

RWANDA / JUDGMENT

# RWANDA DEVELOPMENT BOARD (RDB) v. NANIYA SEBIRIBIRI N'ABANDI

RCAA 00016/2020/CA

COURT

Court of Appeal

DECIDED

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## RWANDA DEVELOPMENT BOARD (RDB) v. NANIYA SEBIRIBIRI N'ABANDI

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### Text

#### Page 1

RWANDA DEVELOPMENT BOARD (RDB) v. NANIYA SEBIRIBIRI N'ABANDI. [Rwanda URUKIKO RW'UBUJURIRE – RCAA 00016/2020/CA (GAKWAYA P.J.) 12 werurwe 2021] Itegeko ry'imiburanishirize y'imanza z'imbonezamubano – kuvaho kw'itegeko (abrogation) – iyo hagiyeho itegeko rishya havuka ikibazo cyo kugena ibihe rizakoreshwamo ndetse n'ibizakomeza kugengwa n'itegeko ryavuyeho, Umushingamategeko abikemura, ateganya mu itegeko rishya ingingo z'inzibacyuho, ariko iyo izo ngingo zitariho cyangwa iyo ziriho ariko ntacyo zibivugaho, hakurikizwa ihame ry'ubudasubira inyuma bw'itegeko rishya. Incamake y'Ikibazo: Urubanza rwatangiriye mu Rukiko Rwisumbuye rwa Rubavu abagize umuryango wa nyakwigendera Sibomana Alias Bizimungu wishwe na Munyaneza akeka ko yangije ishyamba ryo muri parike y'ibirunga, basaba Rwanda Developpement Board (RDB) indishyi zikomoka kuri urwo rupfu kuko yari yahamijwe icyaha mu rundi rubanza kandi akaba yari umukozi wayo. Urukiko Rwisumbuye rwemeje ko ikirego nta shingiro gifite kuko Munyaneza n'ubwo yari mu kazi, ngo ntabwo RDB yabaye umufatanyacyaha mu kwica Sibomana kandi ngo ntaho bigeze bagirana amasezerano

y'uko mu gihe hari ibyo ariyoywe, byakwishyurwa na RDB. Abarega ntibishimiye imikirize y'urubanza bajuririra Urukiko Rukuru, bavuga ko Urukiko rubanza rwitiranyije ibintu uko bitari, ruvuga ko RDB itaryozwa icyaha itakoze, kandi ngo icyaregawe atari uburyozwacyaha (la responsabilité pénale) ahubwo ari indishyi zisabwa ugomba kuziryoza (personne civilement responsable RDB yo isaba ko ubujurire bw'abarega butakwagirwa kuko ngo harezwe utakagombye kuregwa. Urukiko Rukuru rwemeje ko ikirego cyakirwa ndetse ko igikorwa cyo kwica Sibomana cyakozwe Munyaneza ari mu nshingano ze za buri gihe kandi mu masaha y'akazi anafite igikoresho cy'akazi, bityo kosa rihuye n'inshingano ze, umukoresha we agomba kwishyura indishyi. RDB ntiyishye imikirize yurwo rubanza ijurira mu Rukiko rw'Ubujurire, ivuga ko Urukiko Rukuru, Urugereko rwa Musanze rwayitegetse gutanga indishyi zikomoka ku cyaha rushingiye ku mategeko atakiriho. Sebiribiri na bagenzi be batanze inzitizi yo kutakira ubujurire bwa RDB, bavuga ko Igitabo cya gatatu cy'urwunge rw'amategeko mbonezamubano aricyo cyakoreshwaga ubwo ikirego cyatangwaga, ko Urukiko Rukuru, Urugereko rwa Musanze nta makosa rwakoze ruyishingiraho. Urukiko rw'Ubujurire rwemeje ko inzitizi yatanze na Sebiribiri na bagenzi be ifite ishingiye, ko ubujurire bwa RDB butakiriwe. Incamake y'icyemezo: Iyo hagiyeho itegeko rishya, havuka ikibazo cyo kugena ibihe rizakoreshwamo ndetse n'ibizakomeza kugengwa n'itegeko ryavuyeho, Umushingamategeko abikemura, ateganya

