

RWANDA / JUDGMENT

RUMANYIKA N'ABANDI v. RUZINDANA

RCOMA 0017/10/CS

COURT

Supreme Court

DECIDED

15 April 2011

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RUMANYIKA N'ABANDI v. RUZINDANA

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Text

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RUMANYIKA N'ABANDI v. RUZINDANA [Rwanda URUKIKO RW'IKIRENGA – 2011SC – RCOMA 0017/10/CS (Kayitesi R, P.J., Mukandamage na Munyangeri, J.) 15 Mata 2011] Amategeko y'ubucuruzi – Amasezerano y'inguzanyo isanzwe – Ingano y'inyungu ikomoka ku masezerano ishyingiraho ku bwunvikane bw'abayagiranye - Ntawakwitwaza ko amasezerano afite inenge ashingirye ko inyungu ziyateganyijwemo ataziciwe na banki , Itegeko ryo kuwa 30/07/1888 rishyiraho urwunge rw'amategeko y'imbonezamubano, ibyerekeye imirimo nshinganwa, ingingo ya 478 n'ya 480. Amategeko y'ubucuruzi – Agaciro k'amasezerano atarashizweho umukono n'umwe mu bashakanye – Iyo umwe mubashyingiranywe asabye gutesha agaciro amasezerano yakozwe na mugenzi we nta gaciro byahabwa kuko ntibiba bivuze ko umwe yakwitiranywa n'undi mu bikorwa byabo byerekeye amasezerano bagiranye n'abandi, kuko uwayashyizeho umukono aba yiyemeje kuyubahiriza ku giti cye gusa, Itegeko n° 22/11/2009 ryo ku wa 12/11/1999 ryuzuzwa Igitabo cya mbere cy'urwunge rw'amategeko mbonezamubano kandi rishyiraho igice cya gatanu cyerekeye imicungirey'umutungo w'abashyingiranwe, impano n'izungura, Ingingo ya 17 Amategeko y'ubucuruzi – Kutishyura kubera ibibazo bitunguranye – Gufungwa kwa parking y'imodoka ntibyakwitwa «force majeure» mu gihe uyitwaza ashobora gushaka indi cyangwa

akagira ahandi yimukira – Ntiyayigira urwitwazo mu gihe kandi mu masezerano y’ ubwishyu yiyemereye butaragombaga guturuka gusa ku mafaranga ava muri «transport», Amategeko y’imiburanishirize – Ubujurire bwuririye ku bundi – Astreinte, amafaranga y’ikurikiranarubanza n’igihembo cya Avoka – Inyungu zibyawe n’imari remezo zishobora kubyara inyungu biturutse ku rubanza cyangwa ku masezerano yihariye, zipfa gusa kuba ziri mu kirego cyangwa mu masezerano, kuba ari inyungu nibura z’umwaka wuzuye – Iyo Urukiko rusanze amafaranga y’ikurikiranarubanza n’igihembo cya Avoka umuburanyi asaba ari ikirenga agenwa mu bushishozi bwarwo, Itegeko ryo kuwa 30/07/1888 rishyiraho urwunge rw’amategeko y’imbenezamubano, ibyerekeye imirimo nshinganwa, Ingingo ya 478 Incamake y’ikibazo: Uwajuririye hamwe n’uregwa bagiranye amasezerano atandukanye agamije ubucuruzi, hamwe n’umushinga w’ubufatanye mubucuruzi (projet de partenariat). Baje kugera aho ubwo bufatanye bwabo mu bucuruzi buza kugira ibibazo by’imicungire y’umutungo. Bakorana amasezerano kuwa 19/09/2008, agaragaza uburyo uwarezwe mu rukiko rubanza azishyura uwamureze amafaranga angana n’amadolari 814.716 USD yari amaze gushora hamwe n’inyungu zayo. Uwarezwe ntiyubahirije ayo masezerano, maze azakuregwa mu Rukiko Rukuru rw’Ubucuruzi, asabwa kwishyura umwenda abereyemo uwamureze, inyungu, indishyi, gufatira imitungo, ingwate yahawe, hamwe n’amafaranga y’ubukode bwayo. Uwajuririye yategetwe n’Urukiko Rukuru rw’Ubucuruzi kwishyura. Ntiyishimiye icyo cyemezo cy’urukiko, aza kujurira mu Rukiko rw’Ikirenga avuga ko amasezerano yagiranye n’uwamureze afite inenge kubera ko atashoboraga gufatwa nka banki agenerwa inyungu hamwe n’amafaranga y’ibihano (pénalités), avuga ko binyuranije n’amategeko. Avuga kandi ko ibisobanuro yatanze

