

RWANDA / JUDGMENT

BOLLORE AFRICA Ltd v. SONARWA Ltd

RCOMAA 0006/13/CS

COURT

Supreme Court

DECIDED

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BOLLORE AFRICA Ltd v. SONARWA Ltd

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Text

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BOLLORE AFRICA Ltd v. SONARWA Ltd [Rwanda URUKIKO RW'IKIRENGA – RCOMAA 0006/13/CS (Hatangimbabazi, P.J., Mukamulisa na Rugabirwa, J.) 15/05/2015] Amategeko y'ubwishingizi – Amasezerano y'ubwishingizi – Ikimenyetso cy'ubwishyu – Kuba muri dosiye harimo ibimenyetso bigizwe n'inyadiko zigaragaza ko amafaranga y'ubwishingizi yishyuye, ntacyabuza ko ayasubizwa. Amategeko y'ubwishingizi – Indishyi zikomoka'igihombo – Amafaranga y'ikurikiranarubanza n'ay'igihombo cya Avoka – Kuba uwishyuzwa yandikiwe amabaruwa atandukanye n'umwishingizi, amusaba kumwishyura ariko uwishyuzwa ntabikore, agomba kubitangira indishyi z'igihombo yateje – Amafaranga y'ikurikiranarubanza hamwe n'ay'igihombo cya Avoka agenwa mu bushishozi bw'urukiko iyo ayo umuranyi asaba akabije kuba menshi Incamake y'ikibazo: SONARWA Ltd yahaye BRALIRWA Ltd ubwishingizi ku bicuruzwa ivana mu bihugu byo hanze y'u Rwanda. Muri ibyo bicuruzwa bimwe byarazimiye ibindi birangirika. SONARWA ishingiye ku masezerano y'ubwishingizi yagiranye na BRALIRWA, yishyura ibyo bicuruzwa maze ikurikirana nyirabayazana w'uho kwangirika no kuzima kw'ibyo bicuruzwa ariwe BOLLORE AFRICA (ex SDV). SONARWA irega BOLLORE mu Rukiko rw'Ubucuruzi iyisaba kuyishyura 47.900.527 frws yishyuye BRALIRWA kubera amakosa BOLLORE yakoze

nk'umwikorezi wa nyuma washyikirije BRALIRWA ibicuruzwa. Urukiko rwemeje ko ikirego cya SONARWA nta shingiro gifite kubera ko BOLLORE itari umwikorezi w'ibicuruzwa byangiritse cyangwa byabuze kandi ko itabiryoze nta bimenyetso byatanzwe bigaragaza ishingiro ry'uburyozwe. SONARWA Ltd yajuririye mu Rukiko Rukuru rw'Ubucuruzi, rwemeza ko ubujurire bufite ishingiro, ko BOLLORE igomba gusubiza sonarwa 47.900.527 frw y'indishyi n'ay'igihombo yayiteje kubera kuyivutsa inyungu. BOLLORE nayo yajuririye mu Rukiko rw'Ikirenga ivuga ko kuba nta bimenyetso bigaragaza koko ko ayo mafaranga yayishyuye, kandi ko atagomba gucibwa amafaranga y'igihombo mu gihe ntacyo ashingiyeho . . SONARWA yo ikavuga ko igihe cyose yishyuraga BRALIRWA amafaranga y'ibyishingiwe byikorewe na BOLLORE, yayihaga sheki nayo igasinya urwandiko rwitwa subrogation form ruyiha uburenganzira bwo gukurikirana nyiri amakosa ariwe BOLLORE AFRICA Ltd. SONARWA i. Ku bijyanye n'indishyi z'igihombo BOLLORE AFRICA Ltd yaciwe, iyi ivuga ko izo ndishyi ntaho zishingiye kuko nta bimenyetso byerekana ko ayo mafaranga SONARWA yayishyuraga BRALIRWA. BOLLORE ikavuga ko isanga izo ndishyi zitari ngombwa kuko icyo zishingiyeho atari ukuri. SONARWA ikavuga ko izo ndishyi z'igihombo BOLLORE yaciwe igomba kuzitanga kubera ko yanze kwishyura ku neza amafaranga yatanze ku bwikorezi bw'ibicuruzwa. BOLLORE ivuga ko itagomba gucibwa amafaranga y'ikurikiranarubanza hamwe n'ay'igihombo cya Avoka kuko ayo mafaranga atashingiye ku kuri. SONARWA yo ikavuga ko ayo mafaranga

