

RWANDA / JUDGMENT

SIKUBWABO v RWANDA DEVELOPMENT BOARD (RDB) ET AL. (ADD 1)

RLR V.3-2023

COURT

Supreme Court

DECIDED

29 April 2022

CASE / FILE NUMBER

RS/INJUST/RCOM 00007/2021/SC

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- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2022-04-29
- Case/document no.: RS/INJUST/RCOM 00007/2021/SC
- Collection: Supreme Court

Text

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SIKUBWABO v RWANDA DEVELOPMENT BOARD (RDB) ET AL. (ADD 1) [Rwanda SUPREME COURT – RS/INJUST/RCOM 00007/2021/SC (Cyanzayire, PJ, Nyirinkwaya and Hitiyaremye, J.) April 29, 2022] Procedure to review judgments vitiated by injustice – Review of judgments on grounds of being vitiated by injustice – Appeal – In case the judgment under review for being vitiated by injustice is a judgment based on the fact that the Court rejected the appeal disregarding the law, the Court hearing that judgment under review due to injustice examines that ground, and when it finds it founded, it renders the interlocutory judgment and holds that the law or the appeal admissibility was disregarded and decides that the hearing continues with the analysis of the appeal grounds lodged before that Court. Commercial procedure – Calculation of the time limit to lodge the claim seeking suspension or invalidation of an auction conducted basing on the decision of the Registrar General – Article 260, paragraph 6 of the Law no 22/2018 of 29/04/2018 relating to civil, commercial, labour and administrative procedure – The time limit provided under the paragraph 6 of article 260 concerns specifically the claims seeking suspension or

invalidation of auction conducted basing on the decision of the Registrar General – The time limit provided under the paragraph 6 is different from the time limit provided under the paragraph 4 related to the request for invalidation of an auction conducted without basing on the certificate issued by the Registrar General. Facts: In the context of reimbursing the loan owed by Sikubwabo to Bank of Africa, the Registrar General in RDB issued the certificate to auction the mortgage, he firstly issued the certificate to sell the property with UPI:1/02/09/01/844. Following the auction of such property, SIKUBWABO Raphaël filed a claim RCOM 01971/2017/TC/NYGE before the Commercial Court of Nyarugenge seeking its invalidation, he sued Bank of Africa, and RDB and Umugiraneza, who was the receiver, intervened. Pending the judgment ruling, the Registrar General issued the certificate to auction the property with UPI:1/02/13/03/115, this led Sikubwabo to file a summary procedure requesting for the suspension of the auction. In the judgment RCOMA 00793/2017/CHC/HCC rendered at the appeal level, the Commercial High Court ruled for the provisional suspension of the auction of the property with UPI: 1/02/13/03/115, pending the Court decision on the case No RCOM 01971/2017/TC/NYGE. Case RCOM 01971/2017/TC/NYGE became final on 06/05/2020, it was decided that there is no ground justifying the invalidation of the auction on the property with UPI: 1/02/09/01/844. On 08/05/2020, Sikubwabo requested in writing the Registrar General to definitively suspend the auction on the property with UPI: 1/02/13/03/115 because the loan leading to the auction was not indicated; on 20/05/2020 he lodged a claim before the Commercial Court. The claim was registered on No RCOM 00767/2020/TC, MUREGO Paulin who bought the property within the auction and Umugiraneza who was the receiver voluntarily intervened, Bank of Africa which granted the loan forcibly intervened. Murego raised the objection requesting for the inadmissibility of Sikubwabo's claim because he filed it after the expiration of the time limit provided under the law, the objection was not

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admitted at the first instance, but it was declared founded at the first and second appeals. In the judgment N° RCOMAA 00061/2020/CA rendered on 18/12/2020, the Court of Appeal sustained the ruling of the Commercial High Court, it expounded that it should be lodged within 15 days calculated from the date when the judgment No RCOM 00577/2019/TC which determined the loan amount became final, meaning June 20, 2019, on basis of the provisions of the article 260, paragraph 4 of the Law N° 22/2018 of 29/04/2018 relating to the civil, commercial, labour and administrative procedure. Sikubwabo applied for the review of this judgment on the grounds of injustice. Sikubwabo maintains that his claim was filed on basis of the article 260 of the Law N° 22/2018 of 29/04/2018 relating to the civil, commercial, labour and administrative procedure and the decision of the Court in the judgment N° RCOMA 00793/2017/HCC which ruled for the suspension of the auction, pending the pronouncement of the judgment N° RCOM 01971/2017/TC/NYGE; this has been highlighted by the judgment N° RCOMA 01016/2019/HCC which also held that RDB should wait for the judgment N° RCOM 01971/2017/TC/NYGE; therefore, the days calculated by the Court of Appeal are not provided under the law because the article 260, paragraph 4, reads that a request for the invalidation of an auction is filed within fifteen (15) days from the date on which the auction was conducted; and it does not provide that the claims for