## Page 2

mu itegeko rishya ingingo z'inzibacyuho, ariko iyo izo ngingo zitariho cyangwa iyo ziriho ariko ntacyo zibivugaho, hakurikizwa ihame ry'ubudasubira inyuma bw'itegeko rishya. kuba ibikorwa (situation juridique: fait générateur de la responsabilité civile) byatumye umuryango wa nyakwigendera utanga ikirego gisaba indishyi ku cyaha bakorewe, byarabaye igihe ibiteganywa mu nteruro ya kabiri y'Igitabo cya gatatu cy'Urwunge rw'amategeko mbonezamubano, byerekeye inshingano zidashingiye ku masezerano byakoreshwaga, mbere y'uko Itegeko n° 020/2019 du 22/8/2019 rigikuraho rijyaho, kuba kandi Itegeko n° 020/2019 du 22/8/2019 rikuraho Igitabo cya gatatu cy'Urwunge rw'amategeko mbonezamubano ritarateganyije ingingo z'inzibacyuho ku manza zari zaratangiyeye kuburanishwa hashingiwe kuri ayo mategeko, ndetse no ku bikorwa byakozwe ayo mategeko akiriho no kuba kuvaho kw'itegeko (abrogation) bitavuze ko ibyakozwe byose igihe ryari rikiriho, byatashwe agaciro, hagomba gukurikizwa Itegeko ryariho igihe ibikorwa bigize urubanza byabaga cyangwa byakorwaga. Ubujurire bwa RDB ntabwo bwakiriwe. Amategeko yashingiye: Itegeko N° 30/2018 ryo ku wa 2/6/2018 rigena ububasha bw'inkiko, ingingo ya 52 Itegeko ryo ku wa 29/4/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuru, iz'umurimo n'iz'ubutegetsi, ingingo ya 110 Itegeko N° 32/2016 ryo ku wa 28/8/2016 rigenga abantu n'umuryango, ingingo ya 3. Igitabo cya gatatu cy'Urwunge rw'amategeko mbonezamubano (CCL III), iingingo ya 258, 260 Itegeko N° 30/2013 ryo ku wa 24/5/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 11 Nta manza zifashishijwe. Inyandiko z'abahanga zifashishijwe Loïc Cadiet et Emmanuel Jeuland, Droit judiciaire privé, 5<sup>ème</sup> édition, LITEC, Paris, 2006, p.11. <https://cours-de-droit.net/l-abrogation-des-textes-de-loi-a121607644/> Cass. fr. 28/10/1943, Gaz. du pal., 1944, I, 29 in Répertoire pratique du droit belge, législation, doctrine et jurisprudence, sous la direction de Raoul Hayoit de

Termicourt, Alfred Bernard et Raymond Charles, Tome deuxième, Bruylant, Bruxelles, 1966, P. 377, n° 190 IMITERERE Y'URUBANZA [1] Uwitwa Munyaneza Jean-Paul wari umukozi wa Rwanda Development Board (RDB), mu rubanza RPA00221/2018/HC/MUS, yahamwe n'icyaha cyo kwica Sibomana Simon alias Bizimungu, amurashe, nyuma yo guhura nawe akamubaza niba ariwe wangije pariki, atemamo ibiti,

### Page 3

bagaterana amagambo. Nyuma y'urwo rubanza, abo mu muryango wa nyakwigendera barimo Naniya Sebiribiri n'abandi (10) bagaragajwe haruguru, bandikiye Rwanda Development Board bayisaba indishyi zikomoka ku cyaha umukozi wayo Munyaneza Jean-Paul yakoze yica Sibomana Simon alias Bizimungu, nayo ibasubiza ko nta Rukiko rwigeze ruyitegeka kubishyura izo ndishyi, bituma bayirega mu Rukiko Rwisumbuye rwa Rubavu, barusaba gutegeka Munyaneza Jean-Paul kubishyura izo indishyi zikomoka ku cyaha cyakozwe n'umukozi wayo. [2] Uburanira Rwanda Development Board yazamuye inzitizi, asaba Urukiko kutakira ikirego cy'abazungura ba Sibomana Simon alias Bizimungu kubera ko bayireze atariyo yagombaga kuregwa, ko n'ubwo Munyaneza Jean-Paul wahamijwe icyaha yari umukozi wayo, icyaha ari gatozi k'uwigikoze, ko atariyo ikwiye gusabwa kuriha indishyi, yongeraho ko ashingiye ku Itegeko n° 20/2019 ryo ku wa 22/8/2019 rikuraho amategeko yose yashyizweho mbere y'italiki y'ubwigenge, asanga abazungura ba Sibomana Simon alias Bizimungu barasabye izo ndishyi bashingiye ku Itegeko ryavuyeho, ariryo Igitabo cya gatatu cy'urwunge rw'amategeko mbonezamubano (CCLIII). [3] Mu rubanza RC00049/2019/TGI/RBV rwaciwe ku wa 15/11/2019, Urukiko Rwisumbuye rwa Rubavu rwemeje ko ikirego cyatanzwe n'abagize umuryango wa Sibomana Simon alias Bizimungu nta shingiro gifite, ko Rwanda Development Board idakwiye kuryozwa indishyi z'icyaha cyakoze na Munyaneza Jean-Paul, rubategeka gufatanya kwishyura Rwanda Development Board indishyi zo gushorwa mu manza zihwanye na 300.000Frw. [4] Abagize umuryango wa Sibomana Simon alias Bizimungu, bajuririje Urukiko Rukuru, Urugereko rwa Musanze, bavuga ko Urukiko rubanza rwitiranyije ibintu, ko mu by'ukuri icyaregawe atari uburyozwacyaha (la responsabilité pénale), ahubwo ko ari indishyi zisabwa ugomba kuziryoza (personne civilement responsable). Mu rubanza RCA00115/2019/HC/MUS rwaciwe ku wa 25/6/2020, Urukiko Rukuru, Urugereko rwa Musanze rwasanze Rwanda Development Board ifite inshingano zo kuryozwa indishyi zikomoka ku cyaha umukozi wayo yakoze ari mu kazi, ruyitegeka kwishyura abaregeye indishyi zingana na miliyoni cumi n'ine n'ibihumbi mirongo itandatu na bine (14.064.000Frw). [5] Rwanda Development Board ntiyishimiye iki cyemezo, ijuririra Urukiko rw'Ubujurire ishingiyeye ku ngingo ya 52, igika cya kabiri (2), agace gatatu (3), y'Itegeko N°30/2018 ryo ku wa 2/6/2018 rigena ububasha bw'Inkiko, ivuga ko Urukiko Rukuru, Urugereko rwa Musanze rwayitegetse gutanga indishyi zikomoka ku cyaha rushingiye ku mategeko atakiriho, kandi ko rutitaye ku kuba icyo cyaha cyarakozwe mu masaha atari ay'akazi. [6] Uburanira Naniya Sebiribiri na bagenzi be yatanze inzitizi yo kutakira ubujurire bwa Rwanda Development Board, avuga ko Igitabo cya gatatu cy'urwunge rw'amategeko mbonezamubano (CCL III) aricyo cyakoreshwaga ubwo ikirego cyatangwaga mu Rukiko, ko Urukiko Rukuru, Urugereko rwa Musanze nta makosa rwakoze ruyishingiraho, bityo ko uru Rukiko rudafite ububasha kuri ubu bujurire. [7] Urubanza rwaburanishijwe ku wa

8/2/2021, Rwanda Development Board ihagarariwe na Me Nkusi Fred, Naniya Sebiribiri na bagenzi be, bose bahagarariwe na Me Habimana Jean Damascène. IKIBAZO KIGIZE URUBANZA N’ISESENGURWA RYACYO