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igomba kuyahabwa kuko Urukiko Rukuru rw'Ubucuruzi rwasanze ikirego cyayo gifite ishingiro, anasaba ko SONARWA yakwishyurwa igihombo cya avoka kuva mu Rukiko rw'Ubucuruzi kugera mu rw'Ikirenga, igasubizwa amafaranga y'ikurikiranarubanza.. Incamake y'icyemezo: 1. Mu gihe muri dosiye harimo ibimenyetso bigizwe n'amabaruwa hamwe n'inyandiko zigaragaza ko hari amafaranga umwishingizi yishyuye, nta mpamvu y'uko ayo mafaranga uwayatanze atayasubizwa nk'umwishingizi.

2. Kuba uwishyuzwa yandikiwe n'umwishingizi amabaruwa anyuranye arebana n'ariya mafaranga, iyisaba kuyishyura ariko ntibikore, ntinayihakane hakiri kare ko itazayishyura, uwishyuzwa agomba kuyatangira inyungu z'igihombo yateje umwishingizi.
3. Kuba hari ibyo umwishingizi yatanze ikurikirana uru rubanza, kubirebana n'amafaranga y'igihombo cya avoka ajyanye n'ibyakoreshejwe mu rubanza, agenwa mu bushishozi bw'Urukiko kuko ayo isaba akabije kuba menshi, ariko akiyongera kuyo yagenewe n'Urukiko Rukuru rw'Ubucuruzi. Ubujurire bw'awareze nta shingiro bufite. Ubujurire bwuririye ku bundi bufite ishingiro. Amagarama y'urubanza aherereye kuwareze. Urubanza rwajuririwe ruhindutse kuri bimwe. Nta tegeko ryashingiweho: Nta manza zifashishijwe: Urubanza I. IMITERERE Y'URUBANZA [1] Uru rubanza rwatangiriye mu Rukiko rw'Ubucuruzi, SONARWA Ltd irega SDV Transami Rwanda yahoze ari SDV Rwanda-SDV Transami Rwanda, ubu ikaba yitwa BOLLORE AFRICA LOGISTICS RWANDA LTD, iyisaba kuyishyura 47.900.527 Frw yishyuye BRALIRWA Ltd kubera amakosa SDV Transami Rwanda yakoze. Isobanura ko nyuma y'uko SONARWA ihaye umwishingizi BRALIRWA Ltd, ku bicuruzwa ivana mu bihugu

byo hanze y'u Rwanda, bimwe muri ibyo bicuruzwa byazimiye, ibindi birangirika, maze ishingiyeye ku masezerano y'ubwo bwishingizi yishyura ibyo bicuruzwa, isigarana uburenganzira (subrogation) bwo gukurikirana nyirabayazana w'uho kwangirika cyangwa kuzimira kw'ibyo bicuruzwa, ariwe SDV Rwanda, umwikorezi wa nyuma wabishyikirije BRALIRWA. [2] SDV Rwanda yisobanuye ko itakwishyura ayo mafaranga kuko itari umwikorezi, kandi ko nta n'amasezerano y'ubwikorezi yigeze igirana na BRALIRWA Ltd. Urwo Rukiko rwaciye urubanza RCOM 0790/12/TC/NYGE, rwemeza ko ikirego cya SONARWA Ltd nta shingiro gifite, kubera ko SDV TRANSAMI RWANDA/BOLLORE AFRICA Ltd itari umwikorezi w'ibicuruzwa byangiritse cyangwa byabuze, kandi ko itabiryoze nta bimenyetso byatanze