auction suspension are concerned by the period of 15 days. The respondent, both the parties who voluntarily and forcibly intervened, all state that they cannot contradict the ruling of the Court of Appeal because they find that the time limit for lodging the claim was not respected. Held: 1. In case the judgment under review for being vitiated by injustice is a judgment based on the fact that the Court rejected the appeal disregarding the law, the Court hearing that judgment under review examines that ground and when the Court finds it justified, it renders the interlocutory judgment and holds that the law was disregarded by not admitting the appeal and decides that the hearing continues with the analysis of the appeal grounds lodged before that Court.

2. In accordance with article 260, paragraph 6 of the Law n° 22/2018 of 29/04/2018 relating to the civil, commercial, labour and administrative procedure, the time limit provided under the paragraph 6 of article 260 of the abovementioned Law, concerns specifically the claims seeking the suspension or invalidation of the auction conducted basing on the decision of the Registrar General; it is different from the time limit provided under the paragraph 4 concerning the invalidation of the auction conducted without basing on the decision of the Registrar General. The application for the review of the judgment vitiated by injustice has merit; The claim seeking the suspension of the auction should be admitted; The rendered judgment and the previous one are both quashed; The hearing of the case of the appeal grounds shall be resumed. Statutes and statutory instruments referred to:

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Law no 22/2018 of 29/04/2018 relating to the civil, commercial, labour, and administrative procedure, article 260. Case referred to: Judgment N° RS/INJUST/RC 00023/2018/SC; IBYISI v. KALISA RIBAKARE et Al. rendered by the Supreme Court on 31/01/2020.

Judgment

I. BACKGROUND OF THE CASE [1] This case emanated from the certificate to sell N° 017-074833 the property with UPI: 1/02/13/03/115 issued by the Registrar General in RDB on 06/11/2017, for the repayment of the loan owed by Sikubwabo Raphaël to Bank of Africa. Such an auction was after the one conducted on 09/06/2017 on the property with UPI: 1/02/09/01/844 for the repayment of that loan. [2] Following the auction of 09/06/2017, Sikubwabo Raphaël filed the claim before the Commercial Court of Nyarugenge requesting its invalidation, and the loan repayment shall be made according to other terms of the loan contract. The claim was registered on No RCOM 01971/2017/TC/NYGE, the respondent was Bank of Africa, RDB and Umugiraneza Jean Michel who was the receiver intervened. After lodging the claim, pending the judgment, Sikubwabo Raphaël received from the Registrar General the permit to sell N° 017-074833 of 06/11/2017 abovementioned and the auction instructions relating to the mortgage with UPI: 1/02/13/03/115. [3] While the second auction was not yet approved by the Registrar General, Sikubwabo Raphaël who stated that he was not informed of the outstanding loan after the repayment from the first auction, lodged the summary procedure requesting the provisional suspension of the auction on the second mortgage relating to the property with UPI: 1/02/13/03/115, for firstly examining the

request of the principal suit. The case was registered on No RCOM 02265/2017/TC/NYGE, the Court held that there is no reason to suspend the auction scheduled on 05/12/2017. The judgment was appealed before the Commercial High Court on No RCOMA 00793/2017/CHC/HCC, and it was rendered on 21/12/2017, and the very Court decided for the provisional suspension of the auction on the property with UPI: 1/02/13/03/115, pending the Court's decision on the case No RCOM 01971/2017/TC/NYGE. [4] After the pronouncement of this judgment No RCOMA 00793/2017/CHC/HCC, Sikubwabo Raphaël filed the claim before the Commercial High Court, requesting the intervention of the Registrar General to explain the reason why he does not execute the judgment and Murego Paulin who bought the property in the suspended to be paid back the money he gave. The claim was registered on No RCOM 00024/2019/HCC, the judgment was rendered on 04/10/2019, and the Court declared itself incompetent to hear such claims as they are administrative. Such judgment was appealed before the Commercial High Court on No RCOMA 01016/2018/HCC, it was rendered on 14/02/2020, and it was held that the claim is admissible, but declared that the Registrar General did what he was required to do by executing the judgment

