

RWANDA / JUDGMENT

TRIAL SERVICES COMPANY Ltd vs GECOCCE-M ED SOLUTIONS Ltd

RS/INJUST/RCOM 00003/2024/SC

COURT

Supreme Court

DECIDED

28 March 2025

CASE / FILE NUMBER

RS/INJUST/RCOM 00003/2024/SC

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- Source: Amategeko
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- Date: 2025-03-28
- Case/document no.: RS/INJUST/RCOM 00003/2024/SC
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Text

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TRIAL SERVICES COMPANY Ltd vs GECOCCE-M ED SOLUTIONS Ltd [Rwanda URUKIKO RW'UBUJURIRE – RS/INJUST/RCOM 00003/2024/SC (Mukantaganzwa P.J., Cyanzayire na Kazungu J.) 28 Werurwe 2025] Amategeko agenga amasezerano – Inshingano – Inshingano nyamukuru y'uwakorewe imirimo (maître de l'ouvrage) ni ukwishyura igiciro cyumvikanywe, iyo nta cyateganyijwe mu masezerano, hishyurwa igiciro cyishyujwe n'uwapataniye imirimo y'ubwubatsi (entrepreneur). Incamake y'ikibazo: Uru rubanza rwatangiriye mu Rukiko rw'Ubucuruzi, nyuma yuko GMS ihawe akazi na TSC ko “gukinga inzugi n'amadirishya” ku nyubako yayo iherereye mu Kiyovu, bumvikana ko hazajya hishyurwa imirimo ikoze neza ibazwe kuri m2. GMS irega igaragaza ingano y'amafaranga ivuga ko TSC yanze kuyishyura ku neza, bituma iyirega isaba ko itegukwa kuzuza inshingano zayo ndetse ikanategukwa kuyishyura amafaranga y'ikurikiranarubanza n'igihembo cy'Avoka. TSC yireguye ivuga ko itanze kwishyura amafaranga yasigaye, ahubwo ko yandikiye ubuyobozi bwa GMS isaba kugira ibyo ikosora ku mirimo yari yakoze nabi ikabona kuyishyura, itabikora hagakurwamo amafaranga ahwanye