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bitagaragaza ishingiro ry'uburyozwe. Urukiko rw'Ubucuruzi rwategetse SONARWA Ltd kwishyura indishyi z'ikurikiranarubanza harimo n'igihembo cya avoka zingana na 200.000 Frw. [3] SONARWA Ltd ntiyishimiye imikirize y'urubanza, irujuririra mu Rukiko Rukuru rw'Ubucuruzi, narwo ruca urubanza RCOMA 0126/13/HCC kuwa 06/06/2013, rwemeza ko ubujurire bwa SONARWA bufite ishingiro, ko BOLLORE AFRICA LOGISTICS RWANDA Ltd (ex-SDV Transami Rwanda), ko isubiza SONARWA Ltd 47.900.527 Frw y'indishyi SONARWA Ltd yishyuye BRALIRWA Ltd, kubera amakosa yakozwe na BOLLORE AFRICA Logistics Rwanda Ltd (ex SDV Transami Rwanda) mu bwikorezi bw'ibicuruzwa byari byarafatiwe ubwishingizi, ikanayishyura 4.790.052 Frw y'indishyi z'igihombo yayiteje kubera kuyivutsa inyungu mu gihe gishize yaranze kuyisubiza amafaranga yavuzwe haruguru yishyuye BRALIRWA Ltd, ndetse ikayishyura Ltd 1.000.000 Frw y'indishyi z'ikurikiranarubanza n'ibihembo bya avoka zikubiyemo 500.000 Frw ku rwego rwa mbere na 500.000 Frw ku rwego rw'ubujurire. [4] Impamvu Urukiko Rukuru rw'Ubucuruzi rwashingiyeho rufata icyo cyemezo cy'uho SONARWA Ltd igomba gusubizwa na SDV Transami Rwanda amafaranga 47.900.527 yayishyuriye BRALIRWA Ltd, ni uko rwasanze iyangirika n'izimira ry'ibicuruzwa byayo byakagombye kuba byarahise biryozwa SDV Transami Rwanda iyo biba bitarafatiwe ubwishingizi muri SONARWA Ltd, kandi SDV Transami Rwanda mu kwiregura ikaba itarigeze igaragaza ikimenyetso kigamije kunyomoza iyo ngano y'amafaranga yishyuzwa kuko yagarukiraga gusa ku kuvuga ko ntaho ihuriye n'uburyozwe bukomoka ku masezerano itigeze ibamo, bityo ikaba igomba kuyishyura. Naho ku birebana n'indishyi zingana na 5.790.052 Frw, rwasanze uregwa atarigeze azireguraho ngo abe yagaragaza ko SONARWA itigeze igira iki gihombo isabira indishyi. [5] BOLLORE AFRICA LOGISTICS RWANDA ntabwo yishimiye icyo cyemezo, bituma ijurira mu Rukiko rw'Ikirenga ivuga ko nta kimenyetso umucamanza w'Urukiko Rukuru rw'Ubucuruzi yashingiyeho yemeza ko 47.900.527 Frw uko yasabwe na SONARWA agomba kwishyurwa, kuko nta bimenyetso bigaragaza koko ko ayo mafaranga SONARWA yayishyuye uretse kubifata uko yabisabye gusa, ko kandi BOLLORE AFRICA LOGISTICS Rwanda itagombaga gucibwa amafaranga y'igihombo, ay'igihembo cy'avoka n'ay'ikurikiranarubanza, mu gihe ayo yose ntacyo ashingiyeho. [6] Urubanza rwaburanishijwe mu ruhame kuwa 14/04/2015, BOLLORE AFRICA Logistics Rwanda iburanirwa na Me Rutembesa Phocas, naho SONARWA iburanirwa na Me Rwigamba Moly. II. IBIBAZO BIRI MU RUBANZA N'ISESENGURWA RYABYO

1. Kumenya niba hari ibimenyetso bigaragaza ko SONARWA yishyuye BRALIRWA amafaranga 47.900.527.

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- [7] Uburanira BOLLORE AFRICA LOGISTICS RWANDA avuga mu mwanzuro we, ndetse no mu iburanisha ryo mu ruhame, ko umucamanza w’Urukiko Rukuru rw’Ubucuruzi yasuzumye ibijyanye n’amafaranga, maze yemeza ko 47.900.527 Frw uko yasabwe na SONARWA agomba kwishyurwa , anavuga ko BOLLORE AFRICA LOGISTICS Rwanda ntacyo yayavuzeho ngo iyahakane cyangwa ngo igire ikindi iyavugaho, nyamara nawe mu kubyemeza, akaba ntacyo yashingiyeho kigaragaza koko ko ayo mafaranga SONARWA yayishyuye uretse kubifata uko yabisabye gusa. [8] Avuga nanone ko umucamanza yagaragaje “claims” SONARWA ivuga ko yishyuye, nyamara nta bimenyetso bihari by’ubwishyu bihura koko n’amafaranga SONARWA yishyuye ngo umuntu abe yabifata nk’ukuri. [9] Avuga ko muri dosiye hagaragaramo ibimenyetso byatanze na SONARWA bifite Annex 3 (a) kugeza kuri Annex 3 (L), bikaba byaratanze na SONARWA mu rwego rwo kwemeza ubwo bwishyu, nyamara mu gufata icyemezo, umucamanza akaba ataragaragaje ko aribyo yashingiyeho, akaba asanga ntaho bihuriye n’amafaranga bavugako yishyuye. [10] Akomeza avuga ko, ku bijyanye na “Ordonnance de Paiement” ya 26.394.823 Frw SONARWA yatanze nk’ikimenyetso ivuga ko yishyuye “claims” 002, 003 na 004, mu by’ukuri nta kigaragaza ko ari BRALIRWA yishyurwaga, ko ndetse iyo “Ordonnance de Paiement” itagaragaza uwishyurwaga uwariwe, na ” claims” zishyurwaga izarizo, ndetse icyo kimenyetso kikaba cyarakoreshejwe na SONARWA inshuro ebyiri, bikaba bisobanuye ko yishyuzwa kabiri “claims” zimaze kuvugwa 002, 003 na 004. [11] Avuga ko n’izindi “Ordonnances de Paiement” zose SONARWA yerekana nk’ibimenyetso by’uko yishyuye BRALIRWA, ari zo: iya 2.256.580 Frw, iya 516.580 Frw, iya 29.091.846 Frw, iya 15.540.130 Frw, n’iya 14.134.380 Frw, nta na hamwe bigaragara ko ayo mafaranga yishyuye BRALIRWA kuri “claim” iyo ariyo yose. Byongeye kandi “Ordonnance de Paiement” ya 2.256.580 Frw n’iya 29.091.846 Frw zikaba zarakoreshejwe kabiri nk’ikimenyetso mu kwishyura “claims” ziramutse zinahari . [12] Yongeraho ko niba hari “Subrogation forms” zasinywe hagati ya SONARWA na BRALIRWA bitareba BOLLORE AFRICA LOGISTICS Rwanda kuko byaba ari ibintu biyumvikaniyeho hagati yabo bombi. [13] Uhagarariye SONARWA avuga ko igihe cyose SONARWA yishyuraga BRALIRWA amafaranga y’ibyishingiye byikorewe na SDV yahindutse BOLLORE AFRICA LOGISTICS RWANDA Ltd, yahaga BRALIRWA sheki, hanyuma BRALIRWA igasinyira SONARWA urwandiko rwitwa ” Subrogation form” ruyiha uburenganzira bwo gukurikirana nyiri amakosa, izo sheki na subrogation forms zasinywe na BRALIRWA zikaba zigaragaza ko bakiriye amafaranga aregerwa muri uru rubanza, ari yo mpamvu yahaga SONARWA uburenganzira kuri ayo mafaranga, ko kandi izo nyandiko zatanzwe mu rubanza rujuririrwa, akaba asanga ayo mafaranga Bollore Africa Logistics Rwanda yishyuzwa asobanutse. [14] Avuga ko ibyo uburanira Bollore Africa Logistics Rwanda aburanisha by’uko ayo mafaranga yishyuzwa inshuro ebyiri atari ko bimeze, kubera ko BRALIRWA yakoze “déclaration” y’ibicuruzwa byangiritse, Bollore Africa Logistics Rwanda ikaba itarigeze