## Page 4

Kumenya niba ubujurire bwa Rwanda Development board (RDB) butagomba kwakirwa [8] Me Habimana Jean Damascène, uburanira Naniya Sebiribiri na bagenzi be, avuga ko ubujurire bwa Rwanda Development Board butari mu bubasha bw’Urukiko rw’Ubujurire, ko ibyo ivuga ko Urukiko Rukuru, Urugereko rwa Musanze rwashingiye ku itegeko ritari ririho, atari byo, ko yirengagiza ko igihe ibikorwa bigize icyaha ikirego cy’indishyi gishingiyeho, byakozwe Igitabo cya gatatu cy’Urwunge rw’amategeko mbonezamubano (Code Civil Livre III) cyari kikiriho, ko n’igihe iki kirego cyatangwaga bwa mbere ryari rikiriho, kandi ko iryo Tegeko ryahaga abazungura ba nyakwigendera Sibomana Simon alias Bizimungu uburenganzira bwo kuregera indishyi no kuba barega umukoresha ku makosa yakozwe n’umukozi, mu gihe ari kurangiza inshingano yamuhaye, bityo ko Urukiko Rukuru, Urugereko rwa Musanze rwashingiye ku itegeko ryariho. Avuga kandi ko ibyo byanatanzweho umurongo n’Urukiko rw’Ubujurire mu rubanza RCAA00008/2018/CA rwaciwe ku wa 2/11/2018, haburana Uwayezu Jean-Paul na Bizumuremyi John. [9] Me NKUSI Fred, uburanira Rwanda Development Board, avuga ko hashingiwe ku ngingo ya 52, igika cya kabiri (2), agace ka gatatu (3), y’Itegeko N°30/2018 ryo ku wa 2/6/2018 rigena Ububasha bw’Inkiko iteganya ko “ Urukiko rw’Ubujurire rufite kandi ububasha bwo kuburanisha mu rwego rw’ubujurire bwa kabiri imanza zaciwe n’Urukiko Rukuru, Urukiko Rukuru rw’Ubucuruzi n’Urukiko Rukuru rwa Gisirikare, iyo izo manza zishingiye ku itegeko ritariho, ingingo z’amategeko zitakiriho [...], asanga kuba Urukiko Rukuru, Urugereko rwa Musanze, mu rubanza RCA00115/2019/HC/MUS rwarashingiye ku ngingo ya 260, igika cya gatatu, y’Igitabo cya gatatu cy’Urwunge rw’amategeko mbonezamubano (Code Civil Livre III), yavanyweho n’ingingo ya 3 y’Itegeko N° 020/2019 ryo ku wa 22/8/2019 rikuraho amategeko yose yashyizweho mbere y’itariki y’ubwigenge no ku ngingo ya 11 y’Itegeko N° 30/2013 ryo ku wa 24/5/2013 ryerekeye imiburanishirize y’imanza z’inshinjabyaha, yakuweho n’ingingo ya 266 y’Itegeko N° 027/2019 ryo ku wa 19/9/2019 ryerekeye imiburanishirize y’imanza z’inshinjabyaha, rugategeka Rwanda Development Board guha indishyi abarega, atari byo kuko izi ngingo z’amategeko zari zaravanyweho, ko rero Urukiko rw’Ubujurire rufite ububasha bwo kuburanisha uru rubanza. UKO URUKIKO RUBIBONA [10] Ingingo ya 52, igika cya kabiri, agace ka gatatu (3) y’Itegeko N° 30/2018 ryo ku wa 2/6/2018 rigena ububasha bw’inkiko iteganya ko “Urukiko rw’Ubujurire rufite kandi ububasha bwo kuburanisha mu bujurire bwa kabiri imanza zaciwe n’Urukiko Rukuru, Urukiko Rukuru rw’Ubucuruzi n’Urukiko rwa Gisirikari, iyo izo maza: (...) zashingiye ku itegeko ritariho, ingingo z’amategeko zitakiriho cyangwa zaciwe n’Urukiko rutabifitiye ububasha” (...). [11] Ingingo ya 3 y’Itegeko N° 32/2016 ryo ku wa 28/8/2016 rigenga abantu n’umuryango iteganya ko “ Itegeko rishyirirwaho kugenga ibizakorwa ritangiye gukurikizwa, ntirishobora kugira inkurikizi ku bikorwa byabaye ritaratangira gukurikizwa, keretse iyo biteganyijwe ukundi”. [12] Dosiye y’urubanza igaragaza ko mu gace ka makumyabiri na gatatu (23) k’urubanza rujuririrwa, Urukiko Rukuru, Urugereko rwa Musanze, rwasanze Munyaneza Jean- Paul yarakoze icyaha ari

mu kazi, umukoresha we akaba ariwe ugombaga kuryozwa indishyi. Mu gace ka makumyabiri na kane (24) k'urwo rubanza, urwo Rukiko rusobanura ko ibyo bihuje n'ibiteganywa

## Page 5

mu ngingo ya 260 y'Igitabo cya gatatu cy'Urwunge rw'amategeko mbonezamubano (CCL III), yariho igihe Sibomana Simon alias Bizimungu yicwaga n'igihe ikirego cyashyikirizwaga Urukiko. Rwasobanuye kandi ko ibyo bihura n'ibivugwa mu ngingo ya 11 y'Itegeko n° 30/2013 ryo ku wa 24/5/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha ryariho icyo gihe, yateganyaga ko indishyi zishobora kuregwa n'utegetswe kuriha indishyi, akaba ari nako biteganywa mu Itegeko rishya N° 027/2019 ryo ku wa 19/9/2019 ryavuzwe haruguru. [13] Dosiye y'urubanza igaragaza ko icyaha cy'ubwicanyi cyahamye Munyaneza Jean- Paul cyakozwe ku wa 13/10/2017, saa kumi n'imwe n'igice, naho ikirego cy'indishyi kikaba cyaratanzwe na Naniya Sebiribiri na bagenzi be ku wa 31/3/2019, mu Rukiko Rwisumbuye rwa Rubavu, iki kirego kikaba cyaratanzwe hashingiwe ku ngingo ya 258 na 260 z'Igitabo cya gatatu cy'Urwunge rw'amategeko mbonezamubano (CCL III). [14] Urukiko rw'Ubujurire rurasanga amategeko akubiye mu Gitabo cya gatatu cy'Urwunge rw'amategeko mbonezamubano (CCL III) yakuweho n'ingingo ya 3 y'Itegeko N° 020/2019 ryo ku wa 22/8/2019 rikuraho amategeko yose yashyizweho mbere y'itariki y'ubwigenge, iri Tegeko rikaba ryarasohotse mu Igazeti ya Leta yo ku wa 23/9/2019, rugasanga ikirego cy'indishyi zikomoka ku cyaha, cyaratanzwe na Naniya Sebiribiri na bagenzi be ku rwego rwa mbere, amategeko akubiye mu Gitabo cya gatatu cy'urwunge rw'amategeko mbonezamubano (CCL III) agikoreshe, ariko ubwo urubanza RCA0115/2019/HC/MUS rwo ku wa 25/6/2020, rujuririrwa, rwacibwaga, ayo mategeko akaba yari yaramaze kvanwaho. [15] Urukiko rw'Ubujurire rurasanga nyuma y'uko amategeko akubiye mu Gitabo cya gatatu cy'Urwunge rw'amategeko mbonezamubano (CCL III) avanyweho n'Itegeko N° 020/2019 ryo ku wa 22/8/2019 ryavuzwe haruguru, iri tegeko ritarateganyije ingingo z'inzibacyuho ku manza zari zaratangiywe kuburanishwa hashingiwe kuri ayo mategeko, ndetse no ku bikorwa byakozwe ayo mategeko akiriho, kuko mu ngingo yaryo ya 3 ryavuze gusa ko amategeko yose, yashyizweho mbere y'itariki y'ubwigenge bw'u Rwanda, avanyweho. [16] Urukiko rw'Ubujurire rurasanga kuva Itegeko N° 020/2019 ryo ku wa 22/8/2019 rikuraho amategeko yose yashyizweho mbere y'itariki y'ubwigenge ryatangajwe mu Igazeti ya Leta, nta rindi Tegeko ryasotse ngo ribe ryagenga ibyari biteganyijwe mu Gitabo cya gatatu cy'Urwunge rw'amategeko mbonezamubano ku birebana n'uburyozwe budaturutse ku masezerano. [17] Urukiko rw'Ubujurire rurasanga n'ubwo kubirebana n'uru rubanza (en l'espèce), nta Tegeko rishya ryaje kugenga ibyari biteganyijwe mu Gitabo cya gatatu cy'Urwunge rw'amategeko mbonezamubano ku birebana n'uburyozwe budaturutse ku masezerano, bivuze ko nta gongana ry'amategeko (conflit de lois) rihari, abahanga mu mategeko basobanura ko iyo hagiyeho itegeko rishya havuka ikibazo cyo kugena ibihe rizakoreshwamo ndetse n'ibizakomeza kugengwa n'itegeko ryavuyeho, ko icyo ari ikibazo cy'agasigane k'amategeko ku birebana n'igihe akoreshwamo (conflit des lois dans le temps), ariko ko akenshi Umushingamategeko abikemura, ateganya mu itegeko rishya ingingo z'inzibacyuho (dispositions transitoires), kandi ko iyo izo ngingo zitariho cyangwa iyo ziriho ariko ntacyo zibivugaho, hakurikizwa ihame ry'ubudasubira inyuma bw'itegeko rishya1, 1 " Le problème posé par l'entrée

en vigueur d'une loi nouvelle est de déterminer les situations auxquelles elle va s'appliquer et celles qui vont continuer à être régies par la loi ancienne, c'est la classique question de conflits des lois dans le temps qui se pose en droit judiciaire comme en toute autre matière. Le plus souvent, le Législateur prend le soin

