafeishi ari mu bwoko bubiri, amwe (ari ku rupapuro ruhagaritse) ariho umukono wa "Chauffeur" n'uwa "Chef du chantier", andi (ari ku rupapuro rutambitse) ariho umukono wa "Logistic", uw' "umushoferi/operator", n'uwa "Site Engineer". Rurasanga aya mafishi yose, ari ayo PMS Ltd yemera n'ayo itemera nta n'imwe igaragaraho umukono wa Project Manager cyangwa uwa Technical Director, kandi ntibasha gusobanura ikindi ishingiraho iyatandukanya. Urukiko rurasanga rero amafishi yose agaragaraho umukono w'uware uhagarariye PMS Ltd ari we chef du chantier agomba guhabwa agaciro, kuko bigaragaza ko imashini irebwa na buri fishi yakoze ku munsu no ku masaha agaragara kuri buri fishi. Urukiko rurasanga kandi abo bandi (Technical Director, Project Manager) ari abakozi ba PMS Ltd, ikaba ari yo yakwirengera kuba batarakoze inshingano zabo zo kudashyira umukono ku mafishi, igihe uri kuri chantier yemeje ko imashini zakoze.

- c) Inyemezabwishyu zidafite amasezerano zishingiyeho: izo nyemezabwishyu zijyanye n'imashini RAD 582 S ifite amasezerano yo ku wa 26/03/2019, akaba agaragaraho umukono na kashe bya BAR Ltd, na kashe ya PMS Ltd, ariko nta mukono w'uyihagarariye uriho.

Page 7

Urukiko rurasanga aya masezerano atujuje ibisabwa kugira ngo ashingirweho, bityo akaba adakwiye guhabwa agaciro. icyakora, biragaragara ko iyi mashini yakoreshejwe na PMS Ltd nk'uko amafishi yometse ku nyemezabwishyu abigaragaza. Hashingiwe ku ngingo ya 43 y'Itegeko N° 45/2011 ryo kuwa 25/11/2011 rigenga amasezerano ivuga ko inyandiko iriho umukono igaragaza icyakozwe ikozwe atari mu rwego rw'amasezerano iba ihagije nk'ikimenyetso cy'amasezerano, Urukiko rurasanga amafishi yometse kuri izi nyemezabwishyu akwiye gufatwa nk'ikimenyetso cy'amasezerano, bityo inyemezabwishyu yometseho zikaba zigomba kwishyurwa, kuko bigaragara ko n'ubwo nta masezerano yanditse ahari, habayeho ubwumvikane bwo gukoresha imashini, PMS Ltd ikaba igomba kuzuza inshingano zo kwishyura ikiguzi cyazo. [28] Urukiko rurasanga kandi nk'uko bigaragara mu ibaruwa yo ku wa 11/12/2025 ikigo cy'Igihugu cy'Imisoro cyandikiye BAR Ltd gisubiza ibaruwa yayo yo ku wa 10/12/2025 mu mwaka wa 2018 na 2019, PMS Ltd yamenyekanishije muri icyo kigo inyemezabwishyu zose ziburanwa, harimo n'izo ivuga ko zidafite amasezerano, igaragaza umusoro ku nyungu ujyanye nazo, inasaba gusubizwa umusoro ku nyungu (VAT input) yishyuye. Urukiko rurasanga PMS Ltd itari kubisaba mu gihe itemeraga izo nyemezabwishyu. [29] Hakurikijwe ibimaze gusobanurwa, Urukiko rurasanga inyemezabwishyu PMS Ltd ivuga ko itemera nta mpamvu n'imwe yagaragaje yatuma zitemerwa, bityo zikaba zigomba kwishyurwa. [30] Ku bijyanye no kumenya umwenda usigaye kwishyurwa, PMS Ltd ivuga ko umwenda yemera ari 107.276.000 Frw kandi ko yamaze kwishyuramo 88.300.000 Frw ikaba isigaye kwishyura 18.976.000 Frw mu gihe BAR Ltd ivuga ko umwenda wose ungana na 169.291.084 Frw, PMS Ltd ikaba yarishyuye 11.800.000 Frw ya avansi yonyine. PMS Ltd ivuga kandi ko uretse ayo 11.800.000 Frw ya avansi yishyuye hakoreshejwe sheki, andi 76.500.000 Frw yishyuwe kuri konti bwite ya Kambanda Canisius. [31] Urukiko rurasanga bank statements zatanzwe na BPR Bank ndetse na ECOBANK bisabwe na PMS Ltd zigaragaza ko hari amafaranga yoherejwe kuri konti ya Kambanda Canisius, ariko ntaho bigaragara ko yoherezwaga nk'ubwishyu bugenewe BAR Ltd ku mashini zayo zakodeshejwe na PMS Ltd. Rurasanga PMS itarashoboye kugaragaza icyemeza ko ayo mafaranga yari ubwishyu bw'imashini yakodesheje, nta n'ubwo yashoboye gusobanura impamvu ubwishyu butashyizwe kuri konti ya BAR Ltd, cyangwa ngo hatangwe sheki iri mu mazina ya BAR Ltd nk'uko yabigenje kuri avansi yatanze. [32] Urukiko rurasanga BAR Ltd ari ikigo cy'ubucuruzi gifite ubuzima gatozi ndetse n'uburyo bwo gucunga umutungo wacyo bugomba gutandukana n'ubuzima bwite bw'uwaba ari umuyobozi wacyo ku buryo ubwishyu buyigenewe bugomba gushyirwa kuri konti zayo bwite, bityo rukaba ntaho rwahera rwemeza ko 76.500.000 frw yashyizwe kuri konti ya Kambanda Canisius yari ayo kwishyura imashini za BAR Ltd, PMS Ltd yakoresheje. [33] Hashingiwe ku bimaze gusobanurwa, Urukiko rurasanga uretse avansi ya 11.800.000 Frw nta yandi mafaranga PMS Ltd yigeze yishyura BAR Ltd, bityo umwenda PMS Ltd ibereyemo BAR Ltd ukaba ari 169.291.084 Frw.

Page 8

- [34] Ku bijyanye no kumenya niba hashyirwaho umuhanga wo kugaragaza umwenda PMS Ltd ibereyemo BAR Ltd ndetse no kuba hahamagazwa uwahoze ari umucungamari wayo, Urukiko rurasanga atari ngombwa kumushyiraho kuko ibimenyetso bigomba gushingirwaho bisobanutse, umuhanga akaba nta gishya yazanira Urukiko. Rurasanga kandi guhamagaza uwahoze ari umucungamari wa PMS Ltd bidakenewe, kuko inyemezabwishyu zose zatanzwe PMS Ltd yazemeye nk'uko byasobanuwe haruguru, iby'ububasha yaba yari afite cyangwa adafite bikaba ntacyo byahindura ku byagaragajwe kuri izo nyemezabwishyu.
- 2) Kumenya ishingiro ry'indishyi zisabwa muri uru rubanza [35] Me Zitoni Pierre Claver uhagarariye PMS Ltd avuga ko BAR Ltd yategekwa kuyishyura indishyi zingana na 5.000.000 Frw, akubiyemo 4.000.000 Frw y'igihembo cya Avoka na 1.000.000 Frw y'ikurikiranarubanza. Yongeraho ko indishyi BAR Ltd isaba itazihabwa kuko n'ingano y'umwenda zishingiyeho itawuzi, agasanga BAR Ltd nayo igira uruhare mu kutishyurwa. [36] Kambanda Canisius uhagarariye BAR Ltd ndetse na Me Murangwa Faustin umwunganira bavuga ko kuba sosiyete aburanira ikomeje gusiragizwa mu manza z'amaherere, basaba Urukiko gutegeka PMS Ltd kuyishyura amafaranga y'igihembo cya Avoka angana na 2.000.000. Basaba kandi Urukiko rw'Ikirenga ko rwayitegeka kwishyura BAR Ltd indishyi mbonezamusaruro za 18% zibariwe kuri 197.055.136 Frw, kuwa ku wa 01/11/2023, kubera ko yakomeje gutsindwa mu nkiko zose ariko ikanga kwishyura, ariyo mpamvu igomba gutanga izo ndishyi. UKO URUKIKO RUBIBONA [37] Ingingo ya 111 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruza, iz'umurimo n'iz'ubutegetsi iteganya ko ikirego cy'amafaranga y'ikurikiranarubanza ari ikirego gishamikira ku kirego cy'iremezo kigamije kwishyura ibyakoreshejwe mu rubanza. [38] Hashingiwe ku biteganywa n'iyi ngingo, Urukiko rurasanga umuburanyi watsinze afite uburenganzira bwo gusaba indishyi zijyanye n'ibyo yakoresheje mu rubanza. Rurasanga BAR Ltd ikwiye kugenerwa amafaranga y'igihembo cya Avoka ku mpamvu y'uko ari yo itsinze uru rubanza, ikaba igenewe 1.000.000 Frw mu bushishozi bw'Urukiko. Rurasanga kandi PMS Ltd idakwiye guhabwa amafaranga y'igihembo cya Avoka n'ay'ikurikiranarubanza isaba kuko itsinzwe urubanza. [39] Urukiko rurasanga indishyi mbonezamusaruro BAR Ltd isaba zidakwiye gusuzumwa kuko iki kirego kitatanzwe mu buryo bwubahirije amategeko, ku mpamvu z'uko itigeze isubirishamo urubanza. Ibyo bishingiye ku ngingo za 56 igika cya mbere, n'ya 58 igika cya mbere z'Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko1 ndetse no ku murongo watanzwe

1 Iryo tegeko riteganywa mu ngingo yaryo ya 56, igika cya mbere, ko ushaka ko urubanza rwe rusubirwamo ku mpamvu z'akarengane, abisaba urwego rubishinzwe mu nyandiko ikubiyemo impamvu ashingiraho mu gihe kitarenze iminsi mirongo itatu (30) uhereye ku munsu yamenyesherejwe imikirize yarwo, naho mu ngingo yaryo ya 58, igika cya mbere, rigateganywa ko iyo umuburanyi abonye hari akarengane kagaragara

Page 9

n'Urukiko rw'Ikirenga mu manza zitandukanye2 aho rwemeje ko umuburanyi utarasabye ko urubanza rusubirishwamo ku mpamvu z'akarengane, akurikije uburyo n'inzira biteganywa n'itegeko, adashobora kuririra ku kirego cyatanzwe n'uwasubirishijemo urubanza ngo nawe asabe ko rwasuzuma ibyo atishimiye muri urwo rubanza rusubirishwamo. III. ICYEMEZO CY'URUKIKO [40] Rwemeje ko ikirego cyatanzwe Pyramide Minerals Supply Ltd gisaba gusubirishamo ku mpamvu z'akarengane urubanza RCOMA 00568/2023/HCC rwaciwe n'Urukiko Rukuru rw'Ubucuruzi ku wa 12/04/2024 nta shingiro gifite; [41] Rwemeje ko nta gihindutse ku rubanza RCOMA 00568/2023/HCC rwaciwe n'Urukiko Rukuru rw'Ubucuruzi ku wa 12/04/2024. [42] Rutegetse ko urubanza RCOMA 00568/2023/HCC rwaciwe n'Urukiko Rukuru rw'Ubucuruzi ku wa 12/04/2024 rurangizwa nk'uko byategetswe mu nkiko zibanza, Pyramide Minerals Supply ikaba igomba kwishyura Business Anchor Rwanda 196.335.136 Frw agizwe na

- a) 169.291.084 Frw y'umwenda iyibereyemo, b) 26.494.052 Frw y'inyungu z'ubukererwe, c) 550.000 Frw y'ikurikiranarubanza n'igihembo cya Avoka; gusubiza Business Anchor Rwanda Ltd 20.000 Frw y'ingwate y'amagarama yatanze mu kurega; na 40.000 Frw y'amagarama Pyramide Minerals Supply Ltd yishyuye akaba agomba guherera ku isanduku ya Leta; [43] Rutegetse Pyramide Minerals Supply Ltd kwishyura Business Anchor Rwanda Ltd 1.000.000 Frw y'igihembo cya Avoka.

mu rubanza rwe, yandikira Perezida w'Urukiko rukuriye urwaciye urubanza ku rwego rwa nyuma, akaba ariwe usuzuma ako karengane. 2 Zimwe muri izo manza ni urubanza RS/INJUST/RSOC 00001/2018/SC rwaciwe ku wa 02/07/2021, haburana Banki y'Abaturage y'u Rwanda na Ukwibishaka; urubanza N° RS/INJUST/RC 00002/2018/SC rwaciwe ku wa 21/02/2020, haburana Uwimana Marine na Kagitare Dancille; urubanza N° RS/INJUST/RC 00004/2018/SC rwaciwe ku wa 21/02/2020, haburana Nicyabera Espérance na Mukagatare Mariane

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