

RWANDA / JUDGMENT

## UBUSHINJACYAHA v. TWIZEYUMUREMYI

RPAA01048/2024/CA

## COURT

Court of Appeal

## DECIDED

29 September 2025

## CASE / FILE NUMBER

RPAA01048/2024/CA

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## UBUSHINJACYAHA v. TWIZEYUMUREMYI

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## Text

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UBUSHINJACYAHA v. TWIZEYUMUREMYI [Rwanda URUKIKO RW'UBUJURIRE – RPAA01048/2024/CA (Umugwaneza, J. P.) 29 Nzeri 2025] Amategeko agenga imanza nshinjabyaha – Igabanyagihano – Mu gihe hari impamvu nyoroshyacyaha, igihano cy'igifungo cya burundu gishobora kugabanywa ariko ntikijye muni y'igifungo cy'imyaka cumi n'itanu (15), kuko aricyo gito giteganywa n'itegeko ku cyaha cyose gihanishwa igifungo cya burundu. Incamake y'ikibazo: Polisi, ishami rishinzwe kurwanya ibiyobyabwenge ryafatanye Twizeyumuremyi udupfunyika 415 ndetse n'ibiro bibiri n'igice by'urumogi yacuruzaga, rimushyikiriza Ubugenzacyaha. Nyuma y'iperereza Ubushinjacyaha bwamureze mu Rukiko Rwisumbuye rwa Gasabo, icyaha cyo gukora ibikorwa byerekeranye n'ibiyobyabwenge cyangwa urusobe rw'imiti ikoreshwa nka byo, busaba ko cyamuhama, akagihanirwa. Urukiko rushingiye ku bimenyetso bitandukanye Uregwa yahamijwe icyaha cyo kugurisha ibiyobyabwenge byo mu bwoko bw'urumogi, maze ahanishwa igihano cy'igifungo cy'imyaka 20 n'ihazabu ya miliyoni 21.000.000Frw. Uregwa yajuririye mu Rukiko Rukuru avuga ko yamuhanishije ibihano birebire kandi kuva afatwa yemera icyaha akanagisabira imbabazi, bityo asaba ko yabigabanyirizwa. Ubushinjacyaha buvuga ko izo mpamvu z'ubujurire zitahabwa agaciro kuko yahanishijwe igihano gito cy'imyaka 20, ariko

Urukiko Rukuru rubibonye ukundi rwamuhanisha igifungo cy'imyaka 15 hashingiwe ku Itegeko rishya riteganyanya ibyaha n'ibihano muri rusange. Nyuma yo gusuzuma impamvu z'ubujurire z'Uregwa, Urukiko Rukuru rwamugabanyirije igihano, rumuhanisha igifungo cy'imyaka 15 n'ihazabu ya miliyoni imwe, kuko rwahaye ishingiro impamvu nyoroshyacyaha yagaragaje ndetse rushingira ku biteganyijwe mu Itegeko rishya riteganyanya ibyaha n'ibihano muri rusange. Uregwa yajuririye icyo cyemezo cy'Urukiko Rukuru muri uru Rukiko rw'Ubujurire asaba ko yagabanyirizwa ibihano ku buryo buhagije ndetse akaba yahabwa n'ikiri muni y'igihano gito giteganywa n'Itegeko kubera impamvu nyoroshyacyaha. Asobanura ko yemeye icyaha ku buryo budashidikanywaho, agisabira imbabazi ndetse kandi nta n'ingaruka icyaha cyagize muri rubanda, akaba yaramaze ku cyicuza no kugororoka. Ubushinjacyaha buvuga ko Uregwa yagabanyirijwe igihano hashingiye ku mpamvu ze nyoroshyacyaha ndetse no ku ngingo ya 2 agace ka a na d y'Itegeko No 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko No 68/2018 ryo ku wa 30/08/2018, riteganyanya ibyaha n'ibihano muri rusange, rumuhanisha igihano gito giteganywa n'Itegeko, bityo kikaba kitakongera kugabanywa, ahubwo ko hagumishwaho igifungo cy'imyaka 15 n'ihazabu ya 1.000.000Frw yahanishijwe mu rubanza rwajuririwe. Incamake y'icyemezo: Mu gihe hari impamvu nyoroshyacyaha, igihano cy'igifungo cya burundu gishobora kugabanywa ariko ntikijye muni y'igifungo cy'imyaka cumi n'itanu (15), kuko aricyo gito giteganywa n'itegeko ku cyaha cyose gihanishwa igifungo cya burundu. Ubujurire nta shingiro bufite. Urubanza rwajuririwe ntruhindutse mu ngingo zarwo zose. Amategeko yashingiweho: Itegeko No 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko No 68/2018 ryo ku wa 30/08/2018 riteganyanya ibyaha n'ibihano muri rusange, ingingo ya 2. Itegeko N° 69/2019 ryo ku wa 08/11/2019, rihindura ingingo ya 263 y'Itegeko N° 68/2018 ryo ku wa 30/08/2018, riteganyanya ibyaha n'ibihano muri rusange, ingingo ya 11.

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Imanza zifashishijwe: RPAA00043/2024/CA, Ubushinjacyaha na Rukundo rwaciye n'Urukiko rw'Ubujurire ku wa 29/04/2025. Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 16/07/2021, Polisi, ishami rishinzwe kurwanya ibiyobyabwenge (ANU), yafatanye Twizeyumuremyi Innocent udupfunyika 415 tw'urumogi ndetse n'ibiro bibiri n'igice yacuruzaga yaruhishe ku muturanyi we witwa Niyoyabivuze Jeannine utarabashije kuboneka. Maze Twizeyumuremyi Innocent ashikiranizwa Ubugenzacyaha. [2] Iperereza, rirangiye, Ubushinjacyaha bwamureze mu Rukiko Rwisumbuye rwa Gasabo, icyaha cyo gukora ibikorwa byerekeranye n'ibiyobyabwenge cyangwa urusobe rw'imiti ikoreshwa nka byo, busaba ko cyamuhama, akagihanirwa. [3] Twizeyumuremyi Innocent, yaburanye yemera icyaha aregwa, yemera ko yacuruzaga urumogi ariko ahakana ko atafatanyaga n'uwitwa Jeannine, abisabira imbabazi. [4] Mu rubanza RP01163/2021/TGI/GSBO, rwaciye ku wa 30/07/2021, Urukiko Rwisumbuye rwa Gasabo, rwasanze hari ibimenyetso bihamya Twizeyumuremyi Innocent, icyaha cyo kugurisha ibiyobyabwenge byo mu bwoko bw'urumogi, aribyo:

- a) Imvugo ze yemera icyaha abazwa mu Bugenzacyaha no mu Bushinjacyaha, agasobanura uko yagikoze;

- b) Imvugo z'umutangabuhamy Nzamurambaho umushinja, aho yagaragaje ko yamusabye kumushakira abakiriya maze aramufatisha bamufatana udupfunyika 415 tw'urumogi hamwe n'ibiro bibiri n'inusu by'urumogi;
- c) Raporo y'inzege z'ibanze igaragaza ibiyobyabwenge yafatanwe n'uburyo asanzwe abicuruza akanabiranguza afatanyije n'uwitwa Niyoyabivuze Jeannine akanarubika iwe;
- d) Inyandiko mvugo y'ifatira Twizeyumuremyi Innocent yashyizeho umukono yemera ibiyobyabwenge yafatanwe. Urukiko rushingiye kuri ibyo bimenyetso, rwahamije Twizeyumuremyi Innocent, icyaha cyo gukora ibikorwa byerekeranye n'ibiyobyabwenge cyangwa urusobe rw'imiti ikoresheya nka byo. Rumuhanisha igifungo cy'imyaka makumyabiri (20 ans) n'ihazabu ya 21.000.000Frw. [5] Twizeyumuremyi Innocent yajuririye urwo rubanza mu Rukiko Rukuru, avuga ko bamuhanishije ibihano birebire kandi kuva afatwa yemera icyaha akanagisabira imbabazi. Asaba ko yabigabanyirizwa. [6] Ubushinjacyaha buvuga ko impamvu ze z'ubujurire zitahabwa agaciro kuko yahanishijwe igihano gito cy'imyaka 20 kandi icyaha yakoze gihanishwa igifungo cya burundu, ariko ko Urukiko rubibonye ukundi rwamuhanisha imyaka 15 hashingiwe ku Itegeko rishya rihana ibyaha. [7] Mu rubanza RPA01299/2021/HC/KIG, rwaciwe ku wa 24/09/2024, Urukiko Rukuru, nyuma yo gusuzuma impamvu z'ubujurire za Twizeyumuremyi Innocent, rwasanze, Urukiko mu rwego rubanza rwashingiye ku kuba yaremeye icyaha rumugabanyiriza igihano ariko kuba ari ubwa mbere akurikiranyweho icyaha ku buryo buzwi ndetse no kuba ibiyobyabwenge yafatanwe byategetswe ko bitwikwa, hashingiwe no kubiteganywa mu ngingo ya 2 y'Itegeko No 059/2023 ryo ku wa 04/12/2023

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rihindura Itegeko No 68/2018 ryo ku wa 30/08/2018 riteganyaga ibyaha n'ibihano muri rusange, akwiriye kugabanyirizwa igihano. Rumuhanisha igifungo cy'imyaka 15 n'ihazabu ya 1.000.000Frw. [8] Twizeyumuremyi Innocent yajuririye Urukiko rw'Ubujurire, urubanza ruhabwa RPAA01048/2024/CA, ruburanishwa mu ruhamye ku wa 11/09/2025, Twizeyumuremyi Innocent yunganiye na Me Micomyiza Liliane, Ubushinjacyaha buhagarariye na Ndagijimana Charles, Umushinjacyaha ku rwego rw'igihugu. [9] Mu mwanzuro w'ubujurire, Twizeyumuremyi Innocent na Me Micomyiza Liliane umwunganira, basaba ko yagabanyirizwa igihano, ku buryo buhagije ndetse akaba yahabwa n'ikiri muni y'igihano gito giteganywa n'Itegeko kubera impamvu nyoroshyacyaha. [10] Ubushinjacyaha buvuga ko Twizeyumuremyi Innocent yaragabanyirijwe ibihano nk'uko bigaragara mu gika cya 10 cy'urubanza rujuririrwa, ahabwa gito giteganywa n'Itegeko bityo ko kitakongerwa kugabanywa. [11] Hakurikijwe izo mpaka, muri uru rubanza harasuzumwa ikibazo cyo kumenya niba Twizeyumuremyi Innocent akwiriye kugabanyirizwa ibihano. II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA Kumenya niba Twizeyumuremyi Innocent akwiriye kugabanyirizwa ibihano [12] Twizeyumuremyi Innocent na Me Micomyiza Liliane umwunganira, mu miburanire yabo, basaba ko yagabanyirizwa ibihano ku buryo buhagije kubera impamvu nyoroshyacyaha z'uko yemeye icyaha ku buryo budashidikanywaho, akaba agisabira imbabazi ndetse kandi nta n'ingaruka icyaha cyagize muri rubanda, akaba amaze ku

cyicuza no kugororoka. [13] Ubushinjacyaha buvuga ko Urukiko mu rubanza rujuririrwa mu gika cya 10 rwaragabanyirije Twizeyumuremyi Innocent ibihano rwitaye ku mpamvu nyoroshyacyaha ze, rushingira ku ngingo ya 2 agace ka a na d y'Itegeko No 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko No 68/2018 ryo ku wa 30/08/2018, riteganya ibyaha n'ibihano muri rusange, rumuhanisha igihano gito giteganywa n'Itegeko, kingana n'igifungo cy'imyaka 15 n'ihazabu ingana na milioni imwe(1.000.000Frw), bityo ko kitakongera kugabanywa. Busaba ko hagumishwaho igifungo cy'imyaka 15 n'ihazabu ya 1.000.000Frw yahanishijwe mu rubanza rwajuririwe. UKO URUKIKO RUBIBONA Impaka kuri iyi ngingo, zishingiye kukumenya niba Twizeyumuremyi Innocent akwiriye kugabanyirizwa igihano kuri uru rwego, kuburyo yahanishwa igifungo kiri muni y'imyaka cumi n'itanu (15) n'ihazabu ya milioni imwe(1.000.000Frw) yahanishijwe n'Urukiko Rukuru, kubera impamvu nyoroshyacyaha. [14] Ku birebana no kugabanya igihano mu gihe hari impamvu nyoroshyacyaha, ingingo ya 2 y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, iteganya ko iyo umucamanza yemeje impamvu nyoroshyacyaha, ashobora kugabanya igihano ku buryo bukurikira: ...; (a) igifungo cya burundu gishobora kugabanywa ariko ntikijye muni y'igihano cy'igifungo cy'imyaka 15, ... (d) igihano cy'ihazabu gishobora kugabanywa kugeza kuri kimwe cya kane cy'igihano cy'ihazabu gito giteganyirijwe icyaha cyakozwe. [15] Ku kibazo kijyanye no kumenya niba umuntu wahamijwe icyaha cyo kugurisha ibiyobyabwenge ashobora kugabanyirizwa igihano ku buryo kijya muni y'igifungo cy'imyaka cumi n'itanu (15) hashingiwe ku mpamvu nyoroshyacyaha, cyakemuwe mu manza zitandukanye zaciwe n'uru Rukiko, kuva

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aho Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange risohokeye; muri izo manza harimo n'urubanza RPAA00043/2024/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 29/04/2025, Ubushinjacyaha buburana na Rukundo1. Muri izo manza, Urukiko rw'Ubujurire rwemeje ko icyo gihano kidashobora kugabanywa kuko aricyo gito giteganywa n'itegeko kuri icyo cyaha ndetse no ku kindi cyaha cyose gihanishwa igifungo cya burundu. [16] Nk'uko bigaragara mu bika bya 10-132, Urukiko Rukuru, rushingiye ku mpamvu nyoroshyacyaha z'uko ari ubwa mbere Twizeyumuremyi Innocent akurikiranweho icyaha ku buryo buzwi no kuba ibyo yafatanwe byarahise bifatwa bagategeka ko bitwikwa, ndetse rushingiye no ku ngingo ya 2 y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, rwaramugabanyirije igihano, rumuhanisha igifungo cy'imyaka cumi n'itanu (15) n'ihazabu y'amafaranga y'u Rwanda miliyoni imwe (1.000.000 Frw) aho kuba igifungo cy'imyaka makumyabiri (20) n'ihazabu y'amafaranga milioni makumyabiri n'imwe (21.000.000Frw) yahanishijwe n'Urukiko Rwisumbuye. [17] Urukiko rw'Ubujurire rushingiye ku ngingo ya 2 agace ka (a) n'aka (d), y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 ndetse no ku murongo wafashwe n'Urukiko rw'Ubujurire rugendeye kuri iyo ngingo nk'uko byasobanuwe haruguru mugika cya 15, rurasanga igihano Twizeyumuremyi Innocent yahanishijwe n'Urukiko Rukuru, cy'igifungo cy'imyaka 15 aricyo gito gishoboka ku cyaha yahamijwe cyo kugurisha ibiyobyabwenge byo mu

bwoko bw'urumogi mu gihe hari impamvu nyoroshyacyaha, bityo kikaba kidakwiye kugabanywa. [18] Hashingiwe kubimaze kuvugwa byose, Urukiko rw'Ubujurire rurasanga ibyasabwe na Twizenyumuremyi Innocent n'umwunganizi we, ko yagabanyirizwa igihano yahawe cy'igifungo cy'imyaka cumi n'itanu (15) n'ihazabu ya milioni imwe (1.000.000Frw), agahabwa gito, hashingiwe ku mpamvu nyoroshyacyaha ze, nta shingiro bifite, kuko Urukiko Rukuru, rwaramugabanyirije ibihano rushingiye ku mpamvu nyoroshyacyaha ze, nk'uko byasobanuwe haruguru mu gika cya 16, ahabwa ibihano bito bishoboka, bitagibwa munsu. III. ICYEMEZO CY'URUKIKO [19] Rwemeje ko ubujurire bwatanzwe na Twizenyumuremyi Innocent nta shingiro bufite. [20] Rwemeje ko urubanza RPA01299/2021/HC/KIG rwaciwe n'Urukiko Rukuru, ku wa 24/09/2024, rudahindutse mu ngingo zarwo zose. [21] Rutegetse ko Twizenyumuremyi Innocent akomeza guhanishwa igifungo cy'imyaka cumi n'itanu

(15) n'ihazabu y'amafaranga y'u Rwanda miliyoni imwe (1.000.000Frw). [22] Rutegetse ko Twizenyumuremyi Innocent asonewe gutanga amagarama y'urubanza kuko aburana afunze.

1 Reba igika cyarwo cya 17. 2 Reba urubanza RPA01299/2021/HC/KIG, rwaciwe n'Urukiko Rukuru ku wa 30/09/2024.

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