

RWANDA / JUDGMENT

UBUSHINJACYAHA v. NTAKIRUTIMANA

RLR V.3 - 2015

COURT

Supreme Court

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UBUSHINJACYAHA v. NTAKIRUTIMANA

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Text

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UBUSHINJACYAHA v. NTAKIRUTIMANA [Rwanda URUKIKO RW' IKIRENGA – RPA 0197/10/CS (Havugiyaremye, P.J., Kanyange na Mukamulisa, J.) 21 Ugushyingo 2014] Itegeko Nshinga – Uburenganzira bwo kunganirwa no kwiregura – Mu gihe umuburanyi n'umwunganira bagaragaje umwete muke mu gukurikirana urubanza rwabo, bikabangamira uburenganzira bw'abandi ndetse bikadindiza imikorere n'imigendekere myiza by'inzego z'ubutabera, hakemezwa ko urubanza ruburanishwa atunganiwe ntibyafatwa nko kumuvutsa uburenganzira bwo kunganirwa no kwiregura – Itegeko Nshinga rya Repubulika y'u Rwanda ryo kuwa 4 Kamena 2003 nk' uko ryavuguruwe kugeza ubu, ingingo ya 18. Amategeko Mpanabyaha – Impamvu Nyoroshyacyaha – Umucamanza aha agaciro impamvu zigabanya ubugizi bwa nabi bw'uwoze icyaha, ari izakibanjirije, ari izagiherekeje cyangwa izagikurikiye – Itegeko-Teka no21/77 ryo ku wa 18/8/1977 rishyiraho igitabo cy'amategeko ahana ibyaha mu Rwanda, ingingo ya 82. Incamake y'ikibazo: Umurambo wa Furere Rutamunuga wabonetse mu cyumba yararagamo, basanga yishwe yajanjaguwe umutwe n'ibintu bamukubise, yanigishijwe n'umugozi. Nyuma y'iperereza Furere Harerimana, Sibomana murumuna wa Furere Harerimana, Ntakirutimana na Biramba Cartone bita Dudu bagejewe imbere y'Urukiko Rukuru, narwo rufata icyemezo cy'uko Sibomana

azakurikiranwa ukwe kubera impamvu z'uburwayi. Urukiko rwaje guca urubanza, rwemeza koabaregwa bahamwa n'icyaha cyo kurema umutwe w'abagizi ba nabi, icyaha cy'ubuhotozi bwa Furere Rutamunuga n'icy'ubujura bukoresheje intwari, ruhanisha Harerimana igifungo cya burundu cy'umwihariko, Ntakirutimana ahanishwa igifungo cya burundu, naho Biramba Cartone ahanishwa igifungo cy'inyaka cumi n'itanu. Urukiko Rukuru rwanabategetse kandi gutanga indishyi zitandukanye kubari baziregeye, runategeka ko ibintu byasahuwe kwa nyakwigendera bigizwe na radiyo n'ibindi byasubizwa abazunguraba nyakwigendera. Ntakirutimana yajuririye urwo rubanza mu Rukiko rw'Ikirenga avuga muri rusange mu myanzuro inyuranye ko urukiko rwirengagije uburenganzira bwe bwo kunganirwa no kwisobanura yemererwa n'amategeko nk'uko yabisabye, ko yahamijwe icyaha akanahanishwa igifungo cya burundu hashingiwe kumvugo z'impimbano zivuguruzanya, kandi zihakanwa na banyirazo, ko Biramba Cartone nta na rimwe yigeze amushinja imbere y'Urukiko kandi ko kuba yaremeye icyaha imbere y'Ubugenzacyaha ari uko yari yashyizweho agahato. Uhagarariye Ubushinjacyaha avuga ko Urukiko Rukuru rwasobanuye impamvu rufashe icyemezo cyo kumuburanisha avoka we adahari, rukavuga ko inkiko zirutanwa, bityo ko atagomba kujya kuburana mu Rukiko Rwisumbuye kandi afite urubanza rumaze iminsi asanzwe aza mu Rukiko Rukuru. Yongeraho ko n'icyo cyemezo kitajuririwe. Abaregera indishyi bo bavuga ko système yo gusesa imanza (cassation) itakibaho, bityo Urukiko rw'Ikirenga rufite ububasha bwo kuburanisha mu mizi imanza izo arizo zose. Incamake y'icyemezo: 1. Uburenganzira bwo kunganirwa no kwiregura buteganywa n'ingingo ya 18 y'Itegeko Nshinga ntibugomba kwitiranwa no kubangamira uburenganzira bw'abandi ndetse no kudindiza imikorere n'imigendekere myiza by'inzego z'ubutabera, bityo ingingo Ntakirutimana n'abamwunganira baburanisha ko yavukijwe uburenganzira bwo kunganirwa no kwiregura nta shingiro ifite.

