

RWANDA / JUDGMENT

TRIPOD LOGISTICS Ltd N'UNDI v. CODELOC Ltd

RCOMA 00430/2022/HCC

COURT

Commercial High Court

DECIDED

13 January 2023

CASE / FILE NUMBER

RCOMA 00430/2022/HCC

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TRIPOD LOGISTICS Ltd N'UNDI v. CODELOC Ltd

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Text

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TRIPOD LOGISTICS Ltd N'UNDI v. CODELOC Ltd [Rwanda URUKIKO RUKURU RW'UBUCURUZI – RCOMA 00430/2022/HCC (Mutajiri, P.J.) 13 Mutarama 2023] Amategeko agenga imiburanishirize y'imanza – Agaciro k'amasezerano y'ubwumvikane – Inyandikompesha – Amasezerano y'ubwumvikanye ariho umukono wa noteri agomba gushyirwa mu bikorwa nk'uko impande zombi zabyumvikanye hakurikijwe amategeko agenga uburyo inyandikompesha zirangizwa – Incamake y'ikibazo: Sosiyete CODELOC yareze sosiyete TRIPOD Logistics Ltd mu Rukiko rw'Ubucuruzi ivuga ko bakoranye nayo amasezerano agamije kuyizanira imodoka yo mu bwoko bwa Caterpillar Excavator 325D, bumvikana igiciro, maze nayo irishyura ariko nyuma yaho uregwa iza kugaragaza ko itagishoboye kuyizanira iyo modoka yumvikanyweho, akaribyo byatumye irega. Urubanza rwaburanishijwe uregwa adahari kuko avuga ko atamenyeshejwe umunsi w'iburanishwa, maze Urukiko rwemeza ko (uregwa) ari we sosiyete TRIPOD Logistics Ltd igomba kwishyura CODELOC Ltd indishyi zo kwica amasezerano ku gipimo cy'inyungu zo kubitsa mu ma banki kigaragazwa muri raporo ya BNR icyo gihe. TRIPOD logistics Ltd ntiyishimiye

imikirize y'urubanza maze bajurira mu Rukiko Rukuru rw'Ubucuruzi ku mpamvu zitandukanye ziri mu rubanza, zirimo nuko hirengagijwe amasezerano y'ubwumvikane yakozwe n'impande zombi. Sosiyete CODELOC yiregura ivuga ko ibisabwa n'uregwa ko urubanza rusubizwa mu Rukiko rw'Ubucuruzi kuko kuba ataramenyeshajwe urubanza byabangamiye uburenganzira bwo kwiregura ataribyo kuko yarumenyeshajwe mu buryo bwemewe n'amategeko, bikagaragazwa n'ibimenyetso biri muri IECMS, bityo ko nta kosa Urukiko rwakoze mu kuburanisha adahari. CODELOC Ltd isanga kandi ibyo uregwa asaba ko uru rubanza rusubizwa mu Rukiko rw'Ubucuruzi nta shingiro bifite kuko yabyiyambuyeho uburenganzira mu gihe yahitagamo inzira y'ubujurire, kandi azi ko ashoboraga gusubirishamo urubanza nkuko biteganywa n'itegeko. Indi mpamvu z'ubujurire sosiyete TRIPOD yatanze ijurira, yasabaga Urukiko Rukuru rw'Ubucuruzi gusuzuma impamvu urukiko rubanza rwirengagije agaciro k'amasezerano y'ubwumvikane yabaye hagati y'ababuranyi bombi mbere yuko bajya mu manza. TRIPOD ikomeza ivuga ko mbere yo kuregana mu nkiko, ababuranyi bombi bakoze amasezerano y'ubwumvikane ariho umukono wa noteri, maze bemeza ko umwenda afite bawuvunje mo imigabane, maze akavuga ko yibaza ukuntu Umucamanza yategetse ko igomba kwishyura umwenda abereyemo CODELOC Ltd mu gihe uwo mwenda utari ukiriho kuko bumvikanye, bakorana n'amasezerano y'ubwumvikane, uwo mwenda ugahinduka imigabane.

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Incamake y'icyemezo: Amasezerano y'ubwumvikanye ariho umukono wa noteri agomba gushyirwa mu bikorwa nk'uko impande zombi zabyumvikanye hakurikijwe amategeko agenga uburyo inyandikompesha zirangizwa Ikirego nticyagombaga kwakirwa. Amategeko yashyingiweho: Itegeko N 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 241. Imanza zifashishijwe: RS/INJUST/RC 0004/16/CS rwaciwe hagati ya Mageza Emmanuel vs Murindangabo Jacob rwaciwe n'Urukiko rw'Ikirenga kuwa 30/10/2020. Urubanza I. IMITERERE Y'URUBANZA [1] Urubanza rwatangiye CODELOC Ltd irega ivuga ko ku wa 11/06/2020, yagiranye na TRIPOD Logistics Ltd amasezerano yiswe "Supplying Contract for used Caterpillar Excavator 325D", agamije kuyizanira imodoka yo mu bwoko bwa Caterpillar Excavator 325D. Ubwo ngo bumvikanye ko CODELOC Ltd yishyura US\$46,000 irabikora, ku wa 03/11/2020, TRIPOD Logistics Ltd iyimenyesha ko igiciro cy'ubwikorezi bw'iyo modoka cyiyongereyeho US\$ 3,500, cyose kiba US\$ 49,500. CODELOC Ltd yakomezaga isobanura ko yategereje ko igezwaho imodoka yayo iraheba, TRIPOD Logistics Ltd iza kugaragaza ko itagishoboye kuyizanira iyo modoka yumvikanyweho, yiyemeza gutangira kuyishyura, iyishyura US\$ 13,700, hasigara US\$ 35,800. [2] Yasobanuye ko yaje kumenya ko TRIPOD Logistics Ltd isigaye ikora ibikorwa byayo ibinyujije mu yindi sosiyete yitwa Market Impact Ltd, na yo ya Jean Claude Benimana. Ubwo ngo hafatiriwe indi modoka Market Impact yari ifite muri douane maze Jean Claude Benimana yemera ko bagirana amasezerano y'ubwumvikane Market Impact Ltd ikishyura ayo US\$ 35,800 mu mwanya wa TRIPOD Logistics Ltd, mu gihe kitarenze iminsi mirongo itatu (30) ariko, ntiyabikora. CODELOC Ltd yasabaga urukiko kurenganurwa ikishyurwa uwo mwenda. [3] TRIPOD Logistics Ltd na Market Impact Ltd ntizitabye zaramenyeshajwe maze urubanza ruburanishwa badahari.

[4] Urukiko mu guca urubanza rwasuzumye niba umwenda CODELOC Ltd yishyura ikwiye kuwishyurwa maze rushingiye ku bimenyetso byatanzwe birimo amasezerano yo kuwa 11/06/2020 yo CODELOC Ltd yagiranye na TRIPOD Logistics Ltd agamije kuzanira CODELOC Ltd imodoka yo mu bwoko Caterpillar Excavator 325D, yishyura ikiguzi yasabwe cya US\$46,000, n'inyongera yasabwe nyuma ya US\$ 3,500, cyose kiba US\$ 49,500. Ayo masezerano akaba ayarasheshwe, TRIPOD Logistics Ltd igatangira kwishyura amafaranga y'ikiguzi yahawe, ikishyura US\$ 13,700, igasigaramo US\$ 35,800, ayo mafaranga akaba agaragara kandi no mu nyandiko y'ubwumvikane yabaye hagati ya CODELOC Ltd na market impact ltd na TRIPOD Logistics Ltd zombi zihagarariwe na Jean Claude Benimana, umuyobozi wazo, aho izi sosiyete zemeye kuyishyura, by'umwihariko Market Impact Ltd, mu gihe icyaguzwe kitatanzwe, hagatangira inzira yo gusubiza ikiguzi bijyanye n'iseswa, Urukiko rwasanze iyo nzira yakomeza, TRIPOD Logistics Ltd ikishyura US\$ 35,800 y'umwenda usigaye

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ku kiguzi nkuko ariko ukishyurwa mu gaciro k'amafaranga y'u Rwanda kangana na 36.578.292 FRW. Urukiko rwategetse kandi TRIPOD Logistics Ltd na market impact ltd kwishyura CODELOC Ltd indishyi zo kwica amasezerano za 713.277 FRW zibazwe hashingiwe ku gihe gishize gihera ku gihe ubwo bwishyu bwagombaga gutangwa, ku wa 18/02/2022, no ku gipimo cy'inyungu zo kubitsa mu mabanki kigaragazwa muri raporo ya BNR cya 7,8%, $(36.578.292 \text{ FRW} \times 7,8 \times 3 \text{ mois})$: $(100 \times 12 \text{ mois})$; ikanongeraho 580.000 FRW y'indshyi z'igihembo cy'Avoka n'ikurikiranarubanza. [5] TRIPOD logistics Ltd na Market impact ltd ntibishimiye imikirize y'urubanza maze Me Nkubayingoga mu mwanya wabo ajurira avuga ko urukiko rwazasuzuma mbere ya byose niba Urukiko rubanza rwaragombaga kuburanisha urubanza uregwa ataramenyeshwe, ko Urukiko rwazasuzuma kandi amatariki yagaragajwe muri systeme niba atarateye urujijo bigatuma uregwa atabasha kwitabira iburanisha nyuma y'uho Avoka we amenyeye urubanza amaze kurubona muri kopi y'Ikirego kihutirwa cyabanje agasaba ko bamuhuza narwo, ko Urukiko kandi rwazasuzuma niba koko ibyakozwe n'urukiko rubanza byahabwa agaciro mu gihe rwagaragaje ko TRIPOD Logistics Ltd na Market impact ltd bari bahagarariwe na Me Nyangezi Bonane batahaye ububasha ndetse muby'ukuri bitaranitabiriye iburanisha, ko Urukiko kandi rwazasuzuma niba haragombaga kwirengagizwa ibikubiye mu masezerano yo kuwa 17/01/2022, ko Urukiko rwazasuzuma niba haragombaga gutangwa indishyi ku mwenda utakiriho, ko urukiko rwazasuzuma niba haragombaga gutangwa igihembo cy'avoka n'amafaranga y'ikurikiranarubanza bingana na 580,000 FRW mu gihe uwatanze ikirego yarabizi neza ko nta mwenda TRIPOD Logistics Ltd n'Umwishingizi we bamubereyemo ahubwo ko yawuguranyemo, ko Urukiko rwazasuzuma indishyi zisabwa na TRIPOD Logistics Ltd kubwo gushorwa mumanza ku maherere. [6] Uregwa mukugira icyo avuga ku mpamvu z'ubujurire, Me Mwumvira Jean Marie Vianney mu mwanya wabo avuga ko nta shingiro zifite kubera email yahamagajweho abaturanyi, zikanamenyeshwaho imyanzuro y'ibirego zatanzwe n'umuyobozi wazi sosiyete zombie, ko kandi gusaba ko urubanza rusubizwa mu rukiko rw'ubucuruzi ataribyo kuko bibujije uburenganzira bwo kurusubirishamo bemererwa n'itegeko. Asoza asaba indishyi z'ikurikiranarubanza n'igihembo cy'umu avoka. [7] Muri uru rubanza hakaba hagomba gusuzumwa niba urubanza

rwaraburanishijwe uregwa ataramenyeshajwe, gusuzuma niba amatariki yagaragajwe muri systeme atarateye Urujijo bigatuma uregwa atabasha kwitabira iburanisha, gusuzuma niba ibyakozwe n'urukiko rubanza byahabwa agaciro mu gihe rwagaragaje ko TRIPOD Logistics Ltd na Market Impact Ltd bari bahagarariwe na Me Nyangezi Bonane batahaye ububasha ndetse bitaranitabiriye iburanisha, gusuzuma niba harirengagijwe ibikubiye mu masezerano yo kuwa 17/01/2022, gusuzuma niba haratanzwe indishyi ku mwenda utakiriho, gusuzuma niba indishyi z'ikurikiranarubanza n'igihembo cy'umu avoka zitaragombaga gutangwa no gusuzuma niba indishyi zisabwa na TRIPOD LOGISTICS Ltd zifite ishingiro no gusuzuma niba n'izisabwa n'uregwa zifite ishingiro. II. ISESENGURA RY'IBIBAZO A. Ku birebana no gusuzuma urubanza rwaraburanishijwe uregwa ataramenyeshajwe

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- [8] Benimana Jean Claude n'umwunganizi we basobanura bajuriye ivuga ko nk'uko bisanzwe bigenda m'iburanisha, mbere y'uko urubanza ruburanishwa Urukiko rubanza kureba niba harabayeho koko ihamagarwa ry'ababuranyi kuburyo bukurikije amategako iyo hari umwe mu baburanyi utitabye. Muri uru rubanza rero urega CODELOC kuko yarazi neza ko ibyo asaba ntaburenganzira abifitiye yagerageje kwegera Umuhesha w'inkiko maze batekinika ko yamenyeshajwe kuri Email ariko sibyo kuko bigaragara ko bakoresheje Email zitarizo. Aha twagaragaza nk'aho bagaragaje ko bakoresheje Email ya nkubasam@yahoo.com ngo bahawe n'Umuyobozi wa TRIPOD ko ari iya avoka we nyamara sibyo kuko iyo Email ntibaho namwe nimukora verification muzahita mubibona. Email bavuga rero akaba ari Email ya Me Samuel Nkubayingoga ari nayo afite yonyine kandi iyo afite akaba ari nkubasam@yahoo.fr aha ukuba wakwibaza uwamenyeshajwe ukamuyobera. Ikindi kandi bakoresheje Email ya tritripd@gmail.com nayo itariyo kuko iyo Email ntayibaho, Urukiko nayo rwayikorera verification bityo rero ibyo uwareze yabwiye Urukiko ko uwarezwe yamenyeshajwe n'ikinyoma cyambaye ubusa cyane ko bavuga ko banahamagaye Umuyobozi wa TRIPOD kuri telefoni ngo ntiyitabe. Aha umuntu yakwibaza ati ese koko kuvuga ko iyo Email bahoreje babonye yagiye bivuga ko yageze iyo yagombaga kujya, yibaza niba yarageze kuri nyirayo niba nta accusé de réception uwayohereje yabonye imugaragariza ko uwo yayohereje yayibonye, ari nabyo biteganywa m'itegeko ry'inyandiko koranabuhanga, Urukiko kandi ruzarebe icyo bise inyandiko bamenyesherejeho Email ruzasanga nta tariki iriho igaragaza icyo gikorwa igihe cyabereye yewe ruzanasanga na Email bavuga boherejeho zituzuye, nk'aho bagaragaza ko Email yoherejweho ari nkubasam gusa, nyamara byakabaye nkubasam@yahoo.fr. Ibintu birimo amanyanga akabije cyane. Ibi rero ntagitangaje kirimo kuko bifuzaga kuburana uwo bagiranye amasezerano adahari kugirango babone uko batavugisha ukuri imbere y'Urukiko kubera ukuri bazi neza ko ayo masezerano atabemerera ibyo basaba Urukiko. [9] Bakomeza asobanura ko nk'uko babisobanuye kuwa 04/05/2022 muri Systeme, urubanza RCOM 00294/2022/TC ntabwo barumenyeshajwe yewe na Me Samuel Nkubayingoga, avoka wa TRIPOD Logistics Ltd nawe ntiyarumenyeshajwe kuko hakoreshejwe Email itariyo. Email ya nkubasam@yahoo.fr si nkubasam@yahoo.com. Izi Email zombi ziratandukanye bityo rero imenyeshwa rikaba ritarabaye. Ikindi nta election du

domicile yabaye kuburyo hagombaga kumenyeshwa Me Samuel Nkubayingoga ahubwo hagombaga kumenyeshwa nyiri urubanza. Ikindi niba telephoni y'Umuyobozi wa TRIPOD Logistics Ltd yaracyemo ntibigaragaza ko bamumenyesheje. Ikindi n'uko Sosiyete ya TRIPOD Logistics LTD ifite ibiro bizwi mu muji wa Kigali mu Nyubako ya CHIC aho ikicaroyayogikuri kiri kandi ibiro byayo bihora bikinguye tukaba tutanibaza impamvu itashyikirijwe ihamagara kuburyo busanzwe, ibyo byose bikaba bigaragaza icyari kibyihishe inyuma. Hazarebwe kandi niba ingingo ya 34 n'ya 39 za CPCCSA zivuga kubigendanye n'ihamagara niba zarubahirijwe kuko zigaragaza ko uburyo bw'ihamagara hakoreshejwe ikoranabuhanga bukorwa gusa n'Urukiko. Iyo bidashoboka nibwo Umuhesha w'inkiko yitabazwa akamenyesha uhamagarwa urwandiko rumuhamagara ku giti cye cyangwa akamenyeshwa iwe mu rugo. Niba se ibi bitarakozwe bahera bavuga ko uregwa yamanyeshejwe. Byaba ari ukwiringagiza amategeko nkana. [10] Basaza bavuga ko bagaragaje rero ko munyungu z'ubutabera no kwirinda imanza za hatu na hatu abamenyesheje babikoze kuburyo butaribwo ariko kandi dukeneye ko ubutabera butangwa buri wese akabona uburenganzira bwe ahabwa n'amategeko bityo dusaba ko inama ntegururubanza yakwimurwa kuko twabonaga bishobora kuba ariyo muri systeme cyane ko iburanisha twabonaga riteganijwe kuwa 25/05/2022. Aha rero niho duhera tugaragaza ko

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ntakigaragaza ko uregwa yamenye urwo rubanza ari nayo mpamvu twasabye ko habaho ipfundura ry'urwo rubanza mu ibaruwa yo kuwa 09/05/2022 ariko ntibyahabwa agaciro, bityo tukaba dusaba ko aya makosa yabaye ku rwego rubanza yakosorwa n'Urukiko Rukuru rw'Ubucuruzi maze rugategeka ko uru rubanza rusubira mu Rukiko rubanza rukongera kuburanishwa kuko Uregwa yabuze uburenganzira bwe bwo kwiregura ku rwego rwa mbere kandi ibigenerwa n'amategeko, bityo ko urubanza rwavaho kuko rutubahirije amategeko. [11] Me Mwumvira yiregura ko ibyerekeye kuba Urukiko rw'Ubucuruzi rwaburanishije urubanza uregwa ataramenyeshwe urubanza bityo bakaburanishwa badahari. Ibi bikaba byarabangamiye uburenganzira bwabo bwo kwiregura, bakaba basaba ko Urubanza rusubizwa mu Rukiko rw'Ubucuruzi, ataribwo kuko, nk'uko twabisobanuye mu ibaruwa yacu yo kuwa 20/05/2022, iherekejwe n'ibimenyetso bitandukanye, abaregwa bamenyeshejwe mu buryo bwemewe n'amategeko. Ibimenyetso bigaragaza ko bamenyeshejwe biri muri IECMS, bigizwe na email ya tripod3@mail.com, yahawe na Benimana Jean Claude bamaze kuvugana kuri numero ye 0788816171, bityo rero asanga nta kosa Urukiko rwakoze kuba rwarababuranishije badahari na cyane ko nawe adahakana ko bavuganye. [12] Akomeza asaza avugako CODELOC Ltd isanga kandi ibyo basaba ko Uru rubanza rusubizwa mu Rukiko rw'Ubucuruzi nta shingiro bifite kuko ibyo basaba babyiyambuyeho uburenganzira mu gihe bahitagamo inzira y'ubujurire, nyamara baziko bashoboraga "gusubirishamo urubanza" nk'uko biteganywa n'ingingo ya 142 y'itegeko no 22/2018 ryo kuwa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi. UKO URUKIKO RUBIBONA [13] Ingingo ya 12 igika cya 1 y'itegeko N° 22/2018 ryo kuwa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi nk'uko ryahinduwe kandi ryujijwe

kugeza ubu iteganya ko Urega agomba kugaragaza ibimenyetso by'ibyo aregera. Iyo abibuze, uwarezwe aratsinda. Ingingo ya 3 y'itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko Buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana. [14] Urukiko rusanga ibivugwa na yibujije inzira yemerwa n'amategeko, Benimana n'umwunganizi we bavuga ko umuhesha w'inkiko yaburanishijwe ataramenyeshjwe urubanza ihamagara ryacishijwe kuri Email ariko sibyo kuko bigaragara ko bakoresheje Email zitarizo, kuko bakoresheje Email ya nkubasam@yahoo.com ngo bahawe n'Umuyobozi wa TRIPOD ko ari iya avoka we nyamara sibyo kuko iyo Email ntibaho Email ya Me Samuel Nkubayingoga ari nayo afite yonyine kandi iyo afite akaba ari nkubasam@yahoo.fr aha ukuba wakwibaza uwamenyeshejwe ukamuyobera, ko kubera izo mpamvu urubanza rwateshwa agaciro rugasubizwa mu rukiko rw'ubucuruzi, bitahabwa ishingiro kuko, kuba inyandiko zinyuranye z'umuhesha w'inkiko zerekana ko abajuriye bamenyeshejwe n'umuhesha w'inkiko Nyirarugwiro Liliane hakoreshejwe email tritripod@3gmail.com na nkubasam@yahoo.fr nk'uko bigaragazwa na email yo kuwa kuwa 24/03/2022/5:49 PM (reba attachment 021 Tc), ibi bikuraho ibyo kuvuga ko hakoreshejwe email itariyo kuko Me Nkubayingoga nawe mu rubanza yiyemerera ko email akoresha arinkubasam@yahoo.fr. Rusanga hatagomba kugenderwa

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kubyanditswe mu butumwa uwo muhesha w'inkiko yanditse avuga ko yamenyesheje abaregwa kuri nkubasam@yahoo.com, kuko bigaragara ko ri ukwibeshya, icyingenzi akaba ari ukureba email ubutumwa bwoherejweho ariyo nkubasam@yahoo.fr aho kuba nkubasam@yahoo.com nk'uko bivugwa n'abajuriye. [15] Urukiko rusanga kandi niyo ubutumwa bwari kuba butarageze kuri nkubasam@yahoo.fr, kuba ubwo butumwa bwaherejwe no kuri email tritripod@3gmail.com, yatanze na Benimana Jean Claude amaze kuvugana n'umuhesha w'inkiko kuri nimero ye 0788816171, kuba kandi Benimana Jean Claude nawe adahakana iby'iyi email yahaye umuhesha w'inkiko, bihagije kwemeza ko abajuriye batavugaga ko batigeze bamenyeshwa ikirego cyangwa imyanzuro yacyo. [16] Urukiko rusanga kuba rero abajuriye batabasha kugaragaza ukuri n'ibimenyetso by'ibyo bavugaga ngo berekane ko batamenyeshejwe kuri email zavuzwe haruguru, ibyo bituma iyi ngingo ibatsinda nk'uko biteganwye n'ingingo ya 12 igika cya 1 y'itegeko N° 22/2018 ryo ku wa 29/04/2018 n'ya 3 y'itegeko N° 15/2004 ryo ku wa 12/06/2004 yavuzwe haruguru, kubw'izo mpamvu kuba bataritabiriye iburanisha nta mpamvu, nta makosa Urukiko rwakoze mukuburanisha urubanza badahari. B. Kubirebana no gusuzuma niba amatariki yagaragajwe muri systeme yaratarateye Urujijo bigatuma uregwa atabasha kwitabira iburanisha [17] Benimana n'umwunganizi we basobanura ko Urukiko Rukuru rw'Ubucuruzi ubwo ruzaba rwiherereye ruzarebe muri Système mu rubanza ku rwego rubanza ruzabona ko bahuje n'ikirego Me Samuel Nkubayingoga uburanira TRIPOD Logistics kuwa 03/05/2022 mbereho umunsi umwe nyuma y'uko abisabye nk'avoka wa TRIPOD kubera ko yari yaraburanye mu rubanza rw'ikirego kihutirwa RCOM 00295/2022/TC ari naho yakuye numero z'urubanza mu mizi. Avuga ko yagaragaje kandi ko urubanza rwagombaga kuburanishwa muri système harimo amatariki abiri aza kugirango imwe yo kuwa 04/05/2022 n'Inama ntegururubanza ari naho yahise yandika muri Système ku itariki ya 3/05/2022 ko iyo nama yakwimurwa igahabwa

indi tariki kugirango abashe kwiregura kuko aribwo yari bakimara kumenya urwo rubanza bongera no kubyandika kuwa 04/05/2022. Indi tariki yagaragaragamo n'iyi kuwa 25/05/2022 ari nayo bari bazi ko aribwo urubanza rutegenijwe kuburanishwa mu mizi nk'uko bigaragara muri système, yewe niyo yo kuwa 04/05/2022 nayo igaragaramo nk'itariki y'iburanisha kandi yarabandikiye ntibamusubiza ngo bamubwire itariki ya nyayo. Ibi rero byateye urujijo rukomeye cyane ari nayo mpamvu yasabye ko urubanza rwahabwa indi tariki hanyuma nabo bakabona uko bahagararira umukiriya wabo bagatanga ibisobanuro nyuma yo gukora imyanzuro. [18]

Bakomeza basobanura ko kandi muri Systeme ko urubanza bari baranditse ko ruzasomwa kuwa 25/05/2022 rutaraburanishwa nabyo bikabatera urujijo rwinshi cyane. Aya amakosa yose rero yagiye akorwa muri uru rubanza akaba yarateye ikibazo uregwa bituma adashobora kwitabira iburanisha nawe ngo yiregure kuko ntabwo hanakwitwazwa ko avoka wa TRIPOD yihuje n'ikirego kuwa 03/05/2022 urubanza ruri bube kuwa 04/05/2022 akaba atarawitabiriye wenda ngo abisobanure cyane ko yabisobanuye muri Systeme nk'uko bigaragaramo we yumvaga iburanisha riri kuwa 25/05/2022 ahubwo wenda le 04/05/2022 ari inama ntegururubanza. [19] Basaza bavugaga ko iki kibazo basaba ko uru rubanza rwasubizwa mu Rukiko rubanza rukongera kuburanishwa kuko uburenganzira bwa TRIPOD Logistics na Market Impact Ltd bwo kwiregura ku rwego rwa mbere butubahirijwe.

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[20] Kukibazo cyo kumenya impamvu batasubirishijemo urubanza, basubiza ko bo bahisemo kujurira. [21] Me Mwumvira yiregura kandi ko asanga iyi mpamvu y'ubujurire nta shingiro ifite kuko amatariki ari muri IECMS asobanutse ku byagomba gukorwa, bityo Urukiko Rukuru rw'Ubucuruzi rukaba rutareba mu mutwe w'Abarega ngo rumenye niba "baragize urujijo", cyane cyane ko baribaramenyeshewe ibihe by'iburanisha. UKO URUKIKO RUBIBONA [22] Urukiko rusanga ibivugwa na Benimana n'umwunganizi we ko amatariki yagaragajwe muri système yabateye urujijo bigatuma uregwa atabasha kwitabira iburanisha nta shingiro byahabwa kuko hagendewe ku matariki agaragara muri IECMS mu gace ka Court Session, inama ntegururubanza yagombaga kuba 22/03/2022 08:00, irimurwa ishyirwa kuwa 05/04/2022 11:00, iburanisha mu mizi rikorwa kuwa 04/05/2022 11:00 naho isomwa ry'urubanza rishyirwa kuwa 25/05/2022 (Pre-trial meeting 22/03/2022 08:00 Adjourned 03/03/2022 09:47; Pre-trial meeting 05/04/2022 11:00 Completed 22/03/2022 11:11; Hearing 04/05/2022 11:00 Completed 06/04/2022 14:30; Hearing 25/05/2022 15:00 Completed 04/05/2022 11:40 Pronouncement 25/05/2022 16:00 Completed 04/05/2022 11:41). Sisiteme igaragaza ko urubanza rwaburanishijwe kuwa 04/05/2022 11:00 aho kuri iyo tariki no kuya 25/05/2022 nk'uko bigaragara muri sisiteme, kuko iyo usomye inyandikomvugo y'iburanisha ryo kuwa 04/05/2022 11:00 igaraza ko urubanza ruzasomwa kuwa 25/05/2022, ahubwo bigaragara ko umwanditsi w'urukiko yakozwe ikosa ryo kuvuga ko iburanisha rizakorwa kuwa 25/05/2022, ariko na none ibyo bikaba ataribyo byarikubuza Me Nkubayingoga, nk'uwari wamaze guhuzwa na sisiteme yasobaga ibyabereye mu rubanza akaba atagomba kwitiranya inama ntegururubanza n'iburanisha mu mizi na cyane ko byakozwe amatariki atandukanye kuko inama ntegururubanza yakozwe 05/04/2022 11:00 naho iburanisha rikorwa hashize

ukwezi kuwa 04/05/2022 11:00. [23] Rusanga ibyo Me Nkubayingoga avuga ko yandikiye urukiko arusaba ko inama ntegurarubanza yo kuwa 3/05/2022 yakwimurwa igahabwa indi tariki kugirango abashe kwiregura kuko aribwo yari akimara kumenya urwo rubanza, ko ndetse yongeye kubandikira kuwa 04/05/2022, nta shingiro byahabwa kuko nk'uko byasobanuwe ko nka avoka warumaze guhuzwa n'urubanza yasomaga ibiri kurukorwaho byose, kuba nta nama ntegurarubanza yigeze iteganywa tariki 3/05/2022 ndetse akaba nta n'ikimenyetso agaragaza cy'uko kuri iyo tariki 3/05/2022 hari icyo yandikiye urukiko, kuko ibarwa ye ya mbere yanditse ari iyo kuwa 04/05/2022 13:24, asaba ko inama ntegurarubanza y'ejo (ubwo ni ukuvuga 05/05/2022) yasubikwa kuko atabashije kwiregura urubanza, yabikoze ari uburyo bwo gushaka kujijisha urukiko kuko bigaragara ko ibarwa yo gusubikisha inama ntegurarubanza yayanditse hashize ukwezi iyo nama ikozwe kuko yakozwe kuwa 05/04/2022 11:00. Rusanga ahubwo umunsi yandikiyeho iyo baruwa kuwa kuwa 04/05/2022 13:24 ariyo tariki urubanza rwaburanishijwe mu mizi kuko rwaburanishijwe 04/05/2022 11:00, bigaraagira ko yanditse iyo barwa hashize amasaha abiri n'iminota 24 urubanza rupfundikiwe, ibyo byose kandi akaba yarabibonaga kuko yari yamaze guhuzwa na sisiteme, nk'umunyamwuga, Me Nkubayingoga akaba yaragombaga kwitabira iburanisha niba hari ikibazo yagize akaba yakimenyesha urukiko aho kwandika muri sisiteme ajijisha yitiranya imana ntegurarubanza n'iburanisha mu mizi ry'urubanza.

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[24] Urukiko rusanga kuba rero abajuriye batabasha kugaragaza ukuri n'ibimenyetso by'ibyo bavugaga ngo berekane ko amatariki y'iburanisha ateye urujijo koko nk'uko babiburanisha, ibyo bituma iyi ngingo ibatsinda nk'uko biteganwye n'ingingo ya 12 igika cya 1 y'itegeko N° 22/2018 ryo ku wa 29/04/2018 n'ya 3 y'itegeko N° 15/2004 ryo ku wa 12/06/2004 yavuzwe haruguru. C. Kubirebana no gusuzuma ibyakozwe n'urukiko rubanza byahabwa agaciro mu gihe rwagaragaje ko TRIPOD LOGISTICS Ltd na Market Impact Ltd bari bahagarariwe na Me Nyangezi Bonane batahaye ububasha [25] Benimana n'umwunganizi we basobanura ko Urukiko Rubanza mu guca Urubanza rugaragaza amarangamutima yarwo rwagaragaje ko Abaregwa bahagarariwe na Me Nyangezi Bonane nyamara ruzeze ku gika cya 2 rurivuguruzwa ruvuga ko abaregwa ko batitabye kandi baramenyeshejwe kuri Email n'ubwo zitarizo twagaragaje ko batamenyeshejwe. Aha rero kuba byonyine uru rubanza ubwarwo rugaragaramo kwivuguruzwa k'Urukiko bigaragaza ko nta mpamvu na busa zashingiweho hafatwa icyemezo icyaricyo cyose ari nayo mpamvu dusaba ko icyemezo cyafashwe gikurwaho n'Urukiko Rukuru rw'Ubucuruzi mu rwego rwo gukosora bene aya makosa aba yakozwe. [26] Me Mwumvira yiregura ko ku byerekeye gusuzuma niba koko ibyakozwe n'urukiko rubanza byahabwa agaciro mu gihe rwagaragaje ko TRIPOD Logistics Ltd na Market Impact Ltd bari bahagarariwe na Me Nyangezi Bonane batahaye mandate ndetse muby'ukuri bitaranitabiriye iburanisha. CODELOC Ltd isanga iyi mpamvu y'ubujurire nayo nta shingiro ifite kuko Urukiko rwasobanuye ko abarega baburanishijwe badahari kandi baramenyeshejwe urubanza (reba RCOM 00294/2022/TC, p. 1, no 2). Kuba Urukiko rwakwibeshya rukandika izina rya avoka ritiriryo, abarega barigukurikiza ibyo amategeko

ateganya ku byerekeye gukosoza amakosa ari mu rubanza. UKO URUKIKO RUBIBONA [27] Urukiko rusanga ibivugwa na Benimana n'umwunganizi we ko hasuzumwa niba ibyakozwe n'urukiko rubanza byahabwa agaciro mu gihe rwagaragaje ko TRIPOD Logistics Ltd na Market Impact Ltd bari bahagarariwe na Me Nyangezi Bonane batahaye ububasha, bitahabw aishingiro kuko kuba urukiko rw'ubucuruzi mu gika cya 2 cy'urubanza rujuririrwa rwarasobanuye ko TRIPOD Logistics Ltd na Market Impact Ltd zititabye zaramenyeshye hakoreshejwe e-mail umuhesha w'inkiko yahawe n'umuyobozi wazo (nkubasam@yahoo.fr na tritripod3@gmail.com), nta n'imyanzuro zatanze, ko urubanza ruburanishwa badahari, kuba kandi nta myanzuro ya Me Nyangezi Bonane igaragara muri urwo rubanza ndetse no mw'iburanisha akaba atagaragaramo, bigaragara ko mu kwandika mu mwirondoro w'abaregwa ko baburanirwa na Me Nyangezi Bonane ari ukwibeshya k'urukiko kwabayeho, ariko bitanagira icyo byangiriza cyangwa bihindura k'urubanza mu gihe cyose urukiko rwasobanuye ko abaregwa baburanishijwe badahari nta n'imyanzuro bakoze. D. Kubirebana no gusuzuma niba Urukiko rwariyengagije ibikubiye mu masezerano yo kuwa 17/01/2022 [28] Benimana n'umwunganizi we basobanura ko Urukiko Rukuru rw'Ubucuruzi ruzarebe ubwo ruzaba rwiherereye amasezerano impande zombi nyuma y'ibiganiro bitandukanye no

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kugaragaza buri ruhande ibyo rwahombye yabayeho y'ubwumvikane kuwa 17/01/2022 maze bumvikana uburyo icyo kibazo bagikemuye. Harebwa uko CODELOC Ltd yasubizwa amadorari yari yatanze angana na 35,800 USD kuko imashini yaje bakanga kuyakira ikagurishwa abandi. Muri ayo masezerano rero bumvikanye ko mu rwego rwo kwishyura hari indi mashini yatumiye hanzu na TRIPOD Logistics Ltd ifite agaciro ka 70,000 USD yo mu bwoko bwa KOMATSU pc 220-6 Excavator VIN NO DB80625, ifite moteri no SA6D102E yakozwe mu mwaka wa 2014. Iyi mashini rero ikaba yari muri Gasutamo yanditse ku mazina ya Benimana Jean Claude/ Market Impact Ltd sosiyete nayo ye yashinzwe mu rwego rwo gutumiza, gucuruza no gukodesha imashini zikora ibikorwa bitandukanye. Bumvikanye rero ko mu rwego rwo kurangiza burundu ikibazo cy'ubwishyu cy'amadorari CODELOC Ltd yari yatanze ko yahindurwamo imigabane ihwanye nayo kuri ya mashini nshya yari yaratumijwe iri muri Gasutamo. Ibi bishaka kuvuga ko imashini yatumiye na Benimana Jean Claude/ Market Impact Ltd yari ifite agaciro k'amadorari 70,000 USD, CODELOC Ltd yahise iyigiraho uburenganzira bungana na 51% bihwanye na 35,800 USD yari yarahaye TRIPOD Logistics Ltd, naho TRIPOD Logistics igira agaciro ka 41% bihwanye na 34,200 USD. [29] Basaza bavugaga ko bumvikanye kandi ko imashini iramutse CODELOC Ltd igurishijwe yazahabwa 51% yayo yagurishijwe asigaye agahabwa TRIPOD Logistics Ltd. Aha wakwibaza ukuntu Umucamanza yagiye gutegeka ko TRIPOD Logistic na Market Impact Ltd bagomba kwishyura umwenda babereyemo CODELOC Ltd mu gihe iwo mwenda utari ukiriho. Uwo mwenda wahindutse imugabane kuri iyo mashini bari basigaye kumvikana uko bafungura Sosiyete ihuriweho n'impande zombie hakurijwe imigabane ya buri muntu. [30] Basaza basobanura ko impande zombie kandi muri aya amasezerano zagaragaje ko arizo zifite uburenganzira kurusha abandi bose bagura iyo mashini ko igihe cyose umwe mubayagiranye

aramutse abonye amafaranga mbere yayatanga akayigiraho uburenganzira bwose mbere y'uko yagurishwa undi. Banarebye kandi igihombo yaba irimo kubateza kubera parking muri Gasutamo maze bumvikana ko uwaba afite amafaranga yo kuyisorera yabikora maze imashini igasohoka ikajya mu kazi maze amafaranga yakorera bwa mbere hakabanza kuyishyura uwayatanze kugeza amazemo amafaranga yose yayitanzeho, noneho yagurishwa hakabazwa gukuramo amafaranga yayitanzweho mu rwego rwo kuyifata neza (Gukoresha Service) hanyuma asigaye bakayagabana bakurikije imigabane yabo ya 51% kuri CODELOC Ltd na 49% kuri TRIPOD Logistics Ltd. [31] Na none bavuga ko amasezerano agaragaza neