

RWANDA / JUDGMENT

RUZIBIZA v WASAC Ltd

RADAA 00013/2022/CA

COURT

Court of Appeal

DECIDED

24 January 2025

CASE / FILE NUMBER

RADAA 00013/2022/CA

Source: amategeko.gov.rw · Research copy typeset by Esheria. Not court-issued or certified.

RUZIBIZA v WASAC Ltd

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2025-01-24
- Case/document no.: RADAA 00013/2022/CA
- Collection: Court of Appeal

Text

Page 1

RUZIBIZA v WASAC Ltd [Rwanda URUKIKO RW'UBUJURIRE - RADAA 00013/2022/CA (Munyangeri, P.J.) 24 Mutarama 2025] Amategeko aganga imanza z'ubutegetsi – Kwimura no kwimurwa ku mpamvu z'inyungu rusange

- Iyo impande zirebwa no kwimura no kwimurwa ku mpamvu z'inyungu rusange zemeranyije ku gaciro k'umutungo w'uwigurwa ugomba gutangirwa indishyi ikwiye, nta yindi mihango irebana no kwemeza agaciro k'umutungo ikorwa. Incamake y'ikibazo: Ubuyobozi bwa WASAC Ltd bwamenyesheje Ruzibiza ko bwifuza gukorera ku butaka bwe ibikorwa by'inyungu rusange, hashakwa umugenagaciro hanyuma hemezwa ko uwo mutungo ufite agaciro ka 43.114.151 Frw. Ku wa 01/11/2018, impande zombie, WASAC Ltd na Ruzibiza bashyize umukono ku nyandiko yo kwimurwa hishyuwe ikiguzi cyumvikanweho. Ruzibiza avuga ko atahise yishyurwa kuko ngo yishyuwe nyuma y'iminsi 120 agaciro k'ubutaka karazamutse, akaba ariyo mpamvu yatanze ikirego mu Rukiko rwisumbuye rwa Nyarugenge, rwemeza ko ikirego cye gifite ishingiro ku ndishyi, rumugenera indishyi zingana na 1.000.000 Frw. Ruzibiza yajuririye icyo cyemezo mu Rukiko Rukuru asaba ko igenegaciro n'iyimurwa byakozwe baytashwa agaciro bigasubirwamo kuko yimuwe nyuma y'iminsi 120, ubujirire

burakirwa ariko Urukiko rwemeza ko budafite ishingiro, arujuririra mu Rukiko rw'Ubujurire. Uru rukiko rwasuzumye ikibazo cyo kumenya niba WASAC Ltd yarishyuye Ruzibiza Gilles ingurane ikwiye impitagihe n'ingaruka byagira. Urega avuga ko yumvikanye na WASAC Ltd ku wa 01 Ugushyingo 2018 ko yamuha indishyi ikwiye ariko hashira iminsi 120 iyo ndishyi ikwiye atarayihabwa kuko yayihawe nyuma, agasaba ko iryo yimurwa ryateshwa agaciro, umutungo we ukongera ukabarurwa, ugahabwa agaciro kagezweho kuko kiyongereye. WASAC isobanura ko indishyi ikwiye yayitanze ku gihe kuko yishyuye 43.114.151 Frw ihereye ku wa 15/01/2019, Akarere ka Kicurikiro kamaze kwemeza iyo nyandiko kandi iminsi 120 ikaba yari itararangira bityo ikaba isanga nta rigenagaciro rikwiye gukorwa. Incamake y'icyemezo: Iyo impande zirebwa no kwimura no kwimurwa ku mpamvu z'inyungu rusange zemeranyije ku gaciro k'umutungo w'uwigurwa ugomba gutangirwa indishyi ikwiye, nta yindi mihango irebana no kwemeza agaciro k'umutungo ikorwa. Ubujurire nta shingiro bufite. Amategeko yashingiweho: Itegeko N° 32/2015 ryo ku wa 11/06/2015 ryerekeye kwimura abantu ku mpamvu z'inyungu rusange, ingingo ya 6, 32, 36; Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruza, iz'umurimo n'iz'ubutegetsi, ingingo ya 111. Nta manza zifashishijwe

Page 2

Urubanza I. IMITERERE Y'URUBANZA [1] Ruzibiza Gilles avuga ko ubuyobozi bwa WASAC Ltd bwamumenyesheje ko bwifuzaga kumwimura ku mpamvu z'inyungu rusange mu kibanza cye gifite UPI: 1/03/08/02/1555, gihereye mu Mudugudu wa Cyimo, Akagari ka Cyimo, Umurenge wa Masaka, Akarere ka Kicukiro, arabyemera, maze umugenagaciro wayo witwa Eng. GANZA Simplicite aza kuburira icyo kibanza n'ibikiriho, asanga gifite 4, 843 m², arangije abikorera raporo. [2] Akomeza avuga ko ku wa 01/11/2018, WASAC Ltd yateguye inyandiko igaragaza ko indishyi ikwiye yemejwe agomba kwishyurwa ingana n'amafaranga miliyoni mirongi ine n'eshatu, ibihumbi ijana na cumi na bine n'ijana na mirongo itanu na rimwe (43.114.151 Frw), uwo muni impande zose zirebwa n'ikibazo harimo WASAC Ltd, Umunyamabanga Nshingwabikorwa w'Akagari ka Cyimo, Umunyamabanga Nshingwabikorwa w'Umurenge wa Masaka, Akarere ka Kicukiro na Ruzibiza Gilles ubwe, ziyishyiraho umukono. Ruzibiza Gilles avuga ko yishyuye nyuma y'iminsi 120, agaciro k'ubutaka bwe karazamutse, bituma aregera Urukiko Rwisumbuye rwa Nyarugenge asaba guhabwa indishyi ikwiye ibariwe ku mafaranga ibihumbi cumi n'umunani na magana atanu na mirongoine n'atanu (18,545 Frw) kuri meterokare imwe cyangwa agasubizwa ubutaka bwe. Yasoje asaba guhabwa amafaranga y'ikurikiranarubana n'igihembo cys Avoka. [3] UMUJYI WA KIGALI wireguye uvuga ko ibyabaye ari amasezerano hagati ya Ruzibiza Gilles na WASAC Ltd, bityo ko nta cyo wabazwa muri uru rubanza. [4] WASAC Ltd yireguye ivuga ko Ruzibiza Gilles yishyuye ku bw'inyungu rusange, ko urwego rwimura rwakoresheje igenagaciro, rurangije rutanga indishyi ikwiye kandi ko iyo rumaze kwishyura ari bwo hakurikiraho indi mihango harimo kuba nyir'ukwimurwa na we abona kwemera iryo genagaciro, kandi ko nyuma y'aho Inama Njyanama y'Akarere yemeje iyo raporo y'igenagaciro, Ruzibiza Gilles yahise yishyurwa mu minsi 120 iteganywa n'itegeko. Yasoje isaba ko Ruzibiza Gilles yazategakwe kuyiha

indishyi zo kuyishora mu manza. [5] Mu rubanza n° RAD 00010/2020/TGI/NYGE rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge ku wa 08/06/2021, urwo Rukiko rushingiye ku ngingo ya 36 y'itegeko n° 32/2015 ryo ku wa 11/06/2015 ryerekeye kwimura abantu ku mpamvu z'inyungu rusange, ku ngingo 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'ubutegets, rwemeje ko: - ikirego cya Ruzibiza Gilles gifite ishingiye ku ndishyi gusa; - WASAC Ltd iha Ruzibiza Gilles indishyi zingana n'amafaranga miliyoni imwe (1,000,000 Frw); - WASAC Ltd yishyura Ruzibiza Gilles amafaranga ibihumbi magana atanu (500,000 Frw) y'igihembo cya Avoka; - WASAC Ltd isubiza Ruzibiza Gilles amafaranga ibihumbi makumyabiri (20,000 Frw) yatanzeho ingwate y'amagarama arega.

Page 3

[6] Ruzibiza Gilles yajuriirye urwo rubanza mu Rukiko Rukuru, avuga ko ashingiye ku ngingo ya 36 y'itegeko n° 32/2015 ryo ku wa 11/06/2015 ryerekeye kwimura abantu ku mpamvu z'inyungu rusange, asanga iyimurwa ryakozwe rigomba guteshwa agaciro kubera ko ryakozwe nyuma y'iminsi ijana na makumyabiri (120), maze hagakorwa irindi barura. Yavuze ko bitashoboka ko asubirana umutungo we kuko WASAC Ltd yamaze kubakamo ibigega by'amazi bifite akamaro, asaba Urukiko Rukuru kumugenera ingurane y'uwo mutungo we ibazwe hashingiwe ku giciro cy'amafaranga ibihumbi cumi n'umunani na magana atanu na mirongo ine n'atanu (18,545 Frw) cyabarirwagaho ku wa 02/03/2019, igihe amasezerano y'iyimurwa yari amaze guta agaciro kayo. Bityo, agahabwa indishyi zibaze mu buryo bukurikira: 18,545 Frw x 4843 m² + 450.000 Frw ya macadamia 25 + 290,925 Frws y'ibiti 9 by'avoka + 72,000 Frw ya Psidium Guajava/goyave 2 + 1,716 Frw ya eucalyptus 2 + 1,531,725 Frw ya penissetum 2357 + 2,027,785 Frw ya 5% y'indishyi, yose hamwe akaba amafaranga miliyoni mirongo icyenda n'enye, ibihumbi ijana na mirongo inani na birindwi na magana atanu na mirongo inane n'atandatu (94,187,586 Frw). Mu gusoza asaba Urukiko Rukuru gutegeka WASAC Ltd kumuha indishyi z'akababaro, iz'ikurikiranarubanza n'igihembo cya Avoka. [7] WASAC Ltd yireguye ivuga ko ubujurire bwa Ruzibiza Gilles nta shingiro bufite, kubera ko WASAC Ltd itakererewe kumwishyura indishyi ikwiye ku mutungo we, kandi ko hubahirijwe ibiteganywa n'ingingo ya 31 y'itegeko N° 32/215/ ryo ku wa 11/06/2015 ryerekeye kwimura abantu ku mpamvu z'inyungu rusange iteganya ko mu gihe kitarenze iminsi cumi n'itanu (15) nyuma yo kugezwaho raporo y'igenagaciro, urwego rwimura rugomba gufata umwanzuro kuri raporo yakozwe n'abagenagaciro rukayitangariza abo bireba, kuko Urwego rw'Akarere rwashyikirijwe raporo y'igenagaciro ku wa 01/11/2018 (ONE STOP CENTER), kuri iyo tariki Ruzibiza Gilles akemera igenagaciro ryakorewe ku mutungo we arishyiraho umukono, icyari gisigaye ari uko urwego rwimura rubyemeza, ko kandi hashingiwe ku ngingo ya 32 y'itegeko ryerekeye kwimura abantu ku mpamvu z'inyungu rusange rwakomeje kuvugwa, ibihe byo kwishyura byagombaga gutangira kubarwa kuva tariki ya 15/01/2019. Yasoje isaba guhabwa indishyi ziyongera k'uzo yagenewe mu manza zabanje. [8] Mu rubanza N° RADA 00054/2021/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 21/10/2022, urwo Rukiko rushingiye ku ngingo ya 36 y'itegeko N° 32/2015 ryo ku wa 11/06/2015 ryerekeye kwimura abantu ku mpamvu z'inyungu rusange no ku ngingo ya 111 y'itegeko n° 22/2018 ryo ku wa

29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, rwemeje ko: - ubujurire bwa Ruzibiza Gilles nta shingir bufite; - ubujurire bwuririye ku bundi bwa WASAC Ltd bufite ishingiro kuri bimwe; - imikirize y'urubanza rwajuririwe idahindutse uretse ku byerekeye amafaranga y'ikurikiranarubanz n'igihembo cya Avoka; - Ruzibiza Gilles aha WASAC Ltd amafaranga ibihumbi magana atatu (300,000 Frw) y'igihembo cya Avoka n'amafaranga ibihumbi mirongo itanu (50,000 Frw) y'ikurikiranarubanza. [9] Ruzibiza Gilles yajuririye urwo rubanza mu Rukiko rw'Ubugurire ku wa 21/11/2022, ubujurire bwe bwandikwa kuri N° RADAA 00013/2022/CA, nyuma y'imihango ntegarurubanza

Page 4

yose, hemezwa ko ruzaburanishwa ku wa 04/11/2024, uwo muni ntirwaburanishwa kubera izindi gahunda z'urukiko, iburanishwa rishyirwa ku wa 02/12/2024. [10] Uwo muni abaturanyi baritabye bese, Ruzibiza Gilles ahagarariwe na Me Kayitare Serge, WASAC Ltd ihagarariwe na Me Mukarusanga Florence, uhagarariye WASAC Ltd amenyesha urukiko ko baretse inzitizi bari batanze yo kutakira ikirego ishingiyeye ku kuba urega yarajurirye akererewe. [11] Mu myanzuro no mu miburanire, uhagarariye Ruzibiza Gilles asaba uru Rukiko gusuzuma niba yarahawe ingurane impitagihe n'ingaruka bifite mu rwego rw'amategeko, maze rwasanga yarazihawe impitagihe akagenerwa indishyi ikwiye ibariwe ku mafaranga ibihumbi cumi n'umunani na magana atanu na mirongo ine n'atanu kuri meterokare imwe (18,545 Frw/m²), indishyi zose hamwe zikaba zingana n'amafaranga miliyoni mirongo icyenda n'enyine, ibihumbi ijana na mirongo inani na birindwi na magana atanu na mirongo inani n'atandatu (94,187,586 Frw). Asoza asaba uru Rukiko gutegeka WASAC Ltd kumuha indishyi. [12] Uhagarariye WASAC Ltd yireguye avuga ko ubujurire bwa Ruzibiza Gilles nta shingiro bufite, ko itigeze ikererwa kwishyura indishyi ikwiye kuko igihe cyo kwishyura cyagombaga gutangira kubarwa kuwa ku wa 15/01/2019, itariki Inama Njyanama yemerejeho igenagaciro ryakozwe n'umugenagaciro wa WASAC Ltd. Avuga ko indishyi Ruzibiza Albert asaba nta shingiro zikwiye guhabwa, ko ahubwo uru Rukiko rwamutegeka guha ikigo ahagarariye indishyi zinyuranye kubera kuyishora mu manza. [13] Nyuma y'izo mpaka, Urukiko rurasanga hagomba gusuzumwa ibibazo bikurikira: a. Kumenya niba WASAC Ltd yarishyuye Ruzibiza Gilles ingurane ikwiye impitagihe n'inkurikizi byagira mu rwego rw'amategeko;

b. Ibyerekeye amafaranga y'ikurikiranarubanza n'igihembo cya Avoka II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

1. 1. Kumenya niba WASAC Ltd yarishyuye Ruzibiza Gilles ingurane ikwiye impitagihe n'ingaruka byagira
2. A. Kumenya niba WASAC Ltd yarishyuye Ruzibiza Gilles ingurane ikwiye impitagihe [14] Uhagarariye Ruzibiza Gilles asobanura ko WASAC Ltd yashatse kumwishyura agaciro k'umutungo we, ku wa 01/11/2018 bumvikana ku ngano y'amafaranga igomba kumuha. Avuga ko mu gihe bumvikanaga, ingingo ya 36 y'itegeko N° 32/2015 ryo ku wa 11/06/2015 ryerekeye kwimura abantu ku mpamvu z'inyungu rusange iteganywa ko mu gihe bumvikanye, indishyi ikwiye itangwa mu gihe cy'iminsi itarenga ijana na makumyabiri (120). Avuga ko mu

gihe uwo ahagarariye yari atarishyurwa kandi n'igihe cyo kubikora cyararenze, hatangajwe ibiciro bishya by'ubutaka, bikaba byumvikana ko umutungo wari wabaruwe mbere wahinduye agaciro, WASAC Ltd ibonye yarakorerewe kwishyura, ijya gusinyisha raporo y'igenagaciro muri Njyanama y'Akarere ka Kicukiro, yemeza igenagaciro ku wa 15/01/2019.