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2. Nyuma yo gusuzuma ibisobanuro Ntakirutimana atanga avuga ko agamije kugaragaza ko yemera icyaha no gusobanura uruhare rwe mu rupfu rwa Furere Rutamunuga J.M.V. Urukiko rusanga aho kwemera icyaha akurikiranyweho ahubwo agihakana, bityo no kugabanyirizwa igihano asaba akaba atabihabwa.
3. Ku birebana n'indishyi zisabwa kongerwa ku mpamvu y'uko amafaranga yibwe yamenyewe irengero, Urukiko rusanga nta bimenyetso byizewe bigaragaza ingano yayo kugira ngo rube rwayishingiraho rufata icyemezo cyo kongera indishyi zagenwe n'Urukiko Rukuru. Ubujurire nta shingiro bufite. Imikirize y'urubanza rwajuririwe igumye. Amagarama y'uru rubanza aherereye ku Isanduku ya Leta kuko uregwa afunze. Amategeko yashingiweho: Itegeko Nshinga rya Repubulika y'u Rwanda ryo kuwa 4 Kamena 2003 nk'uko ryavugururwe kugeza ubu, ingingo ya 18. Itegeko-Teka no 21/77 ryo ku wa 18/8/1977 rishyiraho igitabo cy'amategeko ahana ibyaha mu Rwanda, ingingo ya 82. Nta manza zifashishijwe. Urubanza I. IMITERERE Y'URUBANZA [1] Mu ijoro ryo kuwa 07/01/2007, mu kigo cy'Abafurere Maristes kiri mu kagali ka Rukatsa, Umurenge wa Kagarama, Akarere ka Kicukiro, Umujyi wa Kigali, hiciwe Umufurere witwaga Rutamunuga Jean Marie Vianney, umurambo uboneka mu cyumba yararagamo. Basanze yishwe yajanjagurwe umutwe n'ibintu bamukubise, yanigishijwe

n'umugoyi. [2] Iperereza ryahise ritangira, hakekwa Furere Harerimana bari basanzwe baturikira, Sibomana Protogène murumuna w'uwo Furere Harerimana, Ntakirutimana Jean Claude na Biramba Cartone bita Dudu hashingiye ku makuru yatanze n'abakozi b'icyo kigo aribo Semigabo Laurent (umutetsi w'Abafurere Maristes) na Mutabaruka Anastase (umukozi wo mu busitani muri icyo kigo). [3] Mu iburanisha ryo kuwa 30/04/2008 Urukiko Rukuru rwareguye rwafashe icyemezo cy'uko Sibomana Protogène azakurikiranwa ukwe kubera impamvu z'uburwayi. [4] Urukiko rwaciye urubanza, rwemeza ko Harerimana Innocent, Ntakirutimana Jean Claude na Biramba Cartone bahamwe n'icyaha cyo kurema umutwe w'abagizi ba nabi, icyaha cy'ubuhotozi bwa Furere Rutamunaga JMV n'icyubujura bukoresheje intwari, ruhanisha Harerimana Innocent igifungo cya burundu cy'umwihariko, Ntakirutimana Jean Claude ahanishwa igifungo cya burundu, naho Biramba Cartone ahanishwa igifungo cy'imyaka cumi n'itanu (15), rutegeka ko Harerimana Innocent, Ntakirutimana Jean Claude na Biramba Cartone bafatanyaga kwishyura Umulisa Cansilde, Mukakinani Godelene na Bakayiganwa Esther, buri muntu bakamuhira 1.500.000Frw y'indishyi mpozamarirana

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50.000Frw yo gukurikirana urubanza, 400.000Frw ya avoka, rutegeka ko ibintu byasahuwe kwa nyakwigendera bigizwe na radiyo n'ibindi byasubizwa abo mu muryango wa nyakwigendera bafite kumuzungura. [5] Urukiko rwashingiye icyemezo cyarwo ku mpamvu z'uko Biramba Cartone yiyemerera icyaha akanagisabira imbabazi kandi agasobanura uburyo cyakozwe, ku mvugo ya Harerimana Innocent wemera ko koko yari akuriye kandi ayobora uwo mutwe w'abagizi ba nabi akanemera ko ari we wagambiriye kwica Furere Rutamunaga J.M.V. akifashisha Sibomana Protogène, Ntakirutimana Jean Claude na Biramba Cartone. [6] Ntakirutimana yajuririyemo urwo rubanza mu Rukiko rw'Ikirenga avuye muri rusange mu myanzuro inyuranye ko urukiko rwirengagije uburenganzira bwe bwo kunganirwa no kwisobanura yemererwa n'amategeko nk'uko yabisabye, ko yahamijwe icyaha hashingiye ku mvugo z'impimbano zivuguruzanya, ahabwa igifungo cya burundu hashingiye ku mvugo zihakana na banyirazo, ko Biramba Cartone nta na rimwe yigeze amushinja imbere y'Urukiko kandi ko kuba yaremeye icyaha imbere y'Ubushinjacyaha ari uko yari yashyizweho agahato. [7] Urubanza rwaburanishijwe mu ruhamya kuwa 13/10/2014, Ntakirutimana yunganiye na Me Ndagijimana Augustin hamwe na Me Gashema Félicien, abaregere indishyi bunganiye na Me Mutembe Protais, naho Ubushinjacyaha buhagarariye na Higanzi Hermogène, Umushinjacyaha ku rwego rw'igihugu. [8] Iburanisha ritangiye, Ntakirutimana yavuze ko akuyeho indi myanzuro yose yatanze mbere ihakana icyaha, ko umwanzuro mushya afiteugizwe n'impapuro 142 ari ugaragaza ukuri ku rupfu rwa Furere Rutamunaga n'uruhare rwe muri urwo rupfu, ko yemera icyaha akaba anagisabira imbabazi. [9] Uhagarariye Ubushinjacyaha yavuze ko n'ubwo Ubushinjacyaha butabonye uwo mwanzuro wa nyuma ngo bugire icyo buwuvugaho bitabuzwa ko Ntakirutimana n'abamwunganira bagenda bavuye mu magambo make uko ibintu byagenze, ko icyo asabwa ari kuvugisha ukuri adaciye ku ruhande, naho abaregere indishyi bavuye ku icyo umuntu ajuririyemo agenda agaragaza inenge z'urubanza ajuririra, ko kubimureba yagenda agaragaza ibyo urukiko rutamenye,

akazirikana ko atagomba kujuririra ibindi bitaciriweho urubanza. [10] Urukiko rwafashe icyemezo ko mu gihe umwanzuro Ntakirutimana avuga ko afite utarugejweho mbere ngo unamenyeshwe abandi baburanyi, utashyirwa muri dosiye, ko ahubwo yasobanura mu magambo make ibiwukubiyemo abandi bakabyireguraho. II. IBIBAZO BIGIZE URUBANZA N'ISESENGURWA RYABYO

- a. Kumenya niba Urukiko Rukuru rwaravukije Ntakirutimana uburenganzira bwo kunganirwa no kwiregura [11] Ntakirutimana asaba ko imikirize y'urubanza rwaciye n'Urukiko Rukuru yavanwaho n'Urukiko rw'Ikirenga kugira ngo hubahirizwe ingingo ya 18 y'Itegeko Nshinga ryo kuwa 04/06/2003 nk'uko ryavugurwe. Avuga ko yavukijwe n'Urukiko Rukuru uburenganzira bwo kwisobanura rushingiye ku ngingo ya 51 y'Itegeko ryerekeye imiburanishirize y'imanza

