

RWANDA / JUDGMENT

SONARWA GI v IRANKUNDA N'ABANDI

RCA 00016/2021/HC/NYZ

COURT

High Court

DECIDED

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SONARWA GI v IRANKUNDA N'ABANDI

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Text

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SONARWA GI v Irankunda N'ABANDI [Rwanda URUKIKO RUKURU – RCA 00016/2021/HC/NYZ (Badara, P.J.) 28 Ukwakira 2022] Amategeko y'imanza mbonezamubano – Amasezerano – Agaciro k'amasezerano y'ubwumvikane ku basaba indishyi zikomoka ku mpanuka – Mu gihe abasaba indishyi zikomoka ku mpanuka mu buryo bw'ubwumvikane bahisemo inzira y'inkiko baregera izindi ndishyi, amasezerano y'ubwumvikane basinye ntaba agifite agaciro. Incamake y'ikibazo: Ku wa 13/02/2020, mu Karere ka Kamonyi mu Murenge wa Rugarika, mu kagari ka Sheri habereye impanuka yatejwe n'Ikinyabiziga RAB 845M cyishingiwe na SONARWA GENERAL INSURANCE Ltd (SONARWA), imodoka yo mu bwoko bwa Fuso ikaba yarataye igice cy'umuhanda yagenderagamo igonga imodoka Coaster RAC178V yari itwaye abagenzi yerekeza i Karongi hapfamo abantu batandatu (6), igonga Toyota Pickup RAC 628F yaritwawe na Rukundo inayimwiciramo. Abaregera indishyi baje kwandikira SONARWA basaba ko yabaha indishyi zikomoka kuri iyo mpanuka, habaho kumvikana ariko SONARWA ntiyashyira mu bikorwa ibyo bumvikanye kuko yanze kwishyura bituma batanga ikirego mu Rukiko rwisumbuye rwa Muhanga. Urukiko rwisumbuye rwategetse SONARWA kwishyura abaregera indishyi zose hamwe zingana na miliyoni cumi na zirindwi n'ibihumbi magana atanu na mirongo itanu na bitanu

n'amafaranga magana atanu na mirongo itanu n'ane (17.552.554Frw). SONARWA ntiyishimiye iyo mikirize ajuririra mu Rukiko Rukuru avuga ko urukiko rwaciye urubanza rukagenera abarega ingano y'indishyi batasabye kandi rugena amafaranga y'ibyakoreshejwe n'amafaranga y'ikurikiranarubanza adakwiye atanatangiwe ibimenyetso. Abaregwa batanze inzitizi yo kutakira ubujurire bwa SONARWA kuko yanze kuburana mu rukiko rwabanje kandi yari yaramenyeshwe itariki y'iburanisha ikaba yarajuriye nyuma y'igihe giteganijwe. Urukiko rwasuzumye iyo nzitizi rusanga nta shingiro ifite kuko SONARWA yajuriye nyuma y'uko imenyeshwe imikirize y'urubanza bityo urubanza rukaba rugomba kuburanishwa mu mizi harebwa niba koko Urukiko rwisumbuye rwaragenye indishyi zitigeze zisabwa n'abaregwa no kureba ko abaregwa bahabwa amafaranga y'ubukererwe kubera gutinda kwishyurwa. SONARWA ivuga ko mu rukiko Rwisumbuye Irankunda yasabye indishyi mbangamirabukungu zingana na 5.739.130Frw, agaragaza n'uburyo azibara anasaba ko arizo yahabwa gusa ariko urukiko mu kuzigena rumugenera izingana na 6.212.544Frw, ibyo rero SONARWA igasaba ko hagatangwa gusa izari zasabwe. Abaregwa bavuga ko iyi ngingo y'ubujurire nta shingiro ryayo kuko indishyi mbangamirabukungu zishingira ku gipimo cy'ibitsa kandi iki gipimo kikaba gihinduka buri munsu. Iradukunda igihe yasabaga indishyi igipimo cy'ibitsa cyari ku 8% ariko umunsi umucamanza yasomyeho urubanza igipimo cy'ibitsa cyari cyahindutse ari nayo mpamvu amafaranga yasabwaga yahindutse, akaba abona umucamanza yaraciye urubanza neza uko byari bikwiye. Ku kijyanye n'amafaranga y'ubukererwe bwo gutinda kwishyurwa, abaregwa bavuga ko SONARWA ikwiriye kubaha indishyi z'ubukererwe uhereye igihe bakoreye amasezerano yo kwishyurwa ntiyubahirize kugeza igihe izabishyurira. Urega avuga ko izi ndishyi mbonezamusaruro zisabwa nta shingiro zahabwa kubera ko zitangwa iyo habaye kumvikana ku ndishyi hagati y'impande zombi maze zigatinda kwishyurwa, nibwo ugiye kwishyurwa abariwa

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0,5% buri kwezi. Ku birebana n'uru rubanza siko bimeze kuko baregeye urukiko basaba indishyi zikomoka ku mpanuka nk'uko zibarwa n'itegeko, ntabwo baregeye ko hari indishyi zumvikanwe muri transaction ngo basabe kuzishyurwa hiyongereyeho izo nyungu. Incamake y'icyemezo: 1. Igipimo cy'ibitsa ni igipimo cy'inyungu gikoreshwa mu gushyira ku gihe inyungu zigomba kuzishyurwa uwahohotewe cyangwa abafite uburenganzira ku munsi wo gutanga indishyi y'ibangamirabukungu. Icyo gipimo kingana nibura n'igipimo cy'inyungu y'ibitsa ikoresheya n'amabanki. Bityo rero indishyi mbangamira bukungu zatanze zingana na 6.212.544 Frw zikurikije amategeko kuko zashingiye kuri icyo gipimo ku munsi wo gutanga indishyi.

2. Mu gihe abasaba indishyi zikomoka ku mpanuka mu buryo bw'ubwumvikane bahisemo inzira y'inkiko baregera izindi ndishyi zitari muzu bumvikanye, amasezerano y'ubwumvikane basinye ntaba agifite agaciro. Bityo nta mpamvu abaregwa bafite yo gusaba amafaranga y'ubukererwe mu gihe amafaranga bari bumvikanye atariyo bari kuregera muri uru rubanza. Ubujurire bwatanze na SONARWA GI nta shingiro bufite; Imikirize y'urubanza RC 00095/2020/TGI/MHG ntihindutse uretse ko hiyongereyeho igihembo cy'avoka. Amategeko yashingiweho: Itegeko N°41/2001 ryo ku wa 19/09/2001 ryerekeye itangwa ry'indishyi ku bahohotewe biturutse ku mpanuka zo ku mubiri zitewe

n'ibinyabiziga, ingingo ya 4; Iteka rya Pereza No 31/01 ryo ku wa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibinyabiziga, ingingo ya 2, 20, 21, 22. Nta manza zifashishijwe. Urubanza I. IMITERERE Y'URUBANZA [1] Kuwa 13/02/2020, mu Karere ka Kamonyi mu Murenge wa Rugarika, mu kagari ka Sheri habereye impanuka yatejwe n'Ikinyabiziga RAB 845M yishingiye na SONARWA GENERAL INSURANCE Ltd, iyi modoka yo mu bwoko bwa Fuso ikaba yarataye igice cy'umuhanda yagombaga kugenderamo igonga imodoka Coaster RAC178V itwara abagenzi yajyaga i Karongi iyicamo abantu batandatu (6), iherako ako kanya igonga Toyota Pickup RAC 628F yaritwawe na Rukundo Theogene inayimwiciyemo. [2] SONARWA GENERAL INSURANCE Ltd ntabwo ihakana kuba ari yo yari yishingiye iyi modoka RAB 845M yateje iyi mpanuka kuko habayeho igikorwa cyo kumvikana mu rwego rw'ubwikiranure (Transaction) nk'uko bisabwa n'amategeko ariko SONARWA GENERAL INSURANCE Ltd ku mpamvu zayo bwite yanga kwishyura indishyi zari zumvikanyweho, bityo iba iseshe ubwo bwikiranure ku bushake bwayo bituma abagize umuryango wa nyakwigendera

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batanga ikirego mu rukiko rwisumbuye rwa Muhanga basaba indishyi zikomoka kuri iyo mpanuka. [3] Ku ruhande rwa SONARWA AG Ltd nk'umwishingizi w'ikinyabiziga cyateje impanuka, ntabwo yashoboye kugaragaza icyo ivuga kuri izi ndishyi iregwa kuko itari yatanze imyanzuro yo kwiregura, ntiyitabira inama ntegururubanza ndetse no mu gihe cy'iburanisha ntiyitaba, nyamara yarahamagawe mu buryo bukurikije amategeko, maze urubanza ruburanishwa idahari nk'uko byasabwaga n'urubande rurega kandi binateganywa n'amategeko. [4] Urukiko rwisumbuye rwa Muhanga rwaciye urubanza rutegeka ko Sosiyete y'Ubwishingizi ya SONARWA AG LTD kwishyura abarega bavuzwe haruguru, indishyi zose hamwe zingana na miliyoni cumi na zirindwi n'ibihumbi magana atanu na mirongo itanu na bitanu n'amafaranga magana atanu na mirongo itanu n'ane (17.552.554FRw). [5] Me Bagomora Charles uhagarariye SONARWA ntiyishimiye iyo mikirize ajuririra muri uru rukiko avuga ko urukiko rwaciye urubanza rukagera abaregaga ingano y'indishyi batasabye. Kuba Urukiko rwaratanze amafaranga y'ibyakoreshejwe n'amafaranga y'ikurikiranarubanza adakwiye atanatangiwe ibimenyetso. [6] Me Heron Gashugi uburanira abaregwa yatanze inzitizi yo kutakira ikirego cya SONARWA kubera ko uru rubanza rwaciye SONARWA GENERAL INSURANCE COMPANY Ltd idahari ntibyababwirwako umunsi w'iburana SONARWA GENERAL INSURANCE COMPANY Ltd yari iwuzi yanga kwitabira iburanisha ku bushake bwayo. Uyu munsi yawumenyeshejwe kuwa 02/11/2020 nk'uko "a form to warn a party" yerakana ko yasinywe na SONARWA ikanashyiraho stamp yayo. Uyu munsi w'iburanisha yawumenyeshejwe ku mpamvu y'uko n'inama ntegururubanza yari yamenyeshejwe itari yayitabiriye. Izi nyandiko zombi zimenyesha bazitanzeho ikimenyetso. SONARWA GENERAL INSURANCE COMPANY Ltd yajuriye mu rwego rwo gutinza irangiza ry'uru rubanza ikibyerekana kikaba ari uko n'inama ntegururubanza y'uru rubanza ubwarwo itayitabiriye nk'uko biri muri Pv yashyizeho iyi taliki ya 06/12/2021 ibyerekana. Ibi bikaba bituma ubu bujuzire butakwagirwa n'Urukiko Rukuru

Urugereko rwa Nyanza kuko italiki yo kuburanisha uru rubanza muri TGI SONARWA yari iyizi neza yanga kuruburana ku bushake bwayo. [7] Muri uru rubanza, ibibazo bigiye gusuzumwa ni ibi bikurikira: • Kumenya niba ikirego cya SONARWA kitagombaga kwakirwa kubera ko itariki yo kuburana urubanza bari bayizi banga kuburana. • Kumenya niba urukiko rwaciye urubanza rukagera abaregaga ingano y'indishyi batasabye. • Kumenya niba Urukiko rwisumbuye rwaratanze amafaranga y'ibyakoreshejwe n'amafaranga y'ikurikiranarubanza adakwiye kandi atanatangiwe ibimenyetso. • Kumenya niba abaregwa bahabwa amafaranga y'ubukererwe kubera gutinda kwishyurwa. • Kumenya niba hari izindi ndishyi zatangwa mu rwego rw'ubujurire.

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I. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA • Kumenya niba ikirego cya SONARWA kitaragombaga kwakirwa kubera ko itariki yo kuburana urubanza bari bayizi banga kuburana. [8] Me Heron Gashugi uburanira abaregwa yatanze inzitizi yo kutakira ikirego cya SONARWA kubera ko uru rubanza rwaciye SONARWA GENERAL INSURANCE COMPANY Ltd idahari ntibyaba urwitwazo kuko umunsi w'iburana SONARWA GENERAL INSURANCE COMPANY Ltd yari iwuzi yanga kwitabira iburanisha ku bushake bwayo. Uyu munsi yawumenyeshejwe kuwa 02/11/2020 nk'uko "a form to warn a party" yerakana ko yasinywe na SONARWA ikanashyiraho stamp yayo. Uyu munsi w'iburanisha yawumenyeshejwe ku mpamvu y'uko n'inama ntegurarubanza yari yamenyeshejwe itari yayitabiriye. Izi nyandiko zombi zimenyesha bazitanzeho ikimenyetso. SONARWA GENERAL INSURANCE COMPANY Ltd yajuriye mu rwego rwo gutinza irangiza ry'uru rubanza ikibyerekana kikaba ari uko n'Inama ntegurarubanza y'uru rubanza ubwarwo itayitabiriye nk'uko biri muri Pv yashyizeho iyi taliki ya 06/12/2021 ibyerekana. Ibi bikaba bituma ubu bujurire butakwagirwa n'Urukiko Rukuru Urugereko rwa Nyanza kuko italiki yo kuburanisha uru rubanza muri TGI SONARWA yari iyizi neza yanga kuruburana ku bushake bwayo. [9] Me Bagomora Charles uburanira SONARWA avuga ko ibihe byo kujurira SONARWA GENERAL INSURANCE COMPANY Ltd yarabyubahirije kuko urubanza rwaburanishijwe idahari rucibwa kuwa 17/12/2020, irumenyeshwa kuwa 11/02/2021, kandi ikaba itararengeje igihe cy'iminsi 30 yo kuba yamaze kujurira. [10] Urukiko rurasanga mu rukiko rwisumbuye rwa Muhanga, SONARWA yaraburanishijwe idahari kubera ko yari yamenyeshejwe itariki yo kuburana ariko ntiyitabira iburanisha. Ibyakozwe n'urukiko rwisumbuye rwa Muhanga biteganywa n'ingingo ya 56 y'itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ivuga ko iyo mu iburanisha uregwa atitabye nta mpamvu, urega ashobora gusaba ko urubanza rwimurirwa ku yindi tariki cyangwa gusaba ko ruburanishwa uregwa adahari, hasuzumwa imyanzuro yatanze. [11] Kuba SONARWA yaraburanishijwe idahari ndetse ntiyamenyeshwa itariki y'isomwa ry'urubanza, urukiko rurasanga igihe cyo kujurira cyaragomba kubarwa uherye igihe imenyesherejwe imikirize y'urubanza bigaragara ko yamenyeshejwe imikirize y'urubanza tariki ya 11/02/2021, SONARWA ijurira tariki ya 26/02/2021 saa 13:49. Ibi byerekekana ko yubahirije ibihe byo kujurira cyane ko ingingo ya 148 y'itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ivuga ko igihe ntarengwa cyo kujurira ni ukwezi kumwe (1) gitangira kubarwa kuva ku munsi umuburanyi yamenyeyeho ko

urubanza rwasomwe. • Kumenya niba urukiko rwisumbuye rwa Muhanga rwaraciye urubanza rukagera abaregaga ingano y'indishyi batasabye. [12] Nk'uko bigaragara mu rubanza rwaciye n'urukiko rwisumbuye rwa Muhanga, abaregwa bahawe indishyi zirimo indishyi z'ibangamirabukungu hashingiwe ku gipimo cy'ibitsa kingana na 7,004%.4 Ubwo indishyi z'ibangamirabukungu asaba zikaba: $(3.000\text{Frw} \times 30 \times 12 \times 22 \times 2/3): 1 + (7,044\% \times 22) = 6.212.544$ Frw. Ku bijyanye n'indishyi z'ibyakoreshejwe kubera

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urupfu rwa nyakwigendera zingana n'ibihumbi Magana cyenda (900.000Frw) gusa, izi ndishyi zose asaba yashoboye kuzitangira ibimenyetso n'ishingiro ryazo bityo ko izi ndishyi zingana na 900.000Frw zifite ishingiro. [13] Mu bujurire bwa SONARWA, uyihagarariye avuga ko mu rukiko Rwisumbuye rwa Muhanga Irankunda Souzanne yasabye indishyi mbangamirabukungu zingana na 5.739.130Frw, agaragaza n'uburyo azibara anasaba ko arizo yahabwa gusa ariko urukiko mu kuzigena mu gika cya 19 kuri page ya 7 y'urubanza rujuririrwa, Urukiko rumugenera izingana na 6.212.544Frw, nyamara rwirengagiza ko atarizo yasabye, ibyo rero SONARWA GENERAL INSURANCE COMPANY Ltd isanga ari inenge ikomeye, inyuranyije n'ibiteganywa n'ingingo ya 10 CPCCSA, iteganywa ko «Umucamanza aca urubanza ku cyasabwe cyose kandi kuri icyo cyonyine », bityo akaba asaba ko zakurwaho hagatangwa gusa izari zasabwe zingana na 5.739.130Frw. [14] Me Heron Gashugi uburanira abaregwa avuga ko iyi ngingo y'ubujurire nta shingiro ryayo kuko indishyi mbangamirabukungu zishingira ku gipimo cy'ibitsa kandi iki gipimo gihinduka buri munsu. Usibye kwirengagiza ibigendereye, SONARWA AG Ltd nk'umwishingizi izi neza ingingo ya 2 y'Iteka rya Perezida N0 31/01 ryo kuwa 25/08/2003 rishyira uburyo bwo kwishyuraho indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibinyabiziga icyo iteganywa. Iradukunda igihe yasabaga indishyi igipimo cy'ibitsa cyari ku 8% ariko umunsi umucamanza yasomyeho urubanza igipimo cy'ibitsa cyari cyahindutse ari nayo mpamvu amafaranga Iradukunda yasabaga yahindutse, akaba abona umucamanza yaraciye urubanza neza uko byari bikwiye. UKO URUKIKO RUBIBONA [15] Ingingo ya 22 y'Iteka rya Perezida No 31/01 ryo kuwa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibinyabiziga ivuga ko ibangamirabukungu rikorewe abafite uburenganzira bitewe n'urupfu rw'umuntu ritangirwa indishyi hakurikijwe umusaruro uva ku murimo umuntu atahana nk'uko ugenwa n'ingingo ya 4 y'Itegeko N°41/2001 ryo kuwa 19/09/2001 ryerekeye itangwa ry'indishyi ku bahohotewe biturutse ku mpanuka zo ku mubiri zitewe n'ibinyabiziga. Abafite uburenganzira ku buryo byumvikana ko bari batanzwe n'uwahohotewe nibo bonyine bashobora guhabwa indishyi. Amafaranga ahabwa abafite uburenganzira bose hamwe ntagomba kurenga 2/3 by'umusaruro wavuzwe ukomoka ku murimo umuntu atahana, 1/3 gisigaye kigafatwa nk'amafaranga yo kwita ku wahohotewe ubwe. Iyo uwahohotewe ukorera umushahara yari yarahagaritse akazi igihe kitarenze amezi atandatu, abafite uburenganzira be bazahabwa amafaranga hakurikijwe igihembo cye cya nyuma umuntu atahana hamwe n'imyaka ye. Iyo uwahohotewe nta murimo n'umwe ushingiye ku mwuga yakoraga, cyangwa se yakoraga gusa imirimo yo mu rugo, cyangwa iyo abafite uburenganzira be badashobora kumenya neza umusaruro we nyakuri ukomoka ku murimo, itangwa ry'indishyi rizakorwa bahereye ku

misaruro zitagaragara ikurikira: • kuva ku myaka 0 kugeza kuri 16: ntacyo, • hejuru y'imyaka F16: 1 x umushahara w'umwaka muto ntarengwa wemewe n'amategeko. Amafaranga atangwa kubera itakazwa ry'agaciro k'umukozi wo mu rugo ntashobora gutangwa hamwe n'amafaranga abarwa bahereye ku musaruro ukomoka ku murimo. Iyo uwahohotewe yakoraga umwuga wigenga, igenwa ry'umusaruro rikorwa hakurikijwe ingingo ya 4 y'Itegeko N0 41/2001 ryo ku wa 19/09/2001 ryerekeye itangwa ry'indishyi ku bahohotewe biturutse ku mpanuka zo ku mubiri zitewe n'ibinyabiziga. Indishyi

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izatangwa nk'uko bikorwa mu gutanga amafaranga (capital) hakurikijwe uburyo bukurikira: Umusaruro w'umwaka umuntu atahana w'uwahohotewe X umubare w'imyaka ashigaje kubaho akora $X \frac{2}{3} : 1 +$ (igipimo cy'ibitsa X umubare w'imyaka yo kwibeshaho). [16] Urukiko rurasanga indishyi zatanze n'urukiko rwisumbuye rwa Muhanga zari zasabwe n'abarega kubera ko bari basabye indishyi mbangamirabukungu ariko bazibara bashingiye ku gipimo cy'ibitsa cyatanze na BNR ubwo bakoraga umwanzuro wo gutanga ikirego. Nyuma icyo gipimo cy'ibitsa cyarahindutse kubera gihinduka buri kwezi byatumye hazamo ikinyuranyo. Ibi bikaba byumvikana kubera ko umucamanza ashingira ku gipimo cy'ibitsa kiriho mu gihe urubanza rucibwa nk'uko byumvikana mu ngingo ya 2 y'iteka rya Perezida rimaze kuvugwa haruguru ivuga ko Igipimo cy'ibitsa: igipimo cy'inyungu gikoreshwa mu gushyira ku gihe inyungu zigomba kuzishyurwa uwahohotewe cyangwa abafite uburenganzira ku muni wo gutanga indishyi y'ibangamirabukungu. Icyo gipimo kingana nibura n'igipimo cy'inyungu y'ibitsa ikoresheya n'amabanki. Rero indishyi mbangamira bukungu zatanze zingana na 6.212.544 Frw zikurikije amategeko. • Kumenya niba Urukiko rwisumbuye rwatanze amafaranga y'ibyakoreshejwe n'amafaranga y'ikurikiranarubanza adakwiye kandi atanatangiye ibimenyetso. [17] Nk'uko bigaragara mu rubanza rwaciye

n'Urukiko Rwisumbuye rwa Muhanga. Ku bijyanye n'indishyi z'ibyakoreshejwe kubera urupfu rwa nyakwigendera Rukundo Théogène zingana n'ibihumbi Magana cyenda (900.000Frw) gusa, izi ndishyi zose asaba yashoboye kuzitangira ibimenyetso n'ishingiro ryazo, bityo ko izi ndishyi zingana na 900.000Frw zifite ishingiro, kandi na SONARWA AG Ltd ikaba igomba kuzimwishyura. Mu bushishozi bw'Urukiko, abarega bagenerwa ibihumbi magana abiri (200.000Frw) by'ikurikiranarubanza. [18] Mu bujirire bwa SONARWA, uyihagarariye avuga ko iyo urebye amafaranga yakoreshejwe ku rupfu rwa Nyakwigendera Rukundo Théogène hasabwe amafaranga ubona akabije no kuba atakwitwa ko ari amafaranga yakoreshejwe kubera impanuka agomba gusabwa kwishyurwa nk' umwishingizi, nk'amafaranga y'amafoto na camera 106.200Frw, indabo za 180.000Frw, Fanta 432.000Frw n'ibindi, n'aho haba hari factures zagagararijwe urukiko, barasanga ari izashakishijwe hagamijwe kwibonera indonke z'umurengera, ko amafaranga yagenwe yahinduka hakagenwa akwiye. Urukiko Rwisumbuye rwa Muhanga rwatanze amafaranga y'ikurikiranarubanza angana na 200.000Frw kandi narwo rwivugiye ko atanatangiye ibisobanuro, amafaranga yo gukurikirana urubanza yaragombaga gutangwa ari uko abayasabagaba bayatangiye ikimenyetso ntashidikanywaho ko bayakoresheje koko, na cyane ko urubanza rukurikiranwa n'avoka ariyo mpamvu aba yabihereye igihembo, ku bw'ibyo rero

amafaranga 200.000Frw yatanzwe nta bimenyetso ashingiyeho ko yakurwaho. [19] Me Heron Gashugi uburanira abaregwa avuga ko mu mibare yari yumvikanyweho na SONARWA AG Ltd igihe cya transaction mu nyandiko yayo form yitwa settlement proposal, bigaragarira buri wese ko SONARWA AG Ltd yari yemeye gutanga amafaranga 805,000FRW nka “Funeral fees”. berekanye inyemezabwishyu zose z’ibyakoreshejwe, ko hakoreshejwe 1,905,200FRW. Niba SONARWA AG Ltd ubwayo yari yemeye gutanga Funeral fees zihwanye na 805,000FRW muri transaction, uno muni abayiburanira baherahe bahakana 900,000FRW yemejwe n’urukiko ku rwego rwa mbere nyuma y’amezi atanu (5) yaranze gushyira mu bikorwa ibyo yemeye muri transaction. Iyi ngingo y’ubujurire ifite inenge yo kudashyira mu gaciro ku

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bantu b’abanyamwuga kuko mbere yo kuyitegura hakagombye kuba harasubijwe ibi bibazo: Assignations zisinyweho n’abahesha b’inkiko b’umwuga zatwaye amafaranga angahe. Gushaka attestations zisaga 50 zatanzweho amafaranga y’ingendo angana iki mu gihe hari izagiye gushakirwa mu Karere ka Rusizi. Kuva mu kwezi kwa 2/2020 basiragiye muri SORAS kangahe? muri SONARWA kangahe? Mu karere ka Muhanga ni kangahe? Aha hose hatanzwe amafaranga angana iki? Guhagararira abantu 10 bakuru bari muri iyi dossier, buri wese abaza kandi asubizwa cg abazwa na we asubizwa, ibi byatwaye itumanaho ringana gute? Ibi bigaragaza ukwiringagiza imiterere y’icyitwa ikurikiranarubanza. Urukiko rwakoze kinyamwuga. Uyu muryango ushatse guhimana washyira Abavoka batatu muri ubu bujurire kandi Urukiko ntirwabavaniramo aho. Ubwo se SONARWA yaba yunguka iki? Urukiko rujuririwe ruzakoreshe ubunararibonye bwawo, bubone ko iyi ngingo y’ubujurire nayo nta shingiro ifite ndetse kubera ubu bujurire rwongere ruce SONARWA AG Ltd andi mafaranga 300,000FRW y’ikurikiranarubanza. [20] Ingingo ya 21 y’Iteka rya Perezida No 31/01 ryo ku wa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw’umubiri buturutse ku mpanuka zitewe n’ibinyabiziga ivuga ko Amafaranga atangwa ku wapfuye hamwe n’ayo gushyirwa mu bitaro yakoreshejwe mbere y’urupfũ ndetse hamwe, igihe bibaye ngombwa, n’amafaranga yo gutwara umurambo, yose azishyurwa habanje kwerekanwa ibimenyetso bihamye, hakurikijwe uko biteye mu buryo bwumvikana. Ayo mafaranga azishyurwa abazaba bayatanze, mu rugero rutarenze inshuro cumi umushahara muto ntarengwa wemewe n’amategeko. [21] Ku bijyanye n’amafranga y’ibyakoreshejwe, Urukiko rurasanga amafranga yatanzwe n’urukiko rwisumbuye rwa Muhanga yatangiwe ibimenyetso kandi ayo mafranga yakoreshejwe mu bikorwa by’ingenzi mu muhango wo gushyingura. [22] Ku bijyanye n’amafranga y’ikurikirana rubanza, urukiko rurasanga amafranga yatanzwe adakabije kuba ikirenga kubera ko abaregwa bagera kuri 14 kuba bakoresha amafaranga agera ku bihumbi magana abiri (200 000 frw) mu ikurikirana rubanza ntabwo ari ikirenga cyane ko niyo wabira umuburanyi ibihumbi icumi ayo mafranga yarenga ibihumbi magana abiri (200 000 frw). Kumenya niba abaregwa bahabwa amafranga y’ubukererwe kubera gutinda kwishyurwa. [23] Nk’uko bigaragara mu rubanza rwaciwe n’urukiko rwisumbuye rwa Muhanga, Ku bijyanye n’indishyi mbonezamusaruro za 0,5% buri kwezi z’agaciro k’indishyi zose bemeranyije na SONARWA AG Ltd yagombaga kuba yarabishyuye ku gihe ariko ntibikore, bashingiyeye ku biteganywa mu ngingo ya 20 y’iteka rya Perezida ryavuzwe haruguru, ubukererwe buvugwa muri icyo ngingo ni ububa bushingiyeye ku

masezerano y'ubwumvikane impande zombi ziba zaragiranye. Kuri uru rubanza ruregwamo SONARWA AG Ltd rero, amasezerano yari yarabanje gukorwa koko, ariko ko ubu ikirego cyatanzwe mu Rukiko bitewe no kutayubahiriza bikozwe na SONARWA AG Ltd, ntawavuga ko ayo masezerano agifite agaciro, kuko muri ayo masezerano impande zombi zari zagiranye tariki ya 17/07/2020 ariko ntiyubahirizwe, batanze igisubizo cy'uko naramuka atubahirijwe n'uruhande rurebwa nayo azaba asheshwe, bakaregera inkiko. Nta kuntu rero impande zombi zaba zarerekanye ko zisheshe amasezerano zagiranye, ngo noneho hagire uwazayasesenguramo akandi gaciro katuma hari ubicirirwa indishyi nk'uwagize ubukererwe, kuko amasezerano impande zombi zikoranye nta buryarya aba abaye itegeko hagati yabo, kandi agomba kubahirizwa nta buryarya. Nta shingiro abarega rero bafite yo kwifuza

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kugenerwa indishyi z'uko SONARWA AG Ltd yatinze kubishyura, kuko amasezerano yashehwe n'impande zombi. [24] Me Heron Gashugi uburanira abaregwa avuga ko SONARWA GENERAL INSURANCE Ltd ikwiye gutanga indishyi mbonezamusaruro zibariwe ku ijanisha rya 0,5% buri kwezi bya 17,552,554FRW nk'uko zitegetswe mu ngingo ya 20 y' Iteka rya Perezida no 31/01 ryo kuwa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibinyabiziga, akazabarwa kugeza ku munsu w'isomwa ry'urubanza. Ibi byasabwe mu rubanza rwajuririwe ariko mu gika cyarwo cya 23 urukiko ntirwabiha agaciro kandi bigaragara ko biteganyijwe mu ngingo ya 20 y' Iteka ryavuzwe hejuru. Bongeye gusaba urukiko kwita kuri uku gukerereza iyishyurwa ry'indishyi na cyane ko Irankunda Souzanne yaregeye Urukiko nyuma y'amezi 3 yinginga SONARWA AG Ltd ngo imwishyure 13,044,914 FRW ariko ikabyanga. Izi ndishyi mbonezamusaruro zikwiye kubarirwa ku ndishyi zose zemejwe n'Urukiko ari zo 17,552, 554FRW, zikabarwa buri kwezi kuwa 8/2020 kugeza urubanza rwajuririwe rusomwe n'urukiko. Buri kwezi izo ndishyi ni 17,552,554x 0,5%/mois zihwanye na 87,763FRW buri kwezi, noneho zigahera ku kwezi kwa 8/2020 kuko ariho ukwezi kwari gushize SONARWA AG Ltd ikanga kuriha indishyi ubwayo yari yiyemereye. [25] Me Bagomora uburanira SONARWA avuga ko izi ndishyi mbonezamusaruro zisabwa nta shingiro zahabwa kubera ko zitangwa iyo habaye kumvikana ku ndishyi hagati y'impande zombi maze zigatinda kwishyurwa, nibwo ugiye kwishyurwa abariwa 0,5% buri kwezi, naho ku birebana n'uru rubanza siko bimeze kuko baregeye urukiko basaba indishyi zikomoka ku mpanuka nk'uko zibarwa n'itegeko, ntabwo baregeye ko hari indishyi zumvikanywe muri transaction ngo basabe kuzishyurwa hiyongereyeho izo nyungu za 0,5% kuko batinze kuzishyurwa, iyo batanga ikirego batyo nibwo bari gukomeza gusaba ko izo nyungu zikomeza kubarwa, kuba rero atari ko ikirego cyatanzwe, ko ibyo basaba nta shingiro byahabwa. [26] Ingingo ya 20 y'iteka rya Perezida No 31/01 ryo kuwa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibinyabiziga ivuga ko hakurikijwe ingingo ya 9 y'itegeko N° 41/2001 ryo kuwa 19/09/2001 ryerekeye itangwa ry'indishyi ku bahohotewe biturutse ku mpanuka zo ku mubiri zitewe n'ibinyabiziga, uwahohotewe cyangwa, igihe atakiriho, abamufiteho uburenganzira bagomba, mbere yo gutangira kuregera indishyi, gusaba Umwishingizi indishyi, bitanyuze mu nzira z'ubucamanza no kumugezaho inyandiko zose zerekana ko ibyakwa bifite ishingiro, zirimo

n'inyandiko-mvugo igaragaza impanuka yakozwe na polisi. Mu minsi mirongo itatu ikurikira iyakirwa ry'inyandiko zose zisobanura zivugwa mu gika kibanza, Umwishingizi agomba kumenyesha usaba ko yemera uburyozwe bw'uwo yishingiye hamwe n'umubare w'amafaranga yemera gutanga. Impande zombi ziramutse zibyemeye, igihe cyavuzwe hejuru gishobora kongerwa kugira ngo habeho isuzuma ry'umuhanga cyangwa, igihe zitabyumvikanyeho, kugira ngo habeho isuzuma ry'ubucamanza. Kudafata icyemezo mu gihe cyatanzwe bifatwa nko kwanga indishyi. Umwishingizi agomba kumenyesha igitekerezo cye uwaka indishyi, mu minsi mirongo itatu ikurikira iyakirwa ry'ibaruwa yaka indishyi no kumuha amafaranga ateganijwe, iyo yemeye umubare w'amafaranga yatse. Iyo iyishyura rikererewe, agomba gutanga inyungu ingana na 0,5% kuri buri kwezi kuzuye k'ubukererwe ku mafaranga yose agomba kwishyurwa uwahohotewe.

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[27] Urukiko rurasanga amafaranga y'ubukererwe atagomba gutangwa muri uru rubanza kubera ko amasezerano y'ubwumvikane ntabwo agifite agaciro kubera ko abasabaga indishyi ku bwumvikane bahisemo inzira y'inkiko basaba indishyi zikomoka kuri iyo mpanuka. Rero nta mpamvu yo gusaba amafaranga y'ubukererwe mu gihe amafaranga bari bumvikanye atariyo bari kuregera muri uru rubanza ahubwo ubumvikane bwataye agaciro bituma biyambaza inkiko basaba indishyi zidashyingiye kuri ubwo bwumvikane. • Kumenya niba hari izindi ndishyi zatangwa mu rwego rw'ubujurire. Me Heron Gashugi uburanira abaregwa arasaba indishyi zo gusiragizwa mu manza: 1,000,000 frw, igihembo cy'avoka: 500,000 frw, Ikurikiranarubanza: 300,000 frw. [28] Me Bagomora uburanira SONARWA avuga ko uretse no kuba amafaranga asabwa nta kimenyetso na busa atangirwa, ko izi ndishyi nta shingiro zahabwa kubera ko kujurira ni uburenganzira bw'uregwa utarishimiye imikirize y'urubanza, mu gihe ibyo yakoze abyemererwa n'amategeko ndetse bikaba bishobora no kuba byahabwa ishingiro nta mpamvu yabacirirwa amafaranga. [29] Urukiko rusanga abaregwa bagomba guhabwa na SONARWA igihembo cy'avoka kingana n'ibihumbi magana atanu (500 000 fra) kubera ko SONARWA ibashora mu manza zitari ngombwa. Izindi ndishyi zisabwa n'abaregwa nta shingiro zifite kubera ko batazatangira ibimenyetso. III. ICYEMEZO CY'URUKIKO [30] RWEMEJE ko ubujurire bwatanzwe na SONARWA GI nta shingiro bufite. [31] RWEMEJE ko imikirize y'urubanza RC 00095/2020/TGI/MHG rwaciwe n'urukiko rwisumbuye rwa Muhanga idahindutse uretse ko hiyongereyeho igihembo cy'avoka kingana n'ibihumbi magana atanu (500 000 frw) SONARWA GI igomba guha abaregwa. [32] RUTEGETSE ko ingwate y'amagarama yatanzwe na SONARWA GI ihwanye n'ibyakoze muri uru rubanza.

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