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No RCOMA 00793/2017/CHC/HCC because he provisionally suspended the approval of the report of the auction on UPI: 1/02/13/03/115. [5] The judgment No RCOM 01971/2017/TC/NYGE rendered on 16/05/2028 (related to the invalidation of the auction conducted on 09/06/2017 for the property with UPI: 1/02/09/01/844) which occasioned the provisional suspension of the auction on the property with UPI: 1/02/13/03/115, it was held that there is no ground for the invalidation of the auction. The very judgment was appealed before the Commercial High Court and it was registered on No RCOMA 00443/2018/CHC/HCC the ruling thereof was rendered on 14/12/2018, and it was held that the appealed judgment is sustained. Sikubwabo Raphaël appealed for the second level before the Court of Appeal and the appeal was registered on No RCOMAA 00039/2019/CA, and the verdict thereof was pronounced on 06/05/2020, and it was held that such an appeal was not admitted because it was filed with delays. [6] After all appeal remedies for judgment no RCOM 01971/2017/TC/NYGE were exhausted, on 08/05/2020 Sikubwabo Raphaël wrote to the Registrar General requesting for the definitive suspension of the auction on the property with UPI: 1/02/13/03/115. On 20/05/2020, he lodged the claim before the Commercial Court seeking the definitive suspension of the auction on the property with UPI: 1/02/13/03/115, because the loan for which it was conducted was not indicated. The case was registered on no RCOM 00767/2020/TC, and Murego Paulin who bought the property in the auction and Umugiraneza Jean Michel who was the receiver voluntarily intervened, while Bank of Africa which granted the loan was forcibly intervened. [7] In that case, Sikubwabo Raphaël raised the objection of inadmissibility of the claims of those who voluntarily intervened because they have no interest in the case. Murego Paulin also raised the objection of inadmissibility of the claim of Sikubwabo Raphaël because he filed it after the expiration of the time limit provided by the law for the invalidation of the auction. [8] The case was decided on 22/06/2020, the Court declared unfounded the objection raised by Sikubwabo Raphaël against Murego Paulin because he was the one who bought the disputed property in the auction, and the law allows him to intervene in the

case. It declared founded the objection of inadmissibility raised against the voluntary intervention of Umugiraneza Jean Michel because it was not proved that there were mistakes relating to the procedures for the auction of the disputed property and that his personal interests are not jeopardized in this instant case. Regarding the objection of inadmissibility of the claim due to the fact that it was lodged with delays, the Court decided to admit it for its examination on the merits. Regarding the merits of the case, the Court declared unfounded the claim of SIKUBWABO Raphaël and ordered that the auction made on the property with UPI: 1/02/13/03/115 is sustained. [9] Sikubwabo Raphaël appealed against the judgment ruling in the Commercial High Court, the appeal was registered at n° RCOMA 00398/2020/HCC. He alleges that the Commercial Court has not suspended the concerned auction and yet there were reasons for its suspension. He also requested the Court to determine whether the judgments n° RCOMA 00793/2017/CHC and RCOM 01971/2017/TC/NYGE had any impact on the auction. In the instant case, MUREGO Paulin raised the objection of inadmissibility stating that the claim admitted at the first level would not have been admitted because SIKUBWABO Raphaël failed to file it on time. Umugiraneza Jean Michel has filed a cross-appeal asking for determining whether the first court

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has not yet ruled on ultra petita, hence claiming various damages. Bank of Africa has also lodged a cross-appeal seeking damages for the expenses incurred at the appeal level. [10] The case was decided on 16/07/2020, and the Commercial High Court declared the objection raised by MUREGO Paulin justified, that the claim filed by Sikubwabo Raphaël in the Commercial Court would not have been admitted to be examined on the merits, because it was not filed in due time. The Court motivated that if in submitting the claim, the plaintiff based on the ruling of the judgment n0 RCOM 00577/2019/TC rendered on 20/06/2019 in which the owed debt was determined thereof, it is clear that the auction had been suspended by various judgments, such auction would have proceeded immediately after the pronouncement of the judgment was. The fact that Sikubwabo Raphaël filed a claim in the Commercial Court on 20/05/2020, meaning 11 months after it was allowed to proceed with the auction, clearly indicates that he filed the claim with delays, therefore, it would not have been admitted for being examined on the merits. [11] The Commercial High Court also declared justified the cross-appeal lodged by the Bank of Africa and that of Umugiraneza Jean Michel, and held that the judgment n° RCOM 00767/2020/TC rendered on 22/06/2020 by the Commercial Court is declared null and void, and ordered Sikubwabo Raphaël to pay to the Bank of Africa and Umugiraneza Jean Michel: 500,000 Frw as damages for being dragged into unnecessary lawsuits, 500,000 Frw for counsel fee, 300,000 Frw for a procedural fee, all totaling to 1,300,000 Frw to each one. [12] Sikubwabo Raphaël appealed the ruling in the Court of Appeal, seeking a determination whether his claim was filed with delays as upheld by the Commercial High Court, and yet the judgment n° RCOMA 00793/2017/HCC decided on 21/12/2017 has ordered that the procedures relating to the auction of the property with UPI: 1/02/13/03/115 be provisionally suspended, pending the decision of the Court on the case n° RCOM 01971/2017/TC/NYGE. In the judgment n° RCOMAA 00061/2020/CA rendered by the Court of Appeal on 18/12/2020, it was decided that the appeal lodged by Sikubwabo