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mbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets, akaba asanga ibyo binyuranye n'ibiteganywa n'iyi ngingo y'Itegeko Nshinga. [12] Me Ndagijimana umwunganira nawe avuga ko icyo Ntakirutimana asaba ari uko yahabwa uburenganzira bwo kuburanira ku rwego rwa mbere n'urwa kabiri, ko anenga kuba yarambuwe uburenganzira bwo kuburanira mu rukiko rubanza. [13] Uhagarariye Ubushinjacyaha avuga ko Urukiko Rukuru rwasobanuye impamvu rufashe icyemezo cyo kumuburanisha avoka we adahari, ruvuga ko inkiko zirutanwa, ko atagomba kujya kuburana mu Rukiko Rwisumbuye kandi afite urubanza rumaze iminsi asanzwe azi mu Rukiko Rukuru, yongeraho ko n'icyo cyemezo kitajuririwe. [14] Me Mutembe avuga ko système yo gusesa imanza (cassation) itakibaho, ko Urukiko rw'Ikirenga rufite ububasha bwo kuburanisha mu mizi imanza izo arizo zose. UKO URUKIKO RUBIBONA [15] Dosiye y'urubanza igaragaza ko Ntakirutimana yahawe uburenganzira bwo gushaka umwunganira aramubona. [16] Mu iburanisha ryo kuwa 30/04/2008 mu Rukiko Rukuru ku cyicaro cyarwo i Kigali, Ntakirutimana na Furere Harerimana Innocent bavuze ko bataburana kubera ko avoka wabo atabonetse kubera urundi rubanza rw'umurimo yitabiriye mu Rukiko Rwisumbuye rwa Ngoma ngo akaba yanditse asaba ko urubanza rwakwimurwa. Icyo kibazo urukikorwagifasheho umwanzuro ruvuga ko iyi mpamvu ntashingiro ifite kuko umunsi w'iburanisha avoka yari asanzwe awuzi ku buryo yari gutuma n'undi avoka akamuburanira urwo rubanza cyane cyane ko urubanza rwari rumaze gusubikwa kenshi, ko rero ruburanishwa kandi bigafatwa nkaho ruburanishijwe bahari. Urukiko rwashingiye kandi ku mpamvu ko urubanza rw'umurimo ruri mu Rukiko Rwisumbuye rutahabwa umwanya mbere y'urubanza nshinjabyaha ruri mu Rukiko Rukuru. [17] Urukiko rurasanga nta burenganzira bwo kunganirwa cyangwa bwo kwiregura umucamanza yavukije Ntakirutimana, ahubwo yasobanuye icyemezo cye, asobanura impamvu agifashe ashingiye ku myitwarire ye na avoka we bagaragazaga umwete muke kugira ngo urubanza ruburanishwe nyuma yo gusubikwa inshuro 11 zose. [18] Urukiko rusanga kandi uburenganzira bwo kunganirwa no kwiregura buteganywa n'ingingo ya 18 y'Itegeko Nshinga butagomba kwitiranwa no kubangamira uburenganzira bw'abandi ndetse no kudindiza imikorere n'imigendekere myiza by'inzego z'ubutabera, bityo ingingo Ntakirutimana n'abamwunganira baburanisha ko yavukijwe uburenganzira bwo kunganirwa no kwiregura ikaba nta shingiro ifite.

- b. Kumenya niba Ntakirutimana Jean Claude yemera icyaha ku buryo yagabanyirizwa igihano. [19] Ntakirutimana avuga ko Urukiko rwaciye urubanza rumuhamya icyaha rushingiye ku mvugo z'abamushinja zidafite gihamya, by'umwihariko imvugo y'uwitwa Biramba Cartone yavugiye mu Bugenzacyaha aho yavuze ko Furere Rutamunuga yishwe kubera urwango rwari hagati ye n'umuryango wa Harerimana Innocent,ko ibyo ari ibihimbano.