## Page 6

ari nabyo ingingo ya 3 y'Itegeko N° 32/2016 ryo ku wa 28/8/2016 rigenga abantu n'umuryango ryumvikanisha. [18] Urukiko rw'Ubujurire rurasanga kandi kuvaho kw'itegeko runaka (abrogation) bitavuze ko ibyakozwe byose igihe ryari rikiriho, byateshwa agaciro, ahubwo biba bisobanuye ko ritazongera gukoreshwa gusa ku bikorwa bizaba uherye igihe riviriyeho<sup>2</sup>. [19] Urukiko rw'Ubujurire rurasanga mu rubanza RPA00221/2018/HC/MUS rwaciwe ku wa 7/12/2018, Urukiko Rukuru, Urugereko rwa Musanze rwarahamije burundu MUNYANEZA Jean- Paul icyaha cyo kwica SIBOMANA Simon alias BIZIMUNGU, bivuze ko kuva kuri iyo tariki, urwo Rukiko rwemeje burundu ko ubwicanyi bwakorewe nyakwigendera ku wa 13/10/2017, bukoze na MUNYANEZA Jean-Paul (situation juridique), bwabaye koko, ibyo bikaba biha abazungura ba nyakwigendera SIBOMANA Simon alias BIZIMUNGU uburenganzira bwo gutanga ikirego, basaba RDB indishyi kubera igikorwa cyakozwe n'umukozi wayo, cyabangirije, hashingiwe ku ngingo ya 258 n'ya 260 z'Igitabo cya gatatu cy'Urwunge rw'amategeko mbonezamubano (CCL III), cyakoreshwaga ubwo icyo cyaha cyakorwaga. [20] Urukiko rw'Ubujurire rurasanga kuba ibikorwa (situation juridique: fait générateur de la responsabilité civile) byatumye umuryango wa nyakwigendera Sibomana Simon alias Bizimungu utanga ikirego gisaba indishyi ku cyaha bakorewe, byarabaye igihe ibiteganywa mu nteruro ya kabiri y'Igitabo cya gatatu cy'Urwunge rw'amategeko mbonezamubano, byerekeye inshingano zidashingiye ku masezerano byakoreshwaga, mbere y'uko Itegeko N° 020/2019 du 22/8/2019 rigikuraho rijyaho, kuba kandi Itegeko N° 020/2019 du 22/8/2019 rikuraho Igitabo cya gatatu cy'Urwunge rw'amategeko mbonezamubano ritarateganyije ingingo z'inzibacyuho ku manza zari zaratangiye kuburanishwa hashingiwe kuri ayo mategeko, ndetse no ku bikorwa byakozwe ayo mategeko akiriho no kuba kuvaho kw'itegeko (abrogation) bitavuze mu buryo butaziguye ko ibyakozwe byose igihe ryari rikiriho, byateshwa agaciro, hagomba gukurikizwa Itegeko ryariho igihe ibikorwa bigize urubanza byabaga cyangwa byakorwaga<sup>3</sup>. [21] Urukiko rw'Ubujurire rurasanga rero nta makosa Urukiko Rukuru, Urugereko rwa Musanze rwakoze mu guca urubanza mu rwego rw'ubujurire, rushingira ku ngingo ya 258 n'ya 260 z'Igitabo cya gatatu cy'Urwunge rw'amategeko mbonezamubano cyari kiriho igihe ibikorwa bigize urubanza byabaga cyangwa byakorwaga. [22] Ku birebana n'ingingo ya 11 y'Itegeko N° 30/2013 ryo ku wa 24/5/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, nayo ivugwa mu rubanza rujuririrwa, Urukiko rw'Ubujurire rurasanga ibyo uburanira Rwanda Development Board avuga ko ryakoreshejwe de régler lui-même le conflit de lois en édictant, dans la loi nouvelle, des dispositions transitoires. En l'absence de dispositions transitoires, ou dans le silence de ces dispositions, il faut faire application des solutions du droit commun:" La loi ne dispose que pour l'avenir; elle n'a point d'effets rétroactifs", Loïc Cadiet et Emmanuel Jeuland, Droit judiciaire privé, 5<sup>ème</sup> édition, LITEC, Paris, 2006, p.11. 2 "En effet, une Loi abrogée n'est pas rétroactivement anéantie: Quand il y a abrogation d'une loi, celle-ci

disparaît pour le futur et non pour le passé”, <https://cours-de-droit.net/l-abrogation-des-textes-de-loi-a121607644/> consulté le 27/2/2021 à 20h30 3 “ Concernant les lois de police et de sûreté, notamment dans le domaine de la responsabilité civile, il faut tenir compte de la loi en vigueur le jour où le fait générateur s’est produit”