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avuga ku bibazo yagize bitamuturutse ho, kuko imodoka zatwaraga abagenzi zavagamo ubwishyu zafungiwe parking. Naho umugore w’uwarezwe nawe yaje kujurira muri uru Rukiko, avuga ko atigeze agira uruhare mu masezerano yakozwe n’umugabo we, asaba ko ayo masezerano yateshwa agaciro. Incamake y’icyemezo: 1. Uwajuririye ntiyavugaga ko amasezerano yabaye hagati yabo afite inenge kandi akaba anyuranije n’amategeko ashingiye ko inyungu ziyateganyijwemo ataziciwe na banki, mu gihe ayo masezerano bakoranye yiswe contrat de remboursement des apports, akaba ari ay’inguzanyo isanzwe ya 814.716 US Dollars, yagombaga kwishyurwa mu gihe cy’imyaka icumi. Kuba avuga rero ko atar’ikigo cy’imari, ntibyashingirwa ho, kuko atitwaye nka banki kuko yo ishinze kwakira amafaranga y’abantu ikayaguriza abandi. Itegeko ritaganyako ko mu masezerano asanzwe yerekeye inguzanyo, guteganya inyungu byemewe.

2. Kuba yarashakanye n’uwajuririye mu buryo bw’ivangamutungo bitamubuza kugirana amasezerano n’abandi bantu, ntibivugaga kandi ko umwe yakwitiranywa n’undi mu bikorwa byabo byerekeye amasezerano bagiranye n’abandi, kuko uwayashyizeho umukono aba yiyemeje kuyubahiriza ku giti cye gusa, bikaba bitabazwa mugenzi we, kabone n’iyo yaba arebana n’inyungu z’umuryango. Bigaragara ko mu gihe ayo masezerano yabaga ku wa 19/09/2008, Itegeko n° 10/2009 ryo ku wa 14/05/2009 ryerekeye ingwate (hypothèques) ryari ritarabaho, umugore w’uwajuririye akaba rero ataryifashisha muri uru rubanza ku birebana n’ingwate zatazwe n’umugabo we .

3. . Kuba parking y'imodoka yarafunzwe ntibyafatwa nka force majeure yatumye uwajuririye atishyura uwarezwe nk'uko babisezeranye kuko yashoboraga guteganya aho imodoka zakwimurirwa mu gihe iyo parking nyirayo yayisubiza. Ikindi kandi nuko ntakigaragaza ko ubwishyu bwagombaga guturuka gusa ku mafaranga ava muri transport .
4. Umwenda uwajuririye agomba kwishyura uwarezwe ungana na 814.716 USD y'umwenda remezo, hiyongereyeho inyungu zingana na 99.666.92 USD, inyungu z'ubukererwe zingana na 11.960.03 USD, n'amadolari 12.000 y'ibihano byo kutishyurira igihe, yose hamwe akaba 938.342.95 USD. Ku birebana n'amafaranga y'ikurikirana rubanza n'igihembo cya avoka, mu bushishozi bw'Urukiko, uwarezwe akaba agenewe 500.000 Frw yiyongera kuri 1.500.000 FRW yagenwe n'Urukiko rubanza, yose hamwe akaba 2.000.000 Frw. Ubujurire nta shingiro bufite. Ubujurire bw'umugore wuw'ajuririye nta shingiro bufite. Ubujurire bwuririye ku bundi bufite ishingiro kuri bimwe. Amagarama y'urubanza aherereye kuwajuririye hamwe n'umugore we.

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Amategeko yashingiweho Itegeko ryo kuwa 30/07/1888 rishyiraho urwunge rw'amategeko y'imbonezamubano, ibyerekeye imirimo nshinganwa, ingingo ya 52, iya 478 n'iya 480. Itegeko n° 22/11/2009 ryo ku wa 12/11/1999 ryuzuzwa Igitabo cya mbere cy'urwunge rw'amategeko mbonezamubano kandi rishyiraho igice cya gatanu cyerekeye imicungirey'umutungo w'abashyingiranwe, impano n'izungura, Ingingo ya 17 Nta manza zifashishijwe Urubanza I. IMITERERE Y'URUBANZA

- [1] RUZINDANA na RUMANYIKA bagiranye amasezerano atandukanye agamije ubucuruzi. Mu ntangiriro, RUZINDANA yamukodesheje imodoka 5 zitwara abagenzi, nyuma bagirana umushinga w'ubufatanye mu bucuruzi ku kigereranyo cya 50% (projet de partenariat), RUZINDANA aza noguhabwa imigabane ihwanye na 50% y'imari fatizo (capital) muri sosiyete OKAPI Hotels & Resorts yari igizwe na RUMANYIKA n'abana be babiri.
- [2] Byaje kugera aho ubwo bufatanye bwabo mu bucuruzi bugira ibibazo by'imicungire y'umutungo, biyemeza gukora amasezerano ku wa 19/09/2008 (contrat de remboursement des apports) agaragaza uburyo RUMANYIKA azishyura RUZINDANA 814.716 USD yari amaze gushora n'inyungu zayo.
- [3] RUMANYIKA ntiyubahirije ayo masezerano, maze RUZINDANA atangaikirego mu Rukiko Rukuru rw'Ubucuruzi, asaba kwishyurwa umwenda amubereyemo, inyungu zawo, indishyi zitandukanye, ndetse no gufatira imitungo ya OKAPI Hotels & Resorts, ingwate yahawe n'amafaranga y'ubukode bwabyo. Muri urwo rubanza hagobotsemo RUSEKAMPUNZI RUMANYIKA Agathe umugore wa RUMANYIKA, nawe asaba kurengera umutungo w'umuryango bafatanije.

- [4] Urukiko rwaciye urubanza rutegeka RUMANYIKA kwishyura RUZINDANA 814.716 USD y'umwenda remezo, 5.500 USD y'ibihano bumvikanye mu masezerano, 6.428,93 USD y'inyungu z'ubukererwe zumvikanwe mu masezerano na 1.500.000 Frw y'igihembo cy'Avoka n'ikurikiranarubanza. Rwamutegetse kandi kumwishyura 500 USD buri kwezi mu gihe atazaba yubahirije ibyategetswe n'urubanza, ariko ayo mafaranga ntashobore kurenga 10.000 USD (astreinte).
- [5] RUMANYIKA yajuririye Urukiko rw'Ikirenga avuga ko amasezerano yagiranye na RUZINDANA afite inenge, ko kandi Urukiko rwafashe RUZINDANA nk'aho yamuguriye, nyamara RUZINDANA atari Banki ku buryo yaguriza umuntu amafaranga,

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akaba rero ataragombaga kugenerwa inyungu yasabye hamwe n'amafaranga y'ibihano (pénalités) kuko binyuranyije n'amategeko.

- [6] Urukiko kandi ngo ntirwitaye ku bisobanuro yaruhaye ko yagize ibibazo bitamuturutseho kandi atashoboraga kugira icyo akoraho (cas de force majeure), kuko imodoka zitwara abagenzi zavagamo ubwishyu zafunguwe « parking ».
- [7] RUSEKAMPUNZI nawe yajuriye avuga ko Urukiko ntacyo rwashubije kukibazo yarugejejeho ko atigeze agira uruhare mu masezerano yakozwen'umugabo we RUMANYIKA na RUZINDANA, akaba rero nta gaciroyahabwa kuko hirengagijwe uburenganzira afite ku mitungo bafatanyije ndetse n'ubw'abana.
- [8] Urubanza rwaburanishijwe mu ruhamwe ku matariki atandukanye, iya nyuma ikaba iya 17/03/2011, RUMANYIKA aburanirwa na Me NDUWAMUNGU Jean Vianney, RUZINDANA aburanirwa na Me KAYIGANWA Auréa, naho RUSEKAMPUNZI aburanirwa na Me BIZIMANA SHOSHI. II. IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO
- a. Kumenya agaciro k'amasezerano yabaye hagati ya RUMANYIKA na RUZINDANA.
- Ku birebana n'inenge RUMANYIKA avuga ko amasezerano afite.
- [9] Uburanira RUMANYIKA avuga ko amasezerano yabaye hagati ye na RUZINDANA tariki ya 19/09/2008 afite inenge kuko avugwamo inyungu za 12% n'ibihano kandi RUZINDANA atari Ikigo cy'imari (Institution financière) cyemewe mu Rwanda gitanga inguzanyo, akaba rero anyuranyije n'amategeko. Asanga rero RUZINDANA ataragombaga kugenerwa inyungu n'ibihano by'ubukererwe kuri 814.716 USD y'umwenda remezo, kuko amasezerano bagiranye atari ay'inguzanyo nk'uko urukiko rwabifashe, ahubwo habayeho "contrat de remboursement des apports".
- [10] Uburanira RUZINDANA avuga ko mu rubanza rwajuririwe, Urukiko rwashimangiye ibyemeranijweho n'abagiranye amasezerano rushingiye ku Gitabo cya gatatu cy'urwunge rw'amategeko mbonezamubano mu ngingo yacyo ya 478 iteganya ko mu masezerano asanzwe yerekeye inguzanyo, yaba iy'amafaranga cyangwa ibindi bintu byimukanwa

byemewe guteganya inyungu, n'ingingo ya 480 y'icyo gitabo ivuga ko ingano y'inyungu ikomoka ku masezerano ishyirwaho ku bwumvikane bw'abayagiranye. Asanga rero inyungu za 12% zihuye n'amategeko ndetse n'icyifuzo cy'abayagiranye bashaka kurangiza ibibazo by'imirungire mibi y'amafaranga yashowe na RUZINDANA.

- [11] Ingingo ya 478 y'igitabo cy'amategeko cya gatatu cy'urwunge rw'amategeko mbonezamubano iteganya ko mu masezerano asanzwe yerekeye inguzanyo, yaba iy'ibiribwa cyangwa iy'ibindi bintu byimukanwa, guteganya inyungu byemewe. Ku byerekeranye n'inguzanyo ibyara inyungu, ingingo ya 480 y'icyo gitabo iteganya ko «

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ingano y'inyungu ikomoka ku masezerano ishyirwaho ku bwumvikane bw'abayagiranye, kubitangira ibimenyetso bikurikiza amategeko asanzwe ».

- [12] Nk'uko Urukiko Rukuru rw'Ubucuruzi rwabisobanuye, Urukiko rurasanga amasezerano yabaye tariki ya 19/09/2008 hagati ya RUMANYIKA na RUZINDANA yiswe « contrat de remboursement des apports » ari ay'inguzanyo isanzwe ya 814.716 USD yagombaga kwishyurwa mu gihe cy'imyaka icumi (10), kandi RUZINDANA ataritwaye nka Banki kuko yo ishinze kwakira amafaranga y'abantu ikayaguriza abandi. Kuba muri ayo masezerano hataganyijwemo inyungu ya 12%, byemewe n'amategeko amaze kuvugwa, bityo rero ayo masezerano nta nenge afite.
- Kuba RUSEKAMPUNZI yaba ataramenye amasezerano yabaye hagati ya RUMANYIKA na RUZINDANA byayatesha agaciro ?
- [13] Uburanira RUSEKAMPUNZI avuga ko Urukiko rutashubije ikibazoyarushyikirije asaba ko amasezerano yabaye hagati y'umugabo we RUMANYIKA na RUZINDANA yateshwa agaciro kuko atayamenye kandintayashyireho umukono. Ayo masezerano kandi ngo anyuranije n'amategeko arengera umutungo w'umuryango, cyane Itegeko n° 22/11/2009 ryo kuwa 12/11/1999 ryuzuzaga Igitabo cya mbere cy'urwunge rw'amategeko mbonezamubano kandi rishyiraho igice cya gatanu cyerekeye imirungire y'umutungo w'abashyingiranwe, impano n'izungura, mu ngingo yaryo ya 29, Itegeko Ngenga n° 08/2005 ryo kuwa 14/07/2005 rigena imikoreshereze n'imirungire y'ubutaka mu Rwanda mu ngingo yaryo ya 35 n'Itegeko n°10/2009 ryo kuwa 14/05/2009 ryerekeye ingwate ku mitungo itimukanwa (hypothèques) mu ngingo yaryo ya 5.
- [14] Uburanira RUMANYIKA we asanga ikirego RUZINDANA yatanze kigamije gufatira umutungo wose wa RUMANYIKA gitandukanye n'amasezerano bagiranye. Yemera ariko ko RUMANYIKA yashyize umukono ku masezerano ku giti cyo.
- [15] Uburanira RUZINDANA avuga ko RUSEKAMPUNZI yari azi ubucuruzi RUMANYIKA afatanije na RUZINDANA, ko kandi amasezerano hagati yabo agomba kugira agaciro haba ku mugore we n'abana. N'ubwo kandi ngo RUSEKAMPUNZI atari mu bagize Sosiyete OKAPI Hotels & Resorts, yemera ko umwenda wagiriye akamaro umuryango wabo.