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- [20] Ku byerekeranye n'imikorere y'icyaha, Ntakirutimana avuga ko mu ntangiriro nta mugambi wo kwica Furere Rutamunuga wari uriho, ko icyariho ari umugambi wo kwiba moto ebyiri n'imodoka yabaga ku Kicukiro. [21] Akomeza avuga ko we n'uwitwa Uwimana Bernard na Sibomana Protogène bumvikanye k'umugambi wo kujya kwiba izo moto, bigeze hagati bigira inama yo kujya kwiba n'imodoka yari ihari, ko aho Uwimana ababwiriye ko atazajya abona umwanya wo kujya gushaka abaguzi (clients), yabahuje n'uwitwa Ahimana André bumvikana ko ari we uzashaka isoko rya moto. Avuga ko hagati aho mu gihe bari batarabona iryo soko,Uwimana Bernard yamwumvishije ko bashaka kujya kwiba moto kandi nyamara Furere afite amafaranga afite agaciro karenze ibyo bashaka kwiba, amubajije icyamubwiye koFurere afite ayo mafaranga amusubiza ko uwayamuhaye amuzi ko n'uburyo yayabonye abizi, ko ariko agiye gushaka uko yabimenya neza, aribwo ngo yiyoberanyije avugana na Furere nk'aho ari uwagombaga kuyamwoherereza, bumvikana ko azayohereza mu kwezi kwa 7, bituma nabo bahindura gahunda, biyemeza kuziba amafaranga bombi gusa naho abandi baguma kuri gahunda ya moto. [22] Avuga ko hagati aho nanone yaje kujyagushaka Biramba Cartone amugezaho umugambi wo kujya kwiba ayo mafaranga, nawe amubwira ko ari umujura ruharwa wibisha internet ubundi ngo akaba yasinziriza uwo agiye kwiba, abimubwiye yumva ibyo kumusinziriza aribyo byiza,ko ari nabyo byazakoreshwa, amafaranga yaboneka bakazayagabana ari batatu. [23] Avuga ko mbere yo kujya kuyiba babanje kubiganiraho na Furere Harerimana Innocent, abacurishiriza urufunguzo rw'icyumba cya Furere Rutamunuga n'urw'igipangu. [24] Asobanura ko umunsi bumvikanye ugeze bagiye, ko Biramba Cartone yagombaga kwinjira mu cyumba mbere agateramo imiti isinziriza, we asigaye hanze, ko ari nako byagenze, nyuma y'iminota 30 Biramba Cartone asohoka afite "emballage", we ntiyamenya niba umuti yawuteye,amubwira ko baturira mu Cyahafi aho mu gihe baganiraga yamweretse ibikomere byinshi yari afite, amubwira ko yabitewe na Furere wamurwanyije mu gihe yari amusabye kumuha amafaranga ku neza akanga, bikaba ngombwa ko amwica, ko ariko mu gihe yabimubwiraga atabyemeye, ahubwo ko yaketse ko ashaka kumwumvisha ko byamuruhije. [25] Nyuma y'ibyo byose Ntakirutimana asobanura ko ikitari ukuri ari uko yabeshye ku byerekeranye n'urwango Furere Rutamunuga yari afitiye umuryango wa Furere Harerimana, ko mu by'ukuri ari ibyo bahimbye babibwiwe na Biramba Cartone kugira ngo bazabe aribyo basobanurira Polisi ibafashe, ko naho ubundi Furere Rutamunuga nta rwango yari abafitiye, akaba nta n'urwo yari afitiye Furere Harerimana. [26] Avuga ko bageze muri Polisi Biramba Cartone yabihinduye amuhimbira ko ari we wishe Furere Rutamunuga bimufata bityo, ko ariko mu by'ukuri atari we wamwishe, ko yamenye ko yapfuye ari kuwa mbere icyaha cyaraye kibaye.

[27] Ku byerekeranye n'imvugo za Biramba Cartone zivuguruzanya, Ntakirutimana avuga ko ibyo yavugiye mu Bugenzacyaha kuwa 11/01/2007 atari bimwe n'ibyo yavuze kuwa 12/01/2007, ko yavuze ko bari baziranye kandi ko bari baturanye nyamara atari byo, ko n'ubuhamya yatanze mu Rukiko rw'Ikirenga buvuguruzanya n'ubwo yatanze mu Rukiko Rukuru, akaba ari nayo mpamvu atajuriye.

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[28] Me Ndagijimana umwunganira avuga ko asanga Ntakirutimana asobanura imikorere y'icyaha, ko yagize uruhare rukomeye kugira ngo Furere Rutamunuga yicwe kubera ko ari wewagiye gushaka Biramba Cartone bagacura umugambi wo kuzajya kwiba amafaranga, akagira uruhare mu kujya gutegura ahakorewe icyaha, ibyo byose bigatuma Furere yicwa, ko ari umugambi wagiye ukura, muri make ko yagize ubufatanyacyaha (participation) mu rupfu rwa nyakwigendera kubera ko yakoze uburinzi hanze nubwo atari azi ko Furere ari bupfe, ariko ko ari umugambi mubisha agomba guhanirwa. Asobanura ko Ntakirutimana atari ananiwe kwemera ko bajyanye mu cyumba bagafatanyaho kwica kubera ko n'ubundi ibyo yakoze bihanwe kimwe. [29] Yongeraho ko urukiko rwasuzuma impamvu Ntakirutimana yabanje kutavugisha ukuri, ko muri make yaguye mu cyaha agikoreshejwe n'umuntu wari ruharwa unamenyereye kuburana, abo bafatanyije bajya mu Bugenzacyaha no mu Bushinjacyaha yamaze kubashyiramo ubwoba ababwira ko batagomba kuvuga ikijyanye n'amafaranga, aba ari we ubyangukiramo kuko ibinyoma bye aribyo byafashwe nk'ukuri nyamara ibyo Ntakirutimana avuga bihura n'ibya Sibomana n'ubwo bwose we ataraburana. Anasaba Urukiko ko rwazasuzuma uburyo bunyuranye bwo kwemera icyaha, ko atari ngombwa ko ukurikiranywe avuga ko yanize cyangwa ko yatemye, kuko hari ushobora kutabikora kandi uruhare rwe rukaba runini mu cyaha. [30] Me Gashema nawe wunganira Ntakirutimana avuga ko mu kumuhana hashingirwa ku ngingo ya 82 n'ya 83 z'Igitabo cy'amategeko ahana cyakurikizwaga igihe icyaha cyakorwaga, rukitaho ko ibyo akurikiranyweho atari insubiracyaha, ko yasobanuye umugambi w'icyaha aregwa, hakanitabwaho ko ari ubwa mbere akurikiranyweho icyaha. [31] Uhagarariye Ubushinjacyaha avuga ko ukwirega icyaha kwa Ntakirutimana kutuzuye, ko hazahabwa agaciro ibyo yiyemereye mu Bugenzacyaha akanabishinjwa n'abo bakurikiranywe hamwe kugeza mu Rukiko rw'Ikirenga, aho ubwo Furere Harerimana yaburanaga abatangabuhamya batumijwe baje bagasobanura ko umugambi wo kwica wakozwe ukanashyirwa mu bikorwa Ntakirutimana awurimo, ko rero urubanza rwajuririwe rwagumana agaciro karwo kuko Ntakirutimana n'abamwunganira batagaragaza inenge zarwo n'icyo yaba apfa n'abamushinje, ahubwo umwanzuro yateguye ukaba ugamije kubeshya urukiko gusa. [32] Akomeza avuga ko nk'uko bigaragara muri dosiye y'urubanza, ubwo Furere Harerimana yaburanaga mu Rukiko rw'Ikirenga yashinje Ntakirutimana, na bagenzi be nabo baramushinja, ko yasobanuye ukuntu babanje kujya gusura ikigo babeshya ko bagiye kureba akanyamasyo, n'ukuntu nyuma yagiye kubakira mu kabari ku Kicukiro. [33] Me Mutembe wunganira abaregera indishyi avuga ko Ntakirutimana adasobanura ku bushake uburyo babigenje, by'umwihariko ko umwe yateze muri douche undi muri salon

undi ahagaze hanze, bateranira kuri Furere baramwica, mugenzi we yakozwe ku buryo umukozi usanzwe amuherekeza aba adahari, uko babivuze mbere bikaba bitavuguruzwa n'ibyo Ntakirutimana amaze iminsi yigira muri gereza bigamije kubeshya urukiko. [34] Ku byerekeranye n'indishyi zisabwa, asaba ko ku zagenwe n'Urukiko Rukuru hakwiyongeraho 10.000.000Frw kubera ko noneho amafaranga yibwe yamenyewe irengero. UKO URUKIKO RUBIBONA