n'akazi katakozwe neza. Yavugaga kandi ko inyemezabwishyu ya GMS inyuranye n'ibyo bumvikanye, kuko imirimo yakozwe yari kurangira ifite agaciro ka 22.842.208 Frw aho kuba 26.953.808 Frw yishyuzwa. Urwo Rukiko rwaciye urubanza rwemeza ko ikirego cya GMS gite ishingiye, rwemeza ko TSC igomba kwishyura GMS 5.842.208 Frw y'umwenda ndetse n'izindi ndishyi zinyuranye. TSC yajuririyeye Urukiko Rukuru rw'Ubucuruzi ivuga ko Urukiko rw'Ubucuruzi rutasuzumye ikibazo cy'imirimo GMS itakoze n'igihombo byayiteje kandi byari mu myiregurire yayo. GMS ivuga ko yakoze inshingano zayo uko bikwiye ariko ntiyishyurwa amafaranga yose. Yasabye ko TSC yategakwe kwishyura 4.111.597 Frw kuko buri mucuruzi agomba gutanga TVA. Urwo Rukiko narwo rwaciye urubanza rwemeza ko ubujurire bwa TSC nta shingiro bufite, ko umusoro ku nyongeragaciro (TVA) ku bintu na serivisi utangwa n'umusoreshe wabitanze, ko kubera iyo mpamvu umusoro ku nyongeragaciro wa 4.111.597 Frw utagombaga gukurwa mu mwenda GMS yishyuzaga TSC, rutegeka TSC kwishyura GMS 4.111.597 Frw yiyongera kuri 5.842.208 Frw yagenewe mu Rukiko rw'Ubucuruzi. TSC yajuririyeye Urukiko rw'Ubujurire ivuga ko Urukiko Rukuru rw'Ubucuruzi rwafashe icyemezo rwirengagije amasezerano yo ku wa 06/01/2021, kuko mu ngingo ziyagize ntaho impande zombi zemeranyije ko mu bwishyu hagomba kwiyongeraho umusoro ku nyongeragaciro. Yongeraho kandi ko nta kimenyetso GMS yerekanye gihamya ko uwo musoro yawishyuye koko. Umwanditsi w'Urukiko rw'Ubujurire yasanze kuba indishyi zagenwe mu rubanza rujuririrwa zitageze kuri 75.000.000 Frw ateganywa n'itegeko kugira ngo ubujurire bwa kabiri bwakirwe, ari mpamvu ituma ubujurire bwa TSC butakirwa. TSC yandikiye Perezida w'Urukiko rw'Ubujurire isaba ko urwo rubanza rwaciye n'Urukiko Rukuru rw'Ubucuruzi rusubirwamo ku mpamvu z'akarengane. Perezida w'Urukiko rw'Ubujurire amaze gusuzuma ubwo busabe, yandikiye Perezida w'Urukiko rw'Ukirenga asaba ko urwo rubanza rusubirwamo ku mpamvu z'akarengane, maze nawe mu cyemezo No 041/CJ/2024 cyo ku wa 19/04/2024 yemeza ko rwongera kuburanishwa n'Urukiko rw'Ukirenga. Muri uru Rukiko, TSC ivuga ko GMS itarangije imirimo yose, ikomeza isobanura ko yandikiye GMS iyisaba gukosora iyo mirimo ariko ntiyabikora. Isoza ivuga ko TSC yari yarishyuye 17.000.000 Frw isigaye kwishyura 5.842.208 Frw yagombaga kwishyurwa ari uko imirimo ikosowe. GMS yo iburana ivuga ko yarangije imirimo yari yahawe na TSC ndetse byemezwa n'abakozi bayo baje kuyigenzura batumwe n'umuyobozi wabo. Ko TSC itari kwishyura 7.000.000 Frw ku mafaranga yari asigaye, imirimo yarakozwe nabi.

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Incamake y'icyemezo: Inshingano nyamukuru y'uwakorewe imirimo (maître de l'ouvrage) ni ukwishyura igiciro cyumvikanywe, iyo nta cyateganyijwe mu masezerano, hishyurwa igiciro cyishyujwe n'uwapataniye imirimo y'ubwubatsi (entrepreneur). Bityo igiciro TSC kigomba kwishyurwa ni ikiri kuri fagitire EBM, GMS yahaye TSC ya 26.953.805 Frw, na TVA irimo. Amategeko yashingiweho: Itegeko N° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso, Ingingo ya 4. Itegeko No 026/2019 ryo ku wa 18/09/2019 ryagenaga uburyo bw'isoresha, Ingingo ya 17. Itegeko No 22/2018 ryo ku wa 29/04/2018, ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, Ingingo ya 12. Itegeko No 37/2012 ryo ku wa 09/11/2012 rishyiraho umusoro ku nyongeragaciro, Ingingo ya 3. Code Civil Français,

Article 1791. Inyandiko z'abahanga: Benoît Khol, in *Droit de la construction*, Larcier, 2016, p.129.