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ihakana amafaranga ahwanye n'ibyo bicuruzwa, ndetse no mu Rukiko Rukuru rw'Ubucuruzi, ikaba itarigeze ivuguruzwa ibimenyetso byatanzwe na SONARWA, akaba asanga bitakagombye kuba impamvu ituma bajurira mu gihe batigeze bashaka kubivuguruzwa. [15] Uhagarariye SONARWA asobanura ko sheki y'amafaranga 26.394.823 agizwe n'ibice bitatu, ari byo 6.195.573 Frw, 6.347.024 Frw, na 13.852.226 Frw, yose akaba yarasinyiwe n'umukozi wa BRALIRWA witwa Kariningano, ko 516.580 Frw nayo agaragazwa na "Subrogation form", naho sheki y'amafaranga 29.091.846 Frw SONARWA ikaba itayishyuze yose, bitewe n'uko harimo ayishyuwe abandi bantu batari BRALIRWA, ayo basaba akaba ari 1.429.590 Frw, 1.083.871 Frw na 950.393 Frw kuko ariyo batangiye ibimenyetso. [16] Ku bijyanye na sheki y'amafaranga 15.540.130, uhagarariye SONARWA avuga ko nayo atari ko yose bayishyuze, ahubwo bishyuze gusa 1.134.310 Frw, ariko sheki iriho amafaranga 14.134.380, yo SONARWA ikaba iyishyuze yose, ko kandi uteranyije amafaranga yose ari kuri izo "subrogation forms", usanga angana na 47.900.527 Frw yaregewe. UKO URUKIKO RUBIBONA [17] Urukiko rurasanga mu bujirire bwayo, Bollore Africa Logistics Rwanda Ltd idahakana kuba SONARWA yakwishyurwa amafaranga 47.900.527 yaba yarishyuwe BRALIRWA, kubera imizigo yayo yangiritse cyangwa ikabura igihe yari itwawe na Bollore Africa Logistics Rwanda Ltd, icyo itemera kikaba ibimenyetso bitangwa na SONARWA by'uko ayo mafaranga yishyuwe koko, ndetse bikaba binashoboka ko ayo mafaranga SONARWA ishaka kuyishyuze inshuro ebyiri. [18] Urukiko rurasanga muri dosiye y'uru rubanza, harimo inyandiko zinyuranye zijyanye n'amafaranga 47.900.527 SONARWA yishyuze BRALIRWA, by'umwihariko zijyanye na "Subrogation form" ndetse na "claims" zijyanye n'ayo mafaranga, Urukiko Rukuru rw'Ubucuruzi, rukaba rwagaragaje ko ayo mafaranga afitiwe ibimenyetso mu buryo bukurikira:

- a. Ku bijyanye na sheki y'amafaranga 26.394.823, agizwe n'ibice bitatu, ari byo 6.195.573 Frw, 6.347.024 Frw, na 13.852.226 Frw, Urukiko Rukuru rw'ubucuruzi rwagaragaje ko ayo mafaranga yishyurwaga "claims" zitandukanye, ni ukuvuga:
 - i. 6.195.573 Frw SONARWA yishyuzaga hakurikijwe ibaruwa yo kuwa 24/02/2012 (claim n°002/001/032011/TPT), uru Rukiko rugasanga dosiye y'uru rubanza igaragaza ko iyo baruwa SDV yarayakiriye kuwa 05/03/2012; ii. 6.347.024 Frw SONARWA yishyuzaga hakurikijwe ibaruwa nayo yo kuwa 24/02/2012 (claim n°003/001/032011/TPT), uru Rukiko rugasanga dosiye y'uru rubanza igaragaza ko iyo baruwa SDV yarayakiriye nayo kuwa 05/03/2012; iii. na 13.852.226 Frw SONARWA yishyuzaga hakurikijwe ibaruwa nayo yo kuwa 24/02/2012 (claim n°004/001/032011/TPT), uru Rukiko rugasanga dosiye y'uru rubanza igaragaza ko iyo baruwa SDV yakiriye nayo kuwa 05/03/2012;