[16] Itegeko n° 22/11/2009 ryo ku wa 12/11/1999 mu ngingo yaryo ya 17 yavuzwe haruguru riteganya ko « abashyingiranwe bumvikana k'ucunga umutungo bahuriyeho kandi bafite ububasha bungana bwo kuwukurikirana no kuwuhagararira » byumvikana ko buri wese afite uburenganzira bwo kuregera no gukurikirana umutungo w'urugo, ariko ntibivuga ko umwe yakwitiranywa n'undi mu bikorwa byabo byerekeye amasezerano bagiranye n'abandi, kuko uwayashyizeho umukono aba yiyemeje kuyubahiriza ku giti cye gusa, bikaba bitabazwa mugenzi we, kabone n'iyi yaba arebana n'inyungu z'umuryango.

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- [17] Muri uru rubanza icyaregewe si umutungo w'umuryango wa RUMANYIKA na RUSEKAMPUNZI (ubutaka cyangwa se ibindi), ahubwo ni ukutubahiriza amasezerano RUMANYIKA yagiranye na RUZINDANA yerekeranye n'uburyo azishyura umwenda wa 814.716 USD RUZINDANA yashoye mu bucuruzi bwa Sosiyete OKAPI Hotels & Resorts bari bafatanije, inyungu zawo n'ibihano byo kutishyurira igihe.
- [18] Kuba RUSEKAMPUNZI avuga ko ayo masezerano atahabwa agaciro kuko nta ruhare yayagizemo cyane ko ngo atari anayazi, Urukiko rurasanga nta shingiro bifite kuko, nk'uko byavuzwe haruguru, kuba yarashakanye na RUMANYIKA mu buryo bw'ivangamutungo bitabuza RUMANYIKA kugirana amasezerano n'abandi bantu. Bigaragara kandi ko mu gihe ayo masezerano yabaga ku wa 19/09/2008, Itegeko n° 10/2009 ryo ku wa 14/05/2009 ryerekeye ingwate (hypothèques) ryari ritarabaho, RUSEKAMPUNZI akaba rero ataryifashisha muri uru rubanza ku birebana n'ingwate zatazwe n'umugabo we RUMANYIKA agamije kuzihakana.
- [19] Ku birebana n'aya masezerano, ikigaragara na none ni uko yabaye hagatiy'abantu bari bahuriye kuri Sosiyete OKAPI Hotels & Resorts igizwe na RUZINDANA, RUMANYIKA n'abana be babiri, RUSEKAMPUNZI atarimo kuko yinjijemo ku wa 1/09/2009, bikaba rero bitarashobokaga ko asinya ku masezerano arebana na sosiyete adafitemo imigabane, bityo rero ubujurire bwe bukaba nta shingiro bufite.
- b. Ese ibibazo RUMANYIKA avuga byatumye atishyura RUZINDANA ntibyamuturutseho, byaramutunguye, ntacyo yashoboragakubikoraho?
- [20] Uburanira RUMANYIKA ntahakana umwenda RUMANYIKA abereyemo RUZINDANA, ahubwo avuga ko kuba atarubahirije ingengabihe mu kwishyura nk'uko babisezeranye byaratewe n'ibibazo yagize biturutse ku ifungwa rya « parking » ya SOTRA, byatumye aburana na RWANDA PAINT bayikodeshaga. Asobanura ko iryo funga ari ikintu kitamuturutseho. Ikindi ngo ntiyashoboraga kuriteganya kuko yari yarakoranye amasezerano y'ubukode bw'igihe kirekire na nyiri « parking » amwishyura n'amafaranga y'ubukode bw'amezi 12, atungurwa n'uko ayo masezerano asheshwe. RUMANYIKA na none ngo ntacyo yashoboraga gukora ku cyemezo cyafashwe n'Ubuyobozi bw'Akarere ka Nyarugenge bwaje kumuvana muri icyo « parking ».

- [21] Akomeza avuga ko ibyo byose Urukiko rutabyitayeho, nyamara yari yarasezeranye na RUZINDANA ko mu gihe habaye « cas de force majeure » batazasesa amasezerano, ahubwo ruvuga ko yagombaga gukora ibishoboka byose akubahiriza ingengabihe bumvikanye akishyura aho amafaranga yava hose, mu gihe ariko bigaragara ko nta mafaranga yashoboye kubona, bityo rero akaba ntacyo yaryozwa.
- [22] Uburanira RUZINDANA we avuga ko amasezerano agomba gushingirwaho ari ayo ku wa 19/09/2008 hagati ya RUMANYIKA na RUZINDANA yiswe « contrat de remboursement des apports », ko kandi RUZINDANA atashoye imari muri « transport » gusa, ubwishyu bukaba rero butaragombaga kuva mu modoka zonyine kuko OKAPI Hotels & Resorts kimwe na SOTRA zitigeze zihagarara gukora, ngo abe yarabuze

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ubwishyu. Yasobanuye ko mu masezerano RUMANYIKA yahawe igihe gihagije cyo kwitegura kwishyura, nyamara ariko na mbere y'uko « parking » ifungwa akaba atarishyuraga neza kuko yarezwe ari uko hashize amezi 6 atishyura. Ku byerekeraye n'ifungwa rya « parking », yavuze ko ibaruwa y'ubuyobozi yanditswe tariki ya 06/02/2009 ishyirwa mu bikorwa mu kwezi kwa kane 2009 ariko ko RUMANYIKA ntacyo yakozwe ngo yishyure, ko ahubwo yagize ubushake bucyeye, kandi atananiwe kwigobotora ibibazo avuga ko yagize.

- [23] « Cas de force majeure » yumvikana nk'impamvu itunguranye, idashoboraga guteganywa kandi umuntu adashobora kugira icyo akoraho.
- [24] Urukiko rurasanga nk'uko Urukiko rubanza rwabisobanuye, kuba « parking » y'imodoka za SOTRA yarafunzwe atari « cas de force majeure » yatumye RUMANYIKA atishyura RUZINDANA nk'uko babisezeranye kuko yashoboraga guteganya aho imodoka zakwimukira mu gihe iyo « parking » yakodeshaga nyirayo yayisubiza. Na none kandi si ikintu atashoboraga kugira icyo akoraho kuko yashoboraga gushaka indi « parking », imirimo yo gutwara abagenzi igakomeza. Byongeye kandi mu masezerano bagiranye nta kigaragaza ko ubwishyu bwagombaga guturuka gusa ku mafaranga ava muri « transport » ikorwa na SOTRA. c. Ku byerekeye inyungu zisabwa na RUZINDANA n'amafaranga y'ikurikiranarubanza
- [25] Uburanira RUZINDANA yatanze ubujurire bwuririye ku bwa RUMANYIKA asaba ko yahabwa inyungu za 12 % kuri buri kwezi kutishyurwe kugeza urubanza ruciwe nk'uko biri mu ngengabihe bumvikanyeho. Asaba kandi ko n'ibihano byo kutishyurira igihe bya 500 USD (astreinte) buri kwezi kutishyurwe byakomeza kubarwa nabyo kugera urubanza ruciwe, akagenerwa n'igihembo cya « avocat » gihwanye na 15% y'umwenda uburanwa.
- [26] Uburanira RUMANYIKA avuga ko RUZINDANA atagomba gusaba inyungu za 12% kuko yitwaye nka Banki, izo nyungu rero zikaba zinyuranije n'amategeko.

- [27] Nk'uko byagaragajwe haruguru, Igitabo cya gatatu cy'urwunge rw'amategeko mbonezamubano, ingingo ya 478 yemera ko umuntu ashobora kwaka inyungu ku nguzanyo. Na none ingingo ya 52 yacyo iteganya ko « inyungu zibyawe n'imari remezo zishobora nazo kubyara inyungu biturutse ku rubanza cyangwa ku masezerano yihariye, zipfa gusa, ari mu kirego cyangwa mu masezerano, kuba ari inyungu nibura z'umwaka wuzuye ».
- [28] Amasezerano ya « remboursement des apports » yo ku wa 19/9/2008 ateganya ko RUMANYIKA azishyura inyungu za 12% ku mwaka ku mwenda wa 814.716 USD, no ku mafaranga azaba yakerewe kwishyura. Uburanira RUZINDANA asobanura ko mu kugena izo nyungu nta kindi bashingiyeho uretse ubwumvikane bwabo gusa, naho uburanira RUMANYIKA akavuga ko zitagombaga gucibwa. Urukiko rurasanga

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- [1] inyungu ya 12% yumvikanyweho muri ayo masezerano ari ikirenga hashingiwe ku nyungu zakwaga icyo gihe ku nguzanyo ku isoko mpuzamahanga ry'amadolari1 ku mwaka zihwanye na 3.3709 %. Muri ikigihwe izo nyungu zirabarirwa kuri 0.7797 %, bigaragara ko idolaririyagabanutse mu gaciro. Hashingiwe kuri ibyo byose, Urukiko rurasanga, mu bushishozi bwawo, inyungu RUMANYIKA yaciwe na RUZINDANA zikwiye gushyirwa kuri 6% ku mwaka, zikaba zibazwe mu buryo bukurikira : $814.716 \text{ USD} \times 6 \times \text{iminsi } 734 = 99.666,92 \text{ USD}$ $100 \times \text{iminsi } 360$
- [29] Inyungu z'ubukererwe ku mezi 24 atishyurwe (1/4/2009-1/4/2011) nazo zihwanye na : $99.666,92 \text{ USD} \times 6 \times \text{iminsi } 720 = 11.960,03 \text{ USD}$ $\text{Iminsi } 360 \times 100$
- [30] Ku byerekeye « asteinte » ya 500 USD buri kwezi RUMANYIKA na RUZINDANA bumvikanye mu gihe azaba atishyuriye igihe, Urukiko rurasanga kuva tariki ya 1/4/2009 kugeza ubu ahwanye na $500 \text{ USD} \times \text{amezi } 24 = 12.000 \text{ USD}$.
- [31] Urukiko rurasanga umwenda RUMANYIKA agomba kwishyura RUZINDANA ungana na 814.716 USD y'umwenda remezo hiyongereyeho inyungu zingana na 99.666,92 USD, inyungu z'ubukererwe 11.960,03 USD n'amadolari 12.000 y'ibihano byo kutishyurira igihe, yose hamwe akaba 938.342,95 USD.
- [32] Ku birebana n'amafaranga y'ikurikirana rubanza n'igihembo cya avoka, Urukiko rurasanga ayo RUZINDANA asaba ari ikirenga mu bushishozi akaba agenewe 500.000 Frw yiyongera kuri 1.500.000 FRW yagenwe n'Urukiko rubanza, yose hamwe akaba 2.000.000 Frw. III. ICYEMEZO CY'URUKIKO
- [33] Rwemeje ko ubujurire bwatanzwe na RUMANYIKA Jean Marie Vianney nta shingiro bufite.

- [34] Rutegetse RUMANYIKA kwishyura RUZINDANA Egide 938.342,95 USD n'amafaranga 2.000.000 y'igihembo cya « avocat », no kuyatangira umusogongero wa Leta wa 4% uhwanyeye na 37.533,72\$ US ahwanyeye n'amafaranga y'u Rwanda 22.573.226 Frw2, yongeweho umusogongero wa 4% ya 2.000.000 frw ahwanyeye na 80.000 Frw, umusogongero wa Leta wose ukaba ari 22.653.226 Frw, atayatanga, ayo mafaranga agakurwa mu bya ku ngufu za Leta.
- [35] Rwemeje ko ubujurire bwa RUSEKAMPUNZI RUMANYIKA Agathe nta shingiro bufite.

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- [36] Rwemeje ko ubujurire bwa RUZINDANA Egide bwuririye ku bwa RUMANYIKA bufite ishingiro kuri bimwe.
- [37] Rutegetse RUMANYIKA na RUSEKAMPUNZI Agathe gufatanya kwishyura amafaranga 53.400 y'amagarama y'urubanza, abariwemo n'ayaciwe n'Urukiko Rukuru rw'Ubucuruzi, batayatanga, ayo mafaranga agakurwa mu byabo ku ngufu za Leta.

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