Ikirego cyo gusubirishamo urubanza ku mpamvu z'akarengane nta shingiro gifite. Urubanza I. IMITERERE Y'URUBANZA [1] Ku itariki ya 06/01/2021, GMS yahawe akazi na TSC ko "gukinga inzugi n'amadirishya" ku nyubako yayo iherereye mu Kiyovu, bumvikana ko hazajya hishyurwa imirimo ikoze neza ibazwe kuri m2. TSC yabanje kwishyura avansi ya 10.000.000 Frw. Ku wa 25/06/2021, GMS yandikiye TSC iyishyura 9.953.805 Frw yari asigaye kuri fagitire yose ingana na 26.953.805 Frw habariwemo TVA, havanywemo 10.000.000 Frw ya avansi na 7.000.000 Frw yishyurwe ubwo imirimo yari imaze kurangira. [2] GMS ivuga ko TSC yanze kuyishyura ayo mafaranga ku neza, bituma iyirega mu Rukiko rw'Ubucuruzi isaba ko itegukwa kuzuza inshingano zayo ndetse ikanategukwa kuyishyura amafaranga y'ikurikiranarubanza n'igihembo cy'Avoka. [3] TSC yireguye ivuga ko itanze kwishyura amafaranga yasigaye, ahubwo ko yandikiye ubuyobozi bwa GMS isaba kugira ibyo ikosora ku mirimo yari yakozwe nabi ikabona kuyishyura, itabikora hagakurwamo amafaranga ahwanye n'akazi katakozwe neza. Yavugaga kandi ko inyemezabwishyu ya GMS inyuranye n'ibyo bumvikanye, kuko imirimo yakozwe yari kurangira ifite agaciro ka 22.842.208 Frw aho kuba 26.953.808 Frw. Yanavugaga ko igihe cyose GMS yakosora ibyo yasabwe, igatanga na fagitire ihuye n'ibiri mu masezerano, yahita yishyurwa. [4] Mu rubanza No RCOM 00885/2021/TC rwaciye ku wa 17/11/2021, Urukiko rw'Ubucuruzi rwemeje ko ikirego cya GMS gifite ishingiro, rwemeza ko TSC igomba kwishyura GMS 5.842.208 Frw y'umwenda remezo, 500.000 Frw y'igihembo cya Avoka, 40.000 Frw y'ikurikiranarubanza na 20.000 Frw y'ingwate y'amagarama ishingiyeye ku mpamvu zikurikira:

- i. Mu masezerano GMS yagiranye na TSC nta hagaragara ko ku giciro kizishyurwa hazongerwaho TVA; ii. Hashingiye ku giteranyo rusange cy'imirimo yakozwe (evaluation report) agaciro kayo ni 22.842.208 Frw, GMS igahabwa: 22.842.208 Frw-10.000.000 Frw (avansi) – 7.000.000 Frw (ubwishyu) = 5.842.208 Frw.

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- [5] TSC yajuririye Urukiko Rukuru rw'Ubucuruzi ivuga ko Urukiko rw'Ubucuruzi rutasuzumye ikibazo cy'imirimo GMS itakoze n'igihombo byayiteje kandi byari mu myiregurire yayo. [6] GMS ivuga ko yakozwe inshingano zayo uko bikwiye ariko ntiyishyurwa amafaranga yose. Yasabye ko TSC yategukwa kwishyura 4.111.597 Frw kuko buri mucuruzi agomba gutanga TVA. [7] Mu rubanza No RCOMA 00829/2021/HCC rwaciye ku wa 11/11/2022, Urukiko Rukuru rw'Ubucuruzi rwemeje ko ubujurire bwa TSC nta shingiro bufite, ko umusoro ku nyongeragaciro (TVA) ku bintu na serivisi utangwa n'umusoresha wabitanze, ko kubera iyo mpamvu umusoro ku nyongeragaciro wa 4.111.597 Frw utagombaga gukurwa mu mwenda GMS yishyuzaga TSC, rutegeka TSC kwishyura GMS 4.111.597 Frw yiyongera kuri 5.842.208 Frw yagenewe mu Rukiko rw'Ubucuruzi, runateguka TSC guha GMS 500.000 Frw y'indishyi z'ibyatakajwe mu rubanza ku rwego rw'ubujurire. [8] Urukiko Rukuru rw'Ubucuruzi rwasobanuye ko: i. Ntaho rwahera rwemeza ko hari imirimo itarakozwe na GMS Ltd kuko TSC nta kimenyetso yatanze; ii. Kuba TSC yiyemerera ko ku mwenda yari ibereyemo GMS yishyuyeho 7.000.000 Frw, ari ikimenyetso cy'uko yemera ko imirimo yakozwe neza, ndetse