Raphaël is unfounded and that the ruling of the appealed judgment is sustained. [13] Sikubwabo Raphaël petitioned the President of the Supreme Court requesting the judgment n° RCOMAA 00061/2020/CA rendered by the Court of Appeal on 18/12/2020 be reviewed for grounds of injustice, alleging that in its ruling, the laws and elements of evidence were disregarded. The President of the Supreme Court decided that the judgment be reheard by the Supreme Court, and it was recorded in the appropriate registrar under n0 RS/INJUST/RCOM 00007/2021/SC. [14] The hearing of the case scheduled on 14/03/2022 was conducted in public, with Sikubwabo Raphaël being assisted by Counsel Uwizeyimana Venuste, RDB represented by Counsel Nkusi Fred, Umugiraneza Jean Michel assisted by Counsel Matimbano Barton, Murego Paulin represented by Counsel Munderere Léopold, while Bank of Africa was represented by Counsel Kayiranga Cyrille. [15] The Court first requested the parties to prove the appearance of Umugiraneza Jean Michel in the case, whereas it is evident that the Commercial Court has decided that he has no interest in voluntarily intervening in it. After hearing the statement of each party about the

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matter, the Court found that Umugiraneza Jean Michel could stay in the case because all parties agree that Sikubwabo Raphaël, who had raised the objection, decided later to withdraw it in the appeal even though it was not mentioned in the case. [16] Sikubwabo Raphaël relies his injustice on the fact that there was a mistake in determining the judgment that should be based on in calculating the time limit for definitive suspension of the auction because it was held that the judgment to be based on is n° RCOM 0577/2019/TC rendered on 20/06/2019 where the debt he owed to Bank of Africa was determined, while the period was to be counted from the time the judgment n° RCOM 01971/2017/TC/NYGE became final as it was upheld in the judgment n° RCOMA 00443/2018/CHC/HCC. He also avers that there was a misinterpretation of the provisions of article 260 of Law no 22/2018 of 29/04/2018 relating to the civil, commercial, labour, and administrative procedure, because, as long as the Registrar General has not yet approved the auction conducted based on the certificate he issued, such auction can be subject to suspension, hence the time limit is counted from when the respondent wrote to the Registrar General. [17] The respondents pleaded that the claim was filed with delays because it had to be filed within 15 days from the time of the auction as per the provisions of article 260 of Law no 22/2018 of 29/04/2018 relating to the civil, commercial, labour and administrative procedure. [18] After hearing the debates between the parties, the Court examined the following issues: • Whether the claim filed by SIKUBWABO Raphaël seeking the definitive suspension of the auction on the property with UPI: 1/02/13/03/115 was not lodged in due time; • Damages claimed by parties. II. ANALYSIS OF LEGAL ISSUES Whether the claim filed by SIKUBWABO Raphaël seeking the definitive suspension of the auction on the property with UPI: 1/02/13/03/115 was lodged in due time [19] Sikubwabo Raphaël and his Counsel Uwizeyimana Venuste state that his claim was filed based on article 260 of Law no 22/2018 of 29/04/2018 relating to the civil, commercial, labour and administrative procedure, and in accordance with the decision of the Court in the case n° RCOMA 00793/2017/HCC, where it ruled that the auction process be suspended until the pronouncement of the judgment n° RCOM 01971/2017/TC/NYGE which was upheld by the judgment n° RCOMA

01016/2019/HCC which also held that RDB would be pending until the pronouncement of the judgment n° RCOM 01971/2017/TC/NYGE. [20] They submit that the days calculated by the Court of Appeal are not provided for by the law because paragraph 4 of article 260 which was applied, provides that applications for the invalidation of the auction are the ones filed within fifteen (15) days from the date on which the auction was conducted, and it does not provide that the application for suspension of the auction is subjected to those 15 days.

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[21] They add that when the case n° RCOM 01971/2017/TC/NYGE became final, Sikubwabo Raphaël wrote to the Registrar General on 08/05/2020 requesting him to definitively suspend the auction, and the latter was supposed to respond within three days according to the provisions of article 260 of Law n° 22/2018 of 29/04/2018 mentioned above, but he did not respond, and the claim was filed on 20/05/2020; and it was filed in accordance with the law. [22] Murego Paulin and his Counsel Munderere Léopold aver that the claim was filed with delays as explained in paragraph 17 of the judgment n° RCOMAA 0061/2020/CA; the Court had explained that article 260 of Law n° 22/2018 of 29/04/2018 mentioned above, provides that the application must be filed within fifteen (15) days from the date on which the auction was conducted. They add that the judgment n° RCOM 01971/2017/TC/NYGE for which they should wait according to Sikubwabo Raphaël was rendered on 16/05/2018, this means that the deadline for filing the claim is 01/06/2018 because he had to lodge it within 15 days from the date of the judgment; however, he filed it in 2020, which is clear that it was too late. [23] Umugiraneza Jean Michel and his Counsel Matimbano Barton submit that they cannot challenge the decision made by the Court of Appeal and that they find that the time limit for filing a claim has not been respected. [24] Counsel Nkusi Fred representing RDB submits that, based on the decision of the Court of Appeal in case n° RCOMAA 00061/2020/CA, he finds that this claim does not comply with the 15 days stipulated by article 260, paragraph 4, of the aforementioned Law n° 22/2018 of 29/04/2018. [25] Counsel Kayiranga Cyrille representing the Bank of Africa submits that the time limit for filing a claim should have been counted from the time of the auction on the property with UPI: 1/02/13/03/115 was conducted, which was not respected as per the provisions of article 260 of aforementioned Law n° 22/2018 of 29/04/2018. DETERMINATION OF THE COURT [26] Article 260, paragraph 6, of Law n° 22/2018 of 29/04/2018 relating to the civil, commercial, labour and administrative procedure provides that “the suspension or invalidation of an auction conducted basing on the decision of the Registrar General is requested to the Registrar General. The Registrar General responds within three (3) working days. In case there is a party not satisfied by the decision of the Registrar General or who does not get a response in the time limit provided for by this paragraph, the party files a claim in the commercial court in accordance with provisions of this article within five (5) working days running from the date the party was notified of the decision”. [27] The provisions of paragraph 6 of article 260 of the aforementioned Law, specifically refer to the claims for the suspension or invalidation of the auction of properties conducted based on a certificate to auction the mortgage issued

by the Registrar General; the time limit for which it stipulates is different from the time limit of 15 days based on by the previous Courts as referred to in paragraph 4 of the aforementioned article 260, it is related to the request for invalidation of the auction of properties conducted without a certificate issued by the Registrar General.

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[28] The case file of this case indicates that the claim filed by Sikubwabo Raphaël is related to the definitive suspension of the auction on the property with UPI: 1/02/13/03/115, based on the certificate to sell in public auction (permit to sell n° 017- 074833) issued by the Registrar General in RDB on 06/11/2017. This means that the time limit required to determine whether the claim was filed with delays is referred to in paragraph 6 of article 260 of the aforementioned Law n° 22/2018 of 29/04/2018. With regards to the starting date for counting the time limit, it is necessary to first recall the decisions made in some of the cases mentioned in the section relating to the background of the case. [29] Before applying for the definitive suspension of the auction on the property with UPI:1/02/13/03/115, SIKUBWABO Raphaël first filed a summary procedure seeking the provisional suspension of the auction on the concerned property, pending the decision on another claim n° RCOM 01971 /2017/TC/ NYGE he had filed claiming for the invalidation of the previous auction conducted on the property with UPI: 1/02/09/01/844, so as to allow him to know the remaining debt he would have to pay after the first auction in case it is not invalidated. [30] In the judgment, n° RCOMA 00793/2017/CHC/HCC rendered on 21/12/2017, the Commercial High Court declared that the procedures related to the auction of property with UPI: 1/02/13/03/115 should be provisionally suspended, pending the court's decision on the case n° RCOM 01971/2017/TC/ NYGE mentioned above. This case was decided on 16/05/2018, and it was ruled that there is no reason to invalidate the first auction on the property with UPI: 1/02/09/01/844, this decision became final after the decision of 06/05/2020 by the Court of Appeal [31] After the judgment n° RCOM 01971/2017/TC/NYGE that had decided for the provisional suspension of the auction on UPI: 1/02/13/03/115 became final, Sikubwabo Raphaël wrote to the Registrar General on 08/05/ 2020 requesting him to definitively suspend the auction which had been provisionally suspended. [32] Based on the provisions of paragraph 6 of article 260 of the aforementioned Law n° 22/2018 of 29/04/2018, Sikubwabo Raphaël had a period of three (3) working days to wait for the response from the Registrar General, which then ended on 13/05/2020. In case he did not get any response, he had five (5) working days to file a claim in the Commercial Court, counted from 14/05/2020, which means that the deadline to file a claim was 20/05/2020, on which he also filed it. [33] Based on the foregoing, the Court finds that the claim of Sikubwabo Raphaël seeks to definitively suspend the auction on the property with UPI: 1/02/13/03/115 has been lodged in due time because it has complied with the modalities stipulated in paragraph 6 of article 260 of Law n° 22/2018 of 29/04/2018 relating to the civil, commercial, labour and administrative procedure. Therefore, the Court finds that the judgment n° RCOMAA 00061/2020/CA, rendered by the Court of Appeal on 18/12/2020, as well as the previous judgment n° RCOMA 00398/2020/HCC rendered by the

Commercial High Court on 16/07/2020, should be quashed. This means that the judgment n0 RCOM 00767/2020/TC rendered by the Commercial Court on 22/06/2020 should be maintained so as to proceed with the examination of the appeal that was filed before the Commercial High Court relating to the merits of that case.

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[34] Regarding the court that should analyze the appeal lodged against the judgment n0 RCOM 00767/2020/TC, the Court finds that if the matter brought to this level had been filed as an appeal, it would have been based on paragraph 2 of article 158 of Law n° 22/2018 of 29/04/2018 relating to the civil, commercial, labour and administrative procedure reading that “if the appeal court finds that the seizure of jurisdiction at the first degree was lawful and that court declared it inadmissible when it was to receive and judge this case, the court of appeal hears the case and declares that it was of the competence of that lower court; it declares this judgment void and refers the case to the first instance court so that it hears it again on the merits”. This means that the case would have been again referred to the Commercial High Court for a hearing on the merits of the appeal filed to it. [35] However, the case was not appealed before the instant Court, rather it was lodged as injustice-related case. By the time this procedure for the review of the judgment on grounds of being vitiated by injustice was established, the idea of the Legislator was that the court that was seized through that procedure, rules on all issues in the case filed by the party, instead of providing a partial ruling and leave the remaining issues for lower courts, hence leading to potential applications for the review due to injustice for cases which should have been settled by the superior court at once. This is the position adopted in the judgment n° RS/INJUST/RC 00023/2018/SC rendered by the instant Court on 31/01/2020, for the case of Ibyisi Augustin against Kalisa Ribakare Didier and Mukantabana Clémentine. Therefore, the instant Court is the one to analyse the grounds of appeal that Sikubwabo Raphaël had filed to the Commercial High Court. [36] Regarding the damages claimed by the parties, the Court finds that they should not be examined at this level because the hearing of the case is still ongoing, so such damages will be examined together with the appeal lodged by SIKUBWABO Raphaël to the Commercial High Court. III. DECISION OF THE COURT [37] Holds that the application initiated by Sikubwabo Raphaël for review on the grounds of the injustice of the judgment n0 RCOMAA 00061/2020/CA, rendered by the Court of Appeal on 18/12/2020, is justified; [38] Holds that the claim filed by Sikubwabo Raphaël in the Commercial Court seeking the definitive suspension of the auction on the property with UPI: 1/02/13/03/115 was lodged within the prescribed time limit, and it should have been admitted; [39] Decides that the judgment RCOMAA 00061/2020/CA rendered by the Court of Appeal on 18/12/2020, as well as the previous judgment RCOMA 00398/2020/HCC rendered by the Commercial High Court on 16/07/2020, are quashed; Declares that the hearing of the case on the grounds of appeal that Sikubwabo Raphaël had filed to the Commercial High Court will be resumed on the day that will be communicated to the parties by the Registry of the Court.

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Prepared on 12 October 2026 · Esheria