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- b. Ku bijyanye na sheki y'amafaranga 2.256.580, Urukiko Rukuru rw'ubucuruzi rwagaragaje ko ayo mafaranga SONARWA yayishyuzaga hakurikijwe ibaruwa yo kuwa 24/02/2012 (claim n°006/001/032011/TPT), uru Rukiko rugasanga dosiye y'uru rubanza igaragaza ko iyo baruwa SDV yakiriye kuwa 05/03/2012;

- c. Ku bijyanye na sheki y'amafaranga 516.580, Urukiko Rukuru rw'ubucuruzi rwagaragaje ko SONARWA yayishyuzaga hakurikijwe ibaruwa nayo yo kuwa 24/02/2012 (claim n°007/001/052011/TPT), uru Rukiko rugasanga dosiye y'uru rubanza igaragaza ko iyo baruwa SDV yayakiriye kuwa 05/03/2012;
- d. Ku bijyanye na sheki y'amafaranga 29.091.846 , Urukiko Rukuru rw'Ubucuruzi rwagaragaje ko
- i. Hari 950.393 Frw SONARWA yishyuzaga hakurikijwe ibaruwa yo kuwa 24/02/2012 (claim n°008/00 1/062011/TPT), uru Rukiko rugasanga dosiye y'uru rubanza igaragaza ko iyo baruwa SDV yayakiriye kuwa 05/03/2012; ii. Hari 1.083.871 Frw SONARWA yishyuzaga hakurikijwe ibaruwa yo kuwa 24/02/2012 (claim n°009/00 1/062011/TPT), uru Rukiko rugasanga dosiye y'uru rubanza igaragaza ko iyo baruwa SDV yarayakiriye nayo kuwa 05/03/2012 iii. Hari na 1.429.590 Frw SONARWA yishyuzaga hakurikijwe ibaruwa yo kuwa 24/02/2012 (claim n°10/001/062011/TPT), uru Rukiko rugasanga dosiye y'uru rubanza igaragaza ko iyo baruwa SDV yarayakiriye nayo kuwa 05/03/2012; Ku bijyanye kandi n'ayo ayo mafaranga 29.091.846 amaze kuvugwa haruguru, Urukiko rukaba rusanga atarishyuzwaga yose nk'uko uburanira Bollore Africa Logistics Rwanda Ltd ashaka kubyumvikanisha;
- e. Ku bijyanye na sheki y'amafaranga 15.540.130 , Urukiko Rukuru rw'Ubucuruzi rwagaragaje ko SONARWA yishyuzaga gusa 1.134.310 Frw hakurikijwe ibaruwa yo kuwa 24/02/2012 (claim n°13/001/072011/TPT), SDV yakiriye kuwa 05/03/2012 nk'uko dosiye y'uru rubanza ibigaragaza, bityo rero ayo mafaranga akaba atarishyuzwaga yose nk'uko uburanira Bollore ashaka kubyumvikanisha;
- f. Naho ku bijyanye na sheki y'amafaranga 14.134.320 , Urukiko Rukuru rw'Ubucuruzi rwagaragaje ko SONARWA iyishyuzaga hakurikijwe ibaruwa yo kuwa 24/02/2012 (claim n°16/001/07201 1/TPT), uru Rukiko rugasanga iyo baruwa SDV yarayakiriye kuwa 05/03/2012 nk'uko dosiye y'uru rubanza ibigaragaza. [19] Urukiko rurasanga mu gihe muri dosiye harimo ibimenyetso Urukiko Rukuru rw'Ubucuruzi rwashingiyeho bigaragaza ko hari amafaranga SONARWA yishyuye mu mwanya wa Bollore Africa Logistics Rwanda Ltd, ibyo bimenyetso bikaba bigizwe by'umwihariko n'amabaruwa amaze kuvugwa haruguru, hamwe n'inyandiko zitwa "Subrogation form" BRALIRWA yahereyeho SONARWA uburenganzira bwo kwishyuzaga amafaranga yatanze mu mwanya wa Bollore Africa Logistics Rwanda Ltd, nta mpamvu y'uko ayo mafaranga SONARWA itayasubizwa, kuko rusanga ibyo bimenyetso Bollore Africa Logistics Rwanda Ltd ishaka guhakana mu bujuzire bwayo, bihagije mu kwerekana ko ayo mafaranga BRALIRWA

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yayishyuye koko na SONARWA, rukaba rusanga ibyo uhagarariye Bollore Africa Logistics Rwanda Ltd aburanisha by'uko "Subrogation form" zasinywe hagati ya SONARWA na BRALIRWA bitayireba nta shingiro bifite, mu gihe bigaragara ko yakiriye ayo mabaruwa (accusés de réception) yayishyuzaga ayo mafaranga, ikituramira, ntihakanire nibura SONARWA ko ayo

mafaranga atayireba. [20] Urukiko rurasanga kandi, uretse invugo gusa, uhagarariye Bollore Africa Logistics Rwanda Ltd atarashoboye kugaragariza Urukiko aho SONARWA yishyura inshuro ebyiri amafaranga yavuzwe haruguru, cyane cyane ko igiteranyo cy'ayo mafaranga nk'uko yavuzwe haruguru gihura neza na 47.900.467 Frw SONARWA yishyura, kandi hakaba ntaho bigaragara ko amafaranga abazwe inshuro ebyiri, ahubwo ari imibare inyuranye (6.195.573 Frw + 6.347.024 Frw + 13.852.226 Frw + 2.256.580 Frw + 516.580 Frw + 950.393 Frw + 1.083.871 Frw + 1.429.590 Frw + 1.134.310 Frw + 14.134.320 Frw).

2. Ku bijyanye n'indishyi z'igihombo Bollore Africa Logistics Rwanda yaciye [21] Uburanira BOLLORE AFRICA LOGISTICS RWANDA Ltd avuga mu mwanzuro we, ndetse no mu iburanisha ryo mu ruhamwe, ko Urukiko Rukuru rw'Ubucuruzi rwategetse ko itanga indishyi zingana na 5.590.052 Frw harimo n'ayo gukurikirana urubanza, kandi ntaho izo ndishyi zishingiye, mu gihe ibintu bidasobanutse, ko haramutse habonetse ibimenyetso by'uko ariya mafaranga SONARWA yayishyuraga BRALIRWA, nta kibazo bagira cyo kuyasubiza, ko ariko ubu basanga izo ndishyi zitari ngombwa kuko icyo zishingiyeho atari ukuri. [22] Uhagarariye SONARWA avuga ko indishyi z'igihombo BOLLORE AFRICA LOGISTICS RWANDA Ltd yaciye igomba kuzitanga kubera ko yanze kwishyura ku neza amafaranga 47.900.527, SONARWA ikagombera kugana inkiko. [23] Akomeza avuga ko yuririye ku bujirire bwa BOLLORE AFRICA LOGISTICS RWANDA Ltd, kugirango SONARWA ibe yakwishyurwa inyungu za 18% buri mwaka z'ayo mafaranga yagombaga kuba yarishyurwe mu mwaka wa 2011, yose hamwe, inyungu zikaba zingana na 34.488,379 Frw. UKO URUKIKO RUBIBONA [24] Urukiko rurasanga BOLLORE AFRICA LOGISTICS RWANDA Ltd, hakurikijwe imiburanire yayo, idahakana ko igomba kwishyura SONARWA amafaranga 47.900.467 na 4.790.052 y'inyungu z'igihombo yayiteje mu gihe yanze kuyisubiza amafaranga yayo yishyurwe BRALIRWA nk'uko yategetswe n'Urukiko Rukuru rw'Ubucuruzi, niba icyo ayo mafaranga ashingiyeho kiri mu kuri. [25] Nk'uko kandi byasobanuwe haruguru, Urukiko rurasanga ayo mafaranga afite ishingiro, cyane cyane ko nk'uko byavuzwe haruguru, BOLLORE AFRICA LOGISTICS RWANDA Ltd (yahoze yitwa SDV) yandikiwe na SONARWA amabaruwa anyuranye arebana n'ariya mafaranga iyisaba kuyishyura kuva yakiriye ayo mabaruwa kuwa 05/03/2012, ariko ikaba yaraterewe agati mu ryinyo ntinayihakanire hakiri kare ko itazayishyura, ikaba iyamaranye igihe kirekire, akaba ari yo mpamvu BOLLORE AFRICA LOGISTICS RWANDA Ltd igomba