ko izirikana umwenda ibereyemo GMS; iii. 4.111.597 Frw ya TVA ntiyagombaga gukurwa ku mwenda wa 26.953.808 Frw GMS yishyuzaga kuko iyi sosiyete ariyo yari fite inshingano zo gutanga uwo musoro ukomoka kuri serivisi yari yatanze nk'uko biteganywa n'ingingo ya 2 igika cya 41 y'Itegeko N° 37/2012 ryo ku wa 09/11/2012 rishyiraho umusoro ku nyongeragaciro; iv. Rwasanze 172.000.000 Frw TSC isaba ko yakwishyurwa kubera igihombo yaba yaratewe na GMS bitahabwa agaciro kuko nta kimenyetso yabitangiye. [9] Ku wa 06/12/2022, TSC yajuririye Urukiko rw'Ubujurire ivuga ko Urukiko Rukuru rw'Ubucuruzi rwafashe icyemezo rwirengagije amasezerano yo ku wa 06/01/2021, kuko mu ngingo ziyagize ntaho impande zombi zemeranyije ko mu bwishyu hagomba kwiyongeraho umusoro ku nyongeragaciro. Yongeraho kandi ko nta kimenyetso GMS yerekanye gihamya ko uwo musoro yawishyuye koko. [10] Mu cyemezo No 0170/2022/COM/GCA cyo ku wa 20/12/2022, Umwanditsi w'Urukiko rw'Ubujurire yasanze kuba indishyi zingana na 10.493.800 Frw arizo zagenwe mu rubanza rujuririrwa kandi zikaba zitageze kuri 75.000.000 Frw ateganywa n'itegeko kugira ngo ubujurire bwa kabiri bwakirwe, ari impamvu ituma ubujurire bwa TSC butakirwa kuko butari mu bubasha bw'Urukiko. [11] Ku wa 12/01/2023, TSC yandikiye Perezida w'Urukiko rw'Ubujurire isaba ko urubanza No RCOMA 00829/2021/HCC rwaciwe n'Urukiko Rukuru rw'Ubucuruzi ku wa 11/11/2022 rusubirwamo ku mpamvu z'akarengane. Perezida w'Urukiko rw'Ubujurire amaze gusuzuma ubwo busabe, yandikiye Perezida w'Urukiko rw'Ikirenga asaba ko urwo rubanza rusubirwamo ku mpamvu z'akarengane, maze mu cyemezo No 041/CJ/2024 cyo ku wa 19/04/2024 yemeza ko rwongera kuburanishwa n'uru Rukiko, ruhabwa No RS/INJUST/RCOM 00003/2024/SC. [12] Urubanza rwaburanishijwe mu ruhamwe ku wa 12/02/2025, TSC ihagarariwe na Me Tubonyamahoro Frederic, GMS ihagarariwe n'umuyobozi wayo Manzi Delvis yunganiwe na Me Sibomana Théophile,

Iryo ngingo iteganya ko “umusoro ku nyongeragaciro urihwa ku bicuruzwa cyangwa serivisi bisoreshwa, ugomba kurihwa kwa Komiseri Mukuru n'musoreshwa watanze ibintu cyangwa serivisi hakurikijwe iri tegeko.”

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maze hasuzumwa ibijyanye no kumenya niba hari imirimo itarakozwe n'agaciro kayo, niba hari umwenda TSC ibereyemo GMS n'ingano yawo, no kumenya ishingiro ry'indishyi zisabwa. II. IBIBAZO BIGIZE URUBANZA N'ISESENGURWA RYABYO

1. Kumenya niba hari imirimo itarakozwe n'agaciro kayo [13] Me Tubonyamahoro Frederic uhagarariye TSC avuga ko GMS itarangije imirimo yose, kuko mustikeri zari zashyizweho nta n'imwe ikimanitse, agaciro kazo kakaba kari hagati ya 7.000.000 Frw na 8.000.000 Frw. Akomeza asobanura ko TSC yandikiye GMS iyisaba gukosora iyo mirimo ariko ntiyabikora. Asoza avuga ko TSC yari yarishyuye 17.000.000 Frw isigaje kwishyura 5.842.208 Frw yagombaga kwishyurwa ari uko imirimo ikosowe. [14] Manzi Delvis uhagarariye GMS na Me Sibomana Théophile umwunganiye, bavuga ko GMS yarangije imirimo yari yahawe na TSC ndetse byemezwa n'abakozi bayo baje kuyigenzura batumwen'umuyobozi wabo. Bavuga ko TSC itari kwishyura 7.000.000 Frw ku mafaranga yari asigaye, imirimo yarakozwe nabi. UKO

URUKIKO RUBIBONA [15] Ingingo ya 12 y'Itegeko No 22/2018 ryo ku wa 29/04/2018, ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi nk'uko ryahinduwe kugeza ubu, iteganya ko «Urega agomba kugaragaza ibimenyetso by'ibyo aregera. Iyo abibuze, uwarezwe aratsinda. Naho uvuga ko atagitegetswe gukora icyo yategekwe gukora cyagaragajwe n'ibimenyetso agomba kugaragaza impamvu zakimukuyeho. Iyo abiburiye ibimenyetso, uwo baburana aramutsinda». [16] Ingingo ya 4 y'Itegeko N° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso, iteganya ko « Urega cyangwa utanze ikibazo agaragaza ikimenyetso cy'ibyo aregera cyangwa asaba». [17] Ibikubiye muri izi ngingo, bihura n'ibyemejwe n'Urukiko rw'Ubujurire rwo mu Mujyi wa Mons (Belgique), ku wa 03/3/2003, rwasobanuye ko umuburanyi uvuga ko hashingiwe ku masezerano, uwo baburana amugomba ibintu runaka, amafaranga cyangwa ibindi bintu by'agaciro, agomba kubitangira ikimenyetso.² [18] Ingingo ya 1791 ya Code civil y'Abafaransa iteganya ko «iyo ari inyubako igizwe n'ibice byinshi cyangwa ikorerwa ku bipimo, igenzura rishobora gukorwa kuri buri gice : rigafatwa nkiryakozwe ku bice uwakorewe imirimo yishyuye uwayimukoreye amafaranga yasezeranye gutanga akurikije ibyakozwe uko bingana³. Muri iyi dosiye iyi ngingo icyo ifasha ni uko amasezerano ababuranyi muri uru rubanza bagiranye, ateganya ko imirimo izajya ikorwa ikishyurwa ku gice gikozwe neza, kandi imirimo irangiye TSC yishyuye GMS 7.000.000 Frw, ibyo bikaba bivuze ko imirimo yari yakozwe neza, nk'uko iyi ngingo ibivuga. [19] Rusanga iyo imirimo iza kuba itarakozwe neza cyangwa yarangiye ifite inenge, cyangwa ikaba itarangiye, TSC yari yakwiyambaza inkiko isaba kubakiranura (urugero: ikirego cyihutirwa), muri urwo rwego Urukiko rugashyiraho umuhanga wari kugaragaza imirimo iteye ikibazo n'agaciro kayo; kuba itarabikoze ityo ahubwo ikagumana inyubako ikanayikorera, bivuze ko nta kibazo cy'imirimo ikoze nabi cyangwa cyo kuyirangiza cyari gihari.

2 « La partie qui prétend que son adversaire lui doit restitution de biens, espèces ou valeurs, en exécution d'un contrat, tel le prêt, supporte la charge de la preuve de l'obligation qu'elle allègue (...) » (Cour d'appel de Mons, 03/03/2003). 3 Article 1791 Code Civil Français « S'il s'agit d'un ouvrage à plusieurs pièces ou à la mesure, la vérification peut s'en faire par parties : elle est censée faite pour toutes les parties payées, si le maître paie l'ouvrier en proportion de l'ouvrage fait ».