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[35] Ingingo ya 82 y'Igitabo cy'amategeko ahana cyakurikizwaga igihe icyaha Ntakirutimana akurikiranyweho cyakorwaga iteganya ko umucamanza aha agaciro impamvu zigabanya ubugizi bwa nabi bw'uwoze icyaha, ari izakibanjirije, ari izagihekeje cyangwa izagikurikiye. [36] Urukiko rusanga niyo rwagendera ku bivugwa na Ntakirutimana ko we yari azi ko bagiye kwiba amafaranga uretse ko atari nabyo kubera ko bihabanye n'ibikubiye muri dosiye y'urubanza, ntacyo byamwungura ku byerekeranye n'icyaha cy'ubuhotozi akurikiranyweho kuko yemera ko yagize uruhare mu itegurwa no mu ishyirwa mu bikorwa byacyo. [37] Ku byerekeranye n'ukuri kw'ibyo Ntakirutimana avuga, Urukiko rusanga bitandukanye cyane n'ibikubiye muri dosiye y'urubanza igaragaza ko kuva mu ntangiriro icyari kigamijwe n'abakigizemo uruhare bose bakuriwe na Furere Harerimana wateguye umugambi akawushyiramo murumuna we Sibomana Protogène, Ntakirutimana Jean Claude na Biramba Cartone ari urupfu rwa Furere Rutamunuga, ibyo bikaba bigaragarira mu nyandikomvugo zabo mu Bugenzacyaha, mu Bushinjacyaha no mu rubanza rwerekeranye n'ifungwa ry'agateganyo. [38] Nubwo rero Ntakirutimana avuga ko yemera icyaha akanagisabira imbabazi, uburyo asobanura imikorere yacyo n'uruhare yakigizemo, ntaho bihuriye n'icyaha cy'ubuhotozi bwakorewe Furere Rutamunuga akurikiranyweho, kuko icyaha yemera ari icy'ubujura bwakorewe mu cyumba cya Furere Rutamunuga bikamuviramo urupfu yishwe na Biramba Cartone mu gihe we yari azi ko bagiye kwiba amafaranga hakoreshejwe imiti isinziriza. Ibyo yemera rero ntibihuye n'ibyo Biramba Cartone yasobanuye mu Rukiko Rukuru aho yagaragaje uruhare nyakuri rwe n'urwa Ntakirutimana muri urwo rupfu, akongera kubyemeza mu Rukiko rw'Ikirenga mu rubanza rw'ubujurire rwa Furere Harerimana Innocent, Ntakirutimana wari watumiwe muri urwo rubanza nk'umutangabuhamya ntabivuguruze agahitamo ahubwo kuvuga ko ntacyo yifuza gutangariza Urukiko. [39] Ku byerekeranye n'imvugo za Biramba Cartonemu Bugenzacyaha Ntakirutimana avuga ko zitandukanye, Biramba Cartone ubwo yaburanaga mu Rukiko Rukuru yasobanuye ubwe ko kwari ukujijisha kubera gutinya bagenzi be bashoboraga kumugirira nabi nyuma y'uko yari yanze igitekerezo cya Furere Harerimana ko bombi bakwigerekaho icyaha bagashinjura Sibomana na Ntakirutimana Jean Claude, ariko akaza kumwemerera kutavugisha ukuri kose. [40] Ku bijyanye na none n'iby'uko ngo ibyo Biramba Cartone yavugiye mu Rukiko Rukuru bitandukanye n'ibyo yavuze mu Rukiko rw'Ikirenga, Urukiko rusanga aho hombi ntaho yashinjuye Ntakirutimana ku ruhare yagize mu rupfu rwa Furere Rutamunuga. [41] Nyuma yo gusuzuma ibisobanuro Ntakirutimana atanga avuga ko agamije kugaragaza ko yemera icyaha no gusobanura uruhare rwe mu rupfu rwa Furere

Rutamunuga J.M.V. Urukiko rusanga aho kwemera icyaha akurikiranyweho ahubwo agihakana, bityo no kugabanyirizwa igihano asaba akaba atabihabwa. [42] Ku birebana n'indishyi zisabwa kongerwa ku mpamvu y'uko amafaranga yibwe yamenyewe irengero, Urukiko rusanga nta bimenyetso byizewe bigaragaza ingano yayo kugira ngo rube rwayishingiraho rufata icyemezo cyo kongera indishyi zagenwe n'Urukiko Rukuru.

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III. ICYEMEZO CY'URUKIKO [43] Rwemeje ko ubujurire bwa Ntakirutimana Jean Claude nta shingiro bufite; [44] Rwemeje ko urubanza RP 0007/07/HC/KIG rwaciwe n'Urukiko Rukuru kuwa 03/07/2008 rudahindutse; [45] Rutegetse ko amagarama y'urubanza aherera ku Isanduku ya Leta kuko Ntakirutimana Jean Claude afunze.

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