## Page 7

ritakiriho, nta shingiro nabyo bifite, kuko nk’uko bigaragara mu gace ka makumyabiri na kane (24) k’urubanza rujuririrwa, Umucamanza yavuze ko ariyo yakoreshwaga ubwo ikirego cyatangwaga, ariko avuga ko ibyo yateganyaga ubu biteganywa n’Itegeko rishya n° 027/2019 ryo ku wa 19/9/2019 ryerekeye imiburanishirize y’imanza z’inshinjabyaha. [23] Hashingiwe ku bimaze gusobanurwa haruguru, Urukiko rw’Ubujurire rurasanga kuba Urukiko Rukuru, Urugereko rwa Musanze rutarashingiye ku mategeko atakiriho, ubujurire bwa Rwanda Development Board butakwagirwa ngo ruburanishwe mu mizi n’uru Rukiko. [24] Kubera izo mpamvu zose, Urukiko rw’Ubujurire rurasanga inzitizi yatanzwe n’abaregwa ifite ishingiro. Kumenya niba abaregwa bakwiye amafaranga y’ikurikiranarubanza n’igihembo cya Avoka basaba [25] Me HABIMANA Jean Damascène, uburanira abaregwa, asaba Urukiko gutegeka Rwanda Development Board kwishyura NANIYA SEBIRIBIRI na bagenzi be 1.500.000 Frw y’igihembo cya Avoka na 1.000.000 Frw y’ikurikiranarubanza. [26] Me NKUSI Fred, uburanira Rwanda Development Board, avuga ko ibyo basaba nta shingiro bifite kuko aribo batangije iki kirego mu Rukiko Rwisumbuye rwa Rubavu, kikaba kigeze muri uru Rukiko. UKO URUKIKO RUBIBONA [27] Ingingo ya 110 y’Itegeko ryo ku wa 29/4/2018 ryerekeye imiburanishirize y’imanza z’imbenezamubano, iz’ubucuruzi, iz’umurimo n’iz’ubutegetsi, iteganya ko “ Ikirego cy’amafaranga y’ikurikiranarubanza ni ikirego gishamikira ku kirego cy’iremezo kigamije kwishyura ibyakoreshejwe mu rubanza. Ikirego cy’amafaranga y’ikurikiranarubanza kiburanishirizwa rimwe n’ikirego cy’iremezo. Gishobora kandi kwakirwa kikaburanisha n’iyo ikirego cy’iremezo cyaba kitakiriwe”. [28] Urukiko rw’Ubujurire rurasanga n’ubwo ikirego cya Rwanda Development Board kitakiriwe, hari ibyo Naniya Sebiribiri na bagenzi be batakaje kubera uru rubanza, bityo bakaba bakwiye kugenerwa amafaranga y’igihembo cya Avoka n’ay’ikurikiranarubanza, ariko bakaba batahabwa ayo basaba kuko batagaragaza ko ariyo yagiye ku rubanza, ahubwo harebwe imirimo yarukozweho, aho rugarukikiye ku gusuzuma inzitizi gusa, bakaba bagenerwa 700.000Frw y’igihembo cya Avoka wababuraniye bese na 500.000Frw y’ikurikiranarubanza, yose hamwe akaba 1.200.000Frw. ICYEMEZO CY’URUKIKO [29] Rwemeje ko inzitizi yatanzwe na NANIYA SEBIRIBIRI na bagenzi be, ifite ishingiro. [30] Rwemeje ko ubujurire bwa Rwanda Development Board (RDB) butakiriwe.

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Page 8

[31] Rutegetse Rwanda Development Board (RDB) kwishyura Naniya Sebiribiri na bagenzi be, bose hamwe, amafaranga ibihumbi magana arindwi (700.000Frw) y'igihembo cya Avoka n'amafaranga ibihumbi magana atanu (500.000Frw) y'ikurikiranarubanza, yose hamwe akaba miliyoni imwe n'ibihumbi magana abiri (1.200.000Frw). [32] Rwemeje ko amafaranga y'ingwate y'amagarama yatanzwe na Rwanda Development Board (RDB), ahwanye n'ibyakoze mu rubanza.

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