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- [20] Urukiko rushingiye ku mategeko yagaragajwe n'ibisobanuro byatanze, rusanga TSC itarabashije kugaragaza ibimenyetso by'uko hari imirimo itarakozwe.
2. Kumenya niba hari umwenda TSC ibereyemo GMS n'ingano yawo [21] Me Tubonyamahoro Frederic uhagarariye TSC avuga ko nta mwenda TSC ibereyemo GMS, ko na 5.842.208 Frw yavuzwe hejuru yari asigaye yagombaga kwishyurwa ari uko imirimo yarangiye. Ko kuberekeye TVA, niba GMS yarapatanye nka company igiciro cyumvikanyweho cyakagombye kuba kirimo TVA, kubera iyo mpamvu akaba asanga GMS ariyo yagombaga kubazwa TVA, aho kuyibaza uwatanze akazi. [22] Manzi Delvis uhagarariye GMS na Me

Sibomana Théophile umwunganira, bavuga ko impande zombi zumvikanye ko GMS yemeye ko ariyo izagura ibikoresho byose bizakoreshwa naho TSC ikishyura TVA. [23] Bavuga ko basaba Urukiko kuzashingira ku ngingo ya 12 y'Itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi nk'uko ryahinduwe kugeza ubu, no ku Itegeko rigenga umusoro ku nyongeragaciro kuko ariryo riteganywa uwishyura umusoro uwo ariwe. UKO URUKIKO RUBIBONA [24] Ingingo ya 3, agace ka 1, y'Itegeko No 37/2012 ryo ku wa 09/11/2012 rishyiraho umusoro ku nyongeragaciro ryakoreshwaga mu 2021, ivuga ko «Umusoro ku nyongeragaciro utangwa (...) ku bintu na serivisi bisoreshwa». [25] Ingingo ya 3, igika cya 4, 1°, y'Itegeko rimaze kuvugwa iteganywa ko « umusoro ku nyongeragaciro urihwa ku bicuruzwa cyangwa serivisi bisoreshwa ugomba kurihwa kwa Komiseri Mukuru n'umusoreshwa watanze ibintu cyangwa serivisi hakurikijwe iri tegeko». [26] Ingingo ya 17 y'Itegeko No 026/2019 ryo ku wa 18/09/2019 ryagenaga uburyo bw'isoresha, igihe impande zombi zagiranye amasezerano, yateganyaga ko «Umuntu ukora ibikorwa bisoreshwa atanga inyemezabuguzi ikozwe mu buryo bw'ikoranabuhanga bwemewe n'Ubuyobozi bw'imisoro»⁴. [27] Umuhanga mu mategeko Benoît Khol⁵ avuga ko inshingano nyamukuru y'uwakorewe imirimo (maître de l'ouvrage) ari ukwishyura igiciro cyumvikanywe, iyo nta cyateganyijwe mu masezerano, hishyurwa igiciro cyishyujwe n'uwapataniye imirimo y'ubwubatsi (entrepreneur). [28] Muri iyi dosiye bivuze ko igiciro kigomba kwishyurwa ari ikiri kuri fagitire EBM GMS yahaye TSC ya 26.953.805 Frw, mu yandi magambo na TVA irimo. [29] Byongeye kandi, ku itariki ya 23/06/2021, GMS yandikiye TSC iyishyura, hanyuma umukozi wayo (wa TSC) Ndabananiye Pierre ushinze ibaruramari (comptable) yandika kuri iyo baruwa ko bashakaga "fagitire ya EBM ya RRA". Iyo fagitire bayihawe ku wa 25/06/2021, iriho igiciro cy'imirimo 26.953.805 Frw, harimo TVA ingana na 4.111.597 Frw. Urukiko rusanga rero TSC yahawe serivisi ikanisabira fagitire EBM igomba kwishyura TVA nk'uko biteganywa n'amategeko.

4 Ibi ni nabyo biteganywa n'ingingo ya 17 y'Itegeko No 020/2023 ryo ku wa 31/03/2023 rigena uburyo bw'isoresha ririhwa ubu. 5 Dans un contrat d'entreprise, l'obligation essentielle du maître de l'ouvrage consiste à payer le prix convenu ou, si rien n'a été prévu dans la convention, le prix demandé par l'entrepreneur (...) » Benoît Khol, in Droit de la construction, Larcier, 2016, p.129.

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[30] Urukiko rushingiye ku ngingo zavuzwe haruguru no ku bisobanuro byatanze, rurasanga kuri 5.842.208 Frw yagaragaye nk'umwenda TSC ibereyemo GMS hagomba kwiyongeraho TVA ya 4.111.597 Frw, umwenda wose ukangana na 9.953.805, TSC ikaba igomba kwishyura GMS.

3. Kumenya niba indishyi zisabwa n'abaturanyi muri uru rubanza zatangwa
- a. Indishyi zisabwa na TSC z'igihombo yatewe na GMS kubera imirimo itarasojwe [31] Me Tubonyamahoro Frederic uhagarariye TSC avuga ko kubera ko GMS yagombaga kurangiza imirimo ntibikore, byayiteje igihombo kingana na 80.000 Frw yagombaga kwishyurwa kuri buri cyumba, ku byumba 20, mu myaka 4 ibazwe guhera muri 2021 kugeza 2025. [32] Manzi

Delvis uhagarariye GMS na Me Sibomana Théophile umwunganira bavuga ko iki gihombo nta shingiro cyahabwa, kuko TSC itabashije kugaragaza imirimo itarakozwe cyangwa yakozwe nabi. [33] Bavuga ko uburanira TSC yivuguruza kuko hamwe avuga ko imirimo itarangiye, ubundi akavuga ko musitikeri zamanitswe nyuma zikavamo. UKO URUKIKO RUBIBONA [34] Ingingo ya 12 y'Itegeko No 22/2018 ryo ku wa 29/04/2018, ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu nk'uko ryahinduwe kugeza ubu, iteganya ko «Urega agomba kugaragaza ibimenyetso by'ibyo aregera. Iyo abibuze, uwarezwe aratsinda». [35] Urukiko rusanga nk'uko byavuzwe mu bika bibanza, TSC itarabashije kugaragaza ibimenyetso by'imirimo itarakozwe na GMS cyangwa iyakozwe nabi, bityo indishyi z'igihombo isaba ikaba itagomba kuzihabwa.

- b. Indishyi zisabwa na GMS zo gusiragizwa mu nkiko, ikurikiranarubanza n'igihembo cya Avoka [36] Manzi Delvis uhagarariye GMS na Me Sibomana Théophile umwunganira, bavuga ko kuba TSC yarashoye GMS mu manza byayiteje igihombo kuko byahagaritse imirimo yayo, ikaba isaba Urukiko rw'Ikirenga gutegeka TSC kuyishyura 200.000 Frw zo gusiragizwa mu nkiko n'ikurikiranarubanza, na 1.000.000 Frw y'igihembo cya Avoka. [37] Me Tubonyamahoro Frederic uhagarariye TSC avuga ko iyi "company" yaje muri uru Rukiko kuko yarenganyijwe, ko rero indishyi GMS iyisaba gutanga z'ikurikiranarubanza n'igihembo cya Avoka nta shingiro zifite. UKO URUKIKO RUBIBONA [38] Urukiko rusanga indishyi zijyanye n'ikurikiranarubanza n'igihembo cya Avoka GMS yaka ikwiye kuzihabwa kuko yashowe muri uru urubanza, kandi Manzi uyihagarariye akaba yaraburanye yunganiwe na Avoka, ariko kuko igihembo cya Avoka yaka ari ikirenga, akaba agomba kukigenerwa mu bushishozi bw'Urukiko, agahabwa 500.000 Frw, agahabwa na 200.000 Frw y'ikurikiranarubanza nk'uko yayasabye. III.ICYEMEZO CY'URUKIKO [39] Rwemeje ko ikirego cya Trial Services Company Ltd gisaba gusubirishamo ku mpamvu z'akarengane urubanza N° RCOMA 00829/2021/HCC rwaciwe n'Urukiko Rukuru rw'Ubucuruzi ku wa 11/11/2022, nta shingiro gifite.

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- [40] Rwemeje ko hagumye imikirize y'urubanza N° RCOMA 00829/2021/HCC rwaciwe n'Urukiko Rukuru rw'Ubucuruzi ku wa 11/11/2022. [41] Rutegetse Trial Services Company Ltd kwishyura GECOCCEMED SOLUTIONS Ltd 700.000 Frw y'igihembo cya Avoka n'ikurikiranarubanza.

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Prepared on 13 October 2026 · Esheria