Page 5

- [15] Akomeza avuga ko urukiko rubonye ko nta mwanzuro w'Inama Njyanama washyizwe muri dosiye ndetse ushobora kuba utanabaho, rwahamagaje Umujyi wa Kigali mu rubanza, Avoka wawo asobanura ko Inama Njyanama y'Akarere itajya yivanga muri dosiye zirebana no gutanga indishyi ikwiye mu kwimura abantu ku mpamvu z'inyungu rusange, mu gihe uwimurwa n'uwimura bumvikanye kandi ko ari nabyo biteganywa n'ingingo ya 6, igika cya kabiri y'itegeko ryerekeye kwimura abantu ku mpamvu z'inyungu rusange ryavuzwe haruguru. [16] Avuga ko impamvu bavuga ko Inama Njyanama y'Akarere ka Kicukiro itigeze iterana ngo yemeze raporo y'igenagaciro ku wa 15/01/2019, ari uko inyandiko WASAC Ltd igaragaza ya raporo y'igenagaciro, ari yo n'ubundi impande zombi zashyizeho umukono ku wa 01/11/2018, igishya kiyiraho akaba ari kashi ya one stop center y'ako Karere, hakaba hakibazwa niba iyo kashi ya one stop center isimbura cyangwa isobanura Inama Njyanama y'Akarere, kandi ukwiyemerera Avoka w'Umujyi wa Kigali yakoreye imbere y'Urukiko (aveu judiciaire) kudakwiye kwirengagizwa, bityo ko Urukiko rwakwemeza ko ibihe byo kwishyura iingurane ikwiye bigomba kubarwa uherye ku wa 01/11/2018, aho kuba ku wa 15/01/2019. [17] Uhagarariye WASAC Ltd yiregura avuga ko mu iburanisha ry'urubanza N° RADA 00054/2021/HC/KIG rujuririrwa, WASAC Ltd yagaragaje ko yishyuriye ingurane ikwiye ku gihe kubera ko icyo gihe cyagombaga gutangira kubarwa guhera ku wa 15/01/2019, itariki Inama Njyanama y'Akarere ka Kicukiro yemerejeho igenagaciro, aho kuba ku wa 01/11/2018, itariki One Stop Center yakiriyeho raporo y'igenagaciro ryakozwe n'umugenagaciro wa WASAC Ltd. [18] Ashingiye ku biteganywa n'ingingo ya 31 n'ya 32 z'itegeko n° 32/2015 ryo ku wa 11/06/2015 ryerekeye kwimura abantu ku mpamvu z'inyungu rusange, avuga ko kuba Ruzibiza Gilles yarashyize umukono kuri iryo genagaciro ryari ryakozwe n'umugenagaciro w'ikigo ahagarariye, byumvikanisha gusa ko yarimenyeshejwe kandi yemeye ibikubiyemo, ko rero hagombaga gukurikiraho inzira y'uko Inama Njyanama y'Akarere ka Kicukiro iryemeza. Avuga ko ibyakozwe nta ngaruka bigomba kugira mu rwego rw'amategeko, kuko indishyi ikwiye yishyuwe mu bihe biteganywa n'amategeko. Uko Urukiko rubibona [19] Impaka kuri iyi ngingo zishingiye ku kumenya niba igihe cyo kuba WASAC Ltd yishyuye Ruzibiza Gilles indishyi ikwiye, gikwiye kubarwa uherye ku wa 15/01/2019, aho guhera ku wa 01/11/2018 ku buryo haba harabayeho kwishyura impitagihe. [20] Ingingo ya 6, igika cya mbere n'icya kabiri y'itegeko n° 32/2015 ryo ku wa 11/06/2015 ryerekeye kwimura abantu ku mpamvu z'inyungu rusange iteganya ko "Umuntu utangije igikorwa kigamije gushyira mu bikorwa ibishushanyombonera by'imitunganyirize n'imikoreshereze y'ubutaka agomba kubanza kumvikana na ba nyir'imitungo y'aho umushinga uzakorerwa. Iyo ubwo bwumvikane butabaye, imihango ijyanye no kwimura abantu ku mpamvu z'inyungu rusange irakurikizwa bisabwe n'urwego rwimura n'uwatangije umushinga kandi hitabwa ku nyungu

z’uwimurwa.” [21] Ingingo ya 32, igika cya mbere y’itegeko ryerekeye kwimura abantu ku mpamvu z’inyungu rusange ryakomeje kuvugwa iteganya ko” Mu gihe nyir’ubutaka cyangwa nyir’ibikorwa

Page 6

byabukoreweho yemeye agaciro kagenwe n’abagenagaciro ashyira umukono cyangwa igikumwe ku nyandiko zabugenewe z’indishyi ikwiye yemejwe.” [22] Ingingo ya 36, igika cya mbere n’icya kabiri y’iryo tegeko ryerekeye kwimura abantu ku mpamvu z’inyungu rusange iteganya ko” Indishyi ikwiye yemejwe yishyurwa mu gihe kitarenze iminsi ijana na makumyabiri (120) uhereye igihe iyo ndishyi ikwiye yemejwe n’Inama Njyanama ku rwego rw’Akarere, ku rwego rw’Umujyi wa Kigali cyangwa Minisiteri bireba. Iyo igihe kivugwa mu gika cya mbere cy’iyi ngingo kirenze, iyimurwa riba ritaye agaciro keretse uwimurwa n’uwimura babyumvikanyeho.” [23] Izi ngingo zose zifatiwe hamwe zumvikanisha ko iyo impande zirebwa no kwimura no kwimurwa ku mpamvu z’inyungu rusange zemeranyije ku gaciro k’umutungo w’uwimurwa ugomba gutangirwa indishyi ikwiye, nta yindi mihango irebana no kwemeza agaciro k’umutungo ikorwa kandi ko mu gihe iyo mihango ikomeje, ubwishyu bw’indishyi ikwiye ku mutungo w’uwimurwa bugomba gutangwa mu gihe kitarenze iminsi ijana na makumyabiri (120) uhereye igihe Inama Njyanama ku rwego rw’Akarere, ku rwego rw’Umujyi wa Kigali cyangwa Minisiteri bireba yemereje raporo y’igenagaciro yakozwe n’abagenagaciro b’urwego rwimura, iyo minsi yarenga hadatanze indishyi ikwiye, iyimurwa riba ritaye agaciro keretse uwimurwa n’uwimura babyumvikanyeho. [24] Dosiye y’urubanza irimo inyandiko yahawe umutwe ugira uti: “VALUATION FORM/FICHE D’EXPROPRIATION/IBARURA RY’IMITUNGO IZANGIZWA MU IKORWA RY’UMUYOBORO W’AMAZI.” Iyo nyandiko igaragaza ko umutungo ufite UPI: 1/03/08/02/1555 wa Ruzibiza Gilles, uherereye mu Mudugudu wa Cyimo, Akagari ka Cyimo, Umurenge wa Masaka, Akarere ka Kicukiro, aho ku wa 31/10/2018, umugenagaciro witwa Ganza Simplicie yagaragaje ko uwo mutungo ufite agaciro k’amafaranga miliyoni mirongo enye n’eshatu, ibihumbi ijana na cumi na bine n’ijana na mirongo itanu na rumwe (43, 114, 151 Frw), yashyizweho umukono n’Umunyamabanga Nshingwabikorwa w’Umurenge wa Masaka, Umunyamabanga Nshingwabikorwa w’Akagari ka Cyimo, byemezwa n’Umuyobozi wa OSC (One Stop Center) mu Karere ka Kicukiro ku wa 01/11/2018. [25] Hari indi nyandiko ya raporo y’igenagaciro ryo ku wa 31/10/2018, iriho imikono y’abayishyizeho ku wa 01/11/2018, aho itandukaniye n’iyo ku wa 01/11/2018 akaba ari uko igaragaza ko umuyobozi wa One Stop Center yayemeje ku wa 15/01/2019. [26] Ibaruwa yo ku wa 13/06/2019 Umunyamategeko wa Ruzibiza Gilles yandikiye Umuyobozi Mukuru wa WASAC Ltd amwihanangiriza (mise en demeure). Muri iyo baruwa, uwo munyamategeko avugaga ko igihe cy’iminsi ijana na makumyabiri (120) cyo kwishyura indishyi ikwiye cyagombaga gutangira kubakwa guhera ku wa 01/11/2018 kuko ari bwo impande zose zirebwa n’ikibazo, habariwemo n’inzego z’ibanze n’Akarere ka Kicukiro zashyize umukono kuri iyo nyandiko, asobanura ko iyo minsi yarangiye ku wa 02/03/2019, ko kuba amafaranga yishyuwe yarageze kuri konti ku wa 04/04/2019, byumvikana ko byakozwe nyuma y’iminsi ijana na mirongo itanu n’itatu (153), bityo ko iyimurwa bumvikanyeho ku wa 01/11/2018 ryataye agaciro nyuma y’itariki ya 02/03/2019, ikibanza cye kikaba kigomba kugaruka mu

mutungo we. [27] Hari ibaruwa yo ku wa 26/06/2019, Umuyobozi Mukuru wa WASAC Ltd yandikiye Umunyamategeko wa Ruzibiza Gilles, amusaba ko we n'umukiliya we baza ku biro bikuru by'icyo

Page 7

kigo mu ishami rishinzwe amategeko bitarenze ku wa 05/07/2019, kugira ngo baganire ku byo batumvikanaho bijyanye no kuba Ruzibiza Gilles avuga ko atishyuriwe ingurane ikwiye ku gihe. [28] Ku wa 25/05/2021, mu gice cyagenewe kwandikwamo ubutumwa muri system ya IECMS (Note), mu rubanza n° RAD 00010/2020/TGI/NYGE, Inzu y'abanyamategeko yitwa "NOBLES ADVOCATES Ltd" yari ku ruhande rwa WASAC Ltd, yasubije ku byo Urukiko Rwisumbuye rwa Nyarugenge yari yasabye mu iburanisha ryo ku wa 22/04/2021, aho yari yasabwe kugaragaza inyandikomvugo y'Inama Njyanama y'Akarere ka Kicukiro WASAC Ltd yavugaga ko ari yo yemeje igenagaciro ku wa 15/01/2019, mu magambo akurikira: "Twagaragaje ko raporo y'Inama Njyanama y'Akarere ka Kicukiro yemeje igenagaciro ryakorewe umutungo wa Ruzibiza Gilles itabonetse. Nta nama yigeze isuzuma icyo kibazo kubera ko Ruzibiza Gilles na WASAC Ltd bumvikanye ku mpamvu y'igikorwa, banemeranya ku gaciro, bikaba bitari bikiri ngombwa ko Njyanama iterana ibyemeza mu gihe abo bireba bari babyemeranyijeho kandi ibyo bakoze bikaba biteganywa n'ingingo ya 6, igika cya mbere y'itegeko n° 32/2015 ryo ku wa 11/06/2015 ryerekeye kwimura abantu ku mpamvu z'inyungu rusange". [29] Mu gika cya 12 cy'urubanza N° RADA 00054/2021/HC/KIG rujuririrwa, Urukiko Rukuru rwasobanuye ko itariki ya 01/11/2018 Ruzibiza Gilles avuga ko ari yo yaherwaho mu kubara igihe ntarengwa cyo kuba yishyurwe atari yo, kuko nyuma y'uko ashize umukono kuri iyo nyandiko y'igenagaciro, iyo nyandiko yashyikirijwe Akarere ka Kicukiro nk'urwego rwimura, kayishyiraho umukono ku wa 15/01/2019, kandi ko n'ubwo Ruzibiza Gilles atemera iyo nyandiko, yarashyizeho umukono ku wa 01/11/2018, iyi nyandiko ikaba yarashyizweho umukono n'uhagarariye One Stop Center ku wa 01/11/2018, byumvikanisha ko uhagarariye One Stop Center yamusinyiye kuri kopi nk'uyakiriye, asigarana indi kopi igomba kwemezwa, ari yo yemejwe ku wa 15/01/2019, ishyikirizwa WASAC Ltd aba ariyo iheraho yishyura, ko rero igihe cyo kwishyurwa kigomba kubarwa uhareye ku wa 15/01/2019, kubera ko ari yo yahawe n'Akarere ka Kicukiro nk'urwego rwimura. [30] Mu gika cya 13 cy'urwo rubanza, Urukiko Rukuru rwavuze ko ibyo uhagarariye Ruzibiza Gilles avuga ko itariki ya 15/01/2019 atari yo yashingirwaho kuko uhagarariye WASAC Ltd atagaragaza ko ari yo tariki Inama Njyanama y'Akarere ka Kicukiro yemerejeho imimurwa ku mpamvu z'inyungu rusange nta shingiro byahabwa kuko nawe itariki avuga ko yaherwaho yo ku wa 01/11/2018, atagaragaza ko kuri iyo tariki hari Inama Njyanama y'Akarere ka Kicukiro yemeje iryo yimurwa ku mpamvu z'inyungu rusange, bityo ko atishyurwe iminsi ijana na makumyabiri

(120) yararenze, kuko uhagarariye Akarere ka Kicukiro yashyize umukono ku nyandiko ya nyuma ku wa 15/01/2019. [31] Ku bijyanye no kuba uhagarariye Ruzibiza Gilles avuga ko kuba WASAC Ltd yarishyuye uwo ahagarariye indishyi ikwiye ku wa 04/04/2019, iyo ndishyi yayishyurwe iminsi ijana na makumyabiri (120) yararenze kuko yagombaga gutangira kubarwa uhareye ku wa 01/11/2018, uru Rukiko rurasanga nta shingiro bikwiye guhabwa kuko ikigaragara ari uko kuri iyo tariki, uruhande rwimura n'urwimurwa zose zemeranyije

kuri raporo y'igenagaciro yakorewe ku mutungo wa Ruzibiza Gilles. Nk'uko rero biteganywa n'ingingo ya 6 y'itegeko N° 32/2015 ryo ku wa 11/06/2015 ryerekeye kwimura abantu ku mpamvu z'inyungu rusange ryavuzwe haruguru, iyo impande zose zumvikanye ku gaciro k'umutungo ugomba gutangirwa indishyi ikwiye, nta yindi mihango yerekeranye n'igenagaciro ikorwa. Ibi kandi ni nabyo byagarutswaho n'inzu

Page 8

y'abanyamategeko "Noble Advocates Ltd" mu butumwa bwagaragajwe yanditse ahabugenewe muri dosiye y'Urukiko Rwisumbuye rwa Nyarugenge. [32] Uru Rukiko rurasanga impamvu itariki ya 01/11/2018 itagomba guherwaho habarwa ibihe byo kwishyura indishyi ikwiye, ari uko na none kuri iyo tariki, impande zirebwa n'iyimurwa, zitigeze zumvikana ku gihe ubwishyu buzatangirwa ngo bibe byaherwaho havugwa ko indishyi ikwiye yishyurwe impitagihe, cyane ko nk'uko biteganywa n'ingingo ya 36 y'itegeko ryerekeye kwimura abantu ku mpamvu z'inyungu rusange yavuzwe haruguru, igihe cy'iminsi ijana na makumyabiri (120) ni igitangira kubarwa, [33] uherye igihe Inama Njyanama ku rwego rw'Akarere yemereje igenagaciro ryakozwe n'abagenagaciro bashyizweho n'urwego rwimura, ibikubiye mu nyandiko yo ku wa 01/11/2018 bikaba rero bitagaragaza ko ari raporo y'igenagaciro yemejwe n'Inama Njyanama y'Akarere ka Kicukiro. [34] Ku bijyanye no kuba uhagarariye WASAC Ltd avuga ko igihe cy'iminsi ijana na makumyabiri (120) kigomba gutangira kubarwa uherye ku itariki ya 15/01/2019 ngo kubera ko ari bwo Inama Njyanama y'Akarere ka Kicukiro yemerejeho raporo y'igenagaciro Ruzibiza Gilles yari yashyizeho umukono ku wa 01/11/2018, uru Rukiko rurasanga na byo nta shingiro bigomba guhabwa kubera impamvu zikurikira: - uhagarariye WASAC Ltd ntiyashoboye kugaragaza inyandikomvugo y'Inama Njyanama y'Akarere ka Kicukiro yaba yarateranye ku wa 15/01/2019 maze ikemeza raporo y'igenagaciro ryakorewe umutungo wa Ruzibiza Gilles;

- mu rubanza n° RAD 00010/2020/TGI/NYGE rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge, abanyamategeko babarizwa mu nzu yitwa "Nobles Advocates Ltd" bamenyesheje urwo Rukiko ko nta Nama Njyanama y'Akarere ka Kicukiro yateranye ku wa 15/01/2019 ngo yemeze raporo y'igenagaciro ryakorewe umutungo wa Ruzibiza Gilles, kuko nta mpamvu yayo mu gihe impande zose zari zemeranyije ku gaciro k'umutungo ugomba gutangirwa indishyi ikwiye; - aho Urukiko Rukuru rwavuze ko uhagarariye One Stop Center yashyize umukono kuri kopi y'inyandiko yo ku wa 01/11/2018 Ruzibiza Gilles yasigaranye ashaka kugaragaza ko yakiriye kopi igomba kwemezwa nta bwo ariko bigaragara kuri iyo nyandiko, kuko umuyobozi wa One Stop Center yayishyizeho umukono ugaragaza ko yemeje/ approved ibiyikubiyemo nk'umuyobozi wa OBC mu Karere ka Kicukiro, akaba rero atarashyizeho umukono nk'uyakiriye/received. - urukiko Rukuru rwavuze ko kuba inyandiko yashyizweho umukono n'uhagarariye Akarere ka Kicukiro ku wa 15/01/2019 iriho n'umukono wa Ruzibiza Gilles wo ku wa 01/11/2018, byumvikana ko ari yo ya nyuma kandi ko ivugisha ukuri, uru Rukiko rurasanga ibi bidahagije ngo hemezwe ko inyandiko yo ku wa 15/01/2019 yemeza raporo y'igenagaciro ryakorewe umutungo wa Ruzibiza Gilles, kandi hatagaragazwa ko yemejwe n'Inama Njyanama ku rwego rw'Akarere ka Kicukiro nk'uko biteganywa n'itegeko ryerekeye kwimura abantu ku mpamvu z'inyungu rusange, ryakomeje

kuvugwa haruguru.

Page 9

- [35] Hashingiwe ku biteganywa n'ingingo zagaragajwe haruguru z'itegeko N° 32/2015 ryo ku wa 11/06/2015 ryerekeye kwimura abantu ku mpamvu z'inyungu rusange, ndetse n'ibisobanuro byatanzwe, uru Rukiko rurasanga yaba itariki ya 01/11/2018 ndetse n'itariki ya 15/01/2019, nta n'imwe igomba gufatwa nk'igomba guherwaho habarwa iminsi ijana na makumyabiri (120) yo kuba WASAC Ltd yishyuye Ruzibiza Gilles indishyi ikwiye. Bityo rero, Urukiko rukaba ntaho rwahera rwemeza ko WASAC Ltd yishyuye Ruzibiza Gilles indishyi ikwiye impitagihe.
3. B. Kumenya niba inkurikizi zo kwishyura ingurane ikwiye impitagihe bireba WASAC Ltd [36] Uhagarariye Ruzibiza Gilles avuga ko kuba WASAC Ltd yarishyuye uwo ahagarariye indishyi ikwiye impitagihe, inkurikizi yabyo ari uko ubwumvikane bwari bwabaye hagati y'impande zombi buteshwa agaciro, nyir'umutungo agasubizwa umutungo we cyangwa akagenerwa ingurane ikwiye ibariwe ku mafaranga ibihumbi cumi n'umunani na magana atanu na mirongo ine n'atanu (18,545 Frw/m2) kuri meterokare imwe. [37] Uhagarariye WASAC Ltd yiregura avuga ko mu iburanisha ry'urubanza N° RADA 00054/2021/HC/KIG rujuririrwa, WASAC Ltd yagaragaje ko yishyuriye ingurane ikwiye ku gihe kubera ko cyagombaga gutangira kubarwa guhera ku wa 15/01/2019, itariki Inama Njyanama y'Akarere ka Kicukiro yemerejeho igenagaciro, aho kuba ku wa 01/11/2018, itariki One Stop Center yakiriyeho raporo y'igenagaciro ryakozwe n'umugenagaciro wa WASAC Ltd. [38] Ashingiye ku biteganywa n'ingingo ya 311 n'ya 32 z'itegeko N° 32/2015 ryo ku wa 11/06/2015 ryerekeye kwimura abantu ku mpamvu z'inyungu rusange, avuga ko kuba Ruzibiza Gilles yarashyize umukono kuri raporo y'iryo genagaciro, byumvikanisha gusa ko yarimenyeshejwe kandi yemeye ibikubiyemo, ko rero hagombaga gukurikiraho inzira y'uko Inama Njyanama y'Akarere ka Kicukiro iryemeza. Avuga ko ibyakozwe nta ngaruka bigomba kugira mu rwego rw'amategeko, kuko indishyi yishyuwe mu bihe biteganywa n'amategeko. Uko Urukiko rubibona [39] Ku bijyanye n'ibyo uhagarariye WASAC Ltd avuga ko ibyakozwe byashingiwe ku ngingo ya 31 y'itegeko N° 32/2015 ryo ku wa 11/06/2015 ryerekeye kwimura abantu ku mpamvu z'inyungu rusange, uru Rukiko rurasanga ibiteganywa n'iyi ngingo y'itegeko nta ho bihuriye n'ikibazo kigibwaho impaka ndetse n'ibyakozwe birebana na raporo y'igenagaciro ry'umutungo wa Ruzibiza Gilles. [40] Uru Rukiko rurasanga kuba hagaragajwe ko yaba itariki ya 01/11/2018 n'itariki ya 15/01/2019 nta n'imwe ikwiye guherwaho habarwa igihe WASAC Ltd yagombaga kuba yishyuye Ruzibiza Gilles indishyi ikwiye y'umutungo we, nta nkurikizi bigomba kugira ku igenagaciro ryakozwe mbere kandi impande bireba zashyizeho umukono ku wa 01/11/2018. Bityo, akaba nta yandi mafaranga WASAC Ltd igomba gutegekwa guha Ruzibiza Gilles afitanye isano n'indishyi ikwiye yishyuwe ku wa 04/04/2019.

1 Ingingo ya 31, igika cya mbere y’itegeko rimaze kuvugwa iteganya ibikurikira:” Mu gihe kitarenze iminsi cumi n’itanu (15) nyuma yo kugezwaho raporo y’igenagaciro, urwego rwimura rugomba gufata umwanzuro kuri raporo yakozwe n’abagenagaciro rukayitangariza abo bireba mu nyandiko kandi kopi yayo ikamanikwa ku biro by’Akagari ubutaka buherereyemo.”

Page 10

4. 2. Ibyerekeye amafaranga y’ikurikiranarubanza n’igihembo cya Avoka [41] Uhagarariye Ruzibiza Gilles asaba uru Rukiko gutegeka WASAC Ltd guha uwo ahagarariye amafaranga miliyoni eshatu (3,000,000 Frw) akubiyemo ay’ikurikiranarubanza n’igihembo cya Avoka. Avuga ko mafaranga WASAC Ltd isaba nta shingiro akwiye guhabwa kuko yagaragaje inenge z’urubanza yajuririye. [42] Uhagarariye WASAC Ltd avuga ko Ruzibiza Gilles agomba kwirengera ibyo atakaza mu manza kuko ari we ukomeje kuzishoramo, ahubwo agomba gutegekwa guha WASAC Ltd amafaranga ibihumbi magana atanu (500,000 Frw) y’ikurikiranarubanza na miliyoni imwe (1,000,000 Frw) y’igihembo cya Avoka. Uko Urukiko rubibona [43] Ingingo ya 111 y’itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y’imanza z’imbenezamubano, iz’ubucuruzi, iz’umurimo n’iz’ubutegetsi iteganya ibikurikira:” Ikirego cy’amafaranga y’ikurikiranarubanza ni ikirego gishamikiye ku kirego cy’iremezo kigamije kwishyura ibyakoreshejwe mu rubanza. Ikirego cy’amafaranga y’ikurikiranarubanza kiburanishwa rimwe n’ikirego cy’iremezo. Gishobora kandi kwakirwa kikaburanishwa n’iyo ikirego cy’iremezo cyaba kitakiriwe”. [44] Uru Rukiko rurasanga Ruzibiza Gilles agomba guha WASAC Ltd amafaranga y’ibyo yakoresheje mu rubanza kubera ko yashatse Avoka wo kuyihagararira no kurukurikirana, akaba agomba kugenwa mu bushishozi bwarwo kubera ko ayo isaba ari menshi. Bityo, akaba agomba kuyiha amafaranga ibihumbi magana abiri (200,000 Frw) y’ikurikiranarubanza n’amafaranga ibihumbi magana atanu (500,000 Frw) y’igihembo cya Avoka kuri uru rwego. III. ICYEMEZO CY’URUKIKO [45] Rwemeje ko ubujurire bwa Ruzibiza Gilles, nta shingiro bufite. [46] Rwemeje ko urubanza N° RADA 00054/2021/HC/KIG rwaciwe n’Urukiko Rukuru ku wa 21/10/2022, rudahindutse, akaba nta yandi mafaranga y’indishyi ikwiye WASAC Ltd igomba guha Ruzibiza Gilles. [47] Rutegetse Ruzibiza Gilles kwishyura WASAC Ltd amafaranga ibihumbi magana abiri (200,000 Frw) y’ikurikiranarubanza n’amafaranga ibihumbi magana atanu (500,000 Frw) y’igihembo cya Avoka kuri uru rwego. [48] Ruvuze ko amafaranga y’ingwate y’amagarama Ruzibiza Gilles yatanze ajurira, ahwanye n’ibyakozwe mu rubanza.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.amategeko.gov.rw/view/doc/9578/10062>

CASE PAGE <https://chat.esheria.ai/case-law/rwanda/ruzibiza-gilles-v-wasac-ltd-compensationforexpropriation-court-of-appeal-2025>

Prepared on 13 October 2026 · Esheria