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kuyatangira inyungu z'ubucuruzi za 18% zisabwa na SONARWA nk'uko yazibaze, BOLLORE ntizivuguruzwe, zikaba zingana na 34.488,379 Frw.

3. Ku bijyanye n'amafaranga y'ikurikiranarubanza n'igihombo cya avoka SONARWA isaba. [26] Uburanira BOLLORE AFRICA LOGISTICS RWANDA Ltd avuga ko kimwe no ku ndishyi z'igihombo zavuzwe haruguru, itagomba gucibwa 1.000.000 Frw y'ikurikiranarubanza n'ibihombo bya avoka kandi ayo mafaranga icyo ashingiyeho atari ukuri. [27] Uburanira SONARWA avuga ko ayo mafaranga SONARWA yagombaga kuyahabwa kuko Urukiko Rukuru

rw'Ubucuruzi rwasanze ikirego cyayo gifite ishingiro. Akomeza avuga ko yuririye ku bujurire bwa Bollore Africa Logistics Rwanda Ltd, asaba ko SONARWA yakwishyurwa igihembo cya avoka kuva mu Rukiko rw'Ubucuruzi kugera mu Rukiko rw'Ikirenga, kingana na 9.000.000 Frw hakurikijwe amabwiriza akena ibihembo by'avoka, igasubizwa n'amafaranga y'ikurikiranarubanza angana na 10.000.000 Frw ajyanye n'ingendo, telefoni, gushakisha ibimenyetso n'ibindi byakoreshejwe mu rubanza. UKO URUKIKO RUBIBONA [28] Urukiko rurasanga n'ubwo hari ibyo SONARWA yatanze ikurikiranye uru rubanza, amafaranga y'igihembo cya avoka isaba angana na 9.000.000 Frw na 10.000.000 Frw ajyanye n'ibyakoreshejwe mu rubanza akabije kuba menshi, ahubwo mu bushishozi bw'Urukiko, yagenerwa 500.000 Frw y'igihembo cya avoka na 500.000 y'ikurikiranarubanza yiyongera ku yo yagenewe n'Urukiko Rukuru rw'Ubucuruzi. III. ICYEMEZO CY'URUKIKO [29] Rwemeje ko ubujurire bwa BOLLORE AFRICA LOGISTICS RWANDA Ltd nta shingiro bufite; [30] Rwemeje ko ubujurire bwuririye ku bundi bwa SONARWA Ltd bufite ishingiro; [31] Rukijije ko BOLLORE AFRICA LOGISTICS RWANDA Ltd itsinzwe; [32] Ruyitegetse kwishyura SONARWA Ltd 47.900.527 Frw yishyuye BRALIRWA Ltd mu mwanya wayo, ikayishyura na 34.488.379 Frw y'inyungu z'ayo mafaranga asimburwa ayategetswe n'Urukiko Rukuru rw'Ubucuruzi; [33] Ruyitegetse kwishyura SONARWA 500.000 Frw y'igihembo cy'avoka na 500.000 Frw y'ikurikiranarubanza yiyongera kuyo SONARWA yagenewe n'Urukiko Rukuru rw'Ubucuruzi; [34] Rutegetse kandi BOLLORE AFRICA LOGISTICS RWANDA Ltd kwishyura amagarama y'uru rubanza; [35] Ruvuze ko urubanza rwajuririwe ruhindutse kuri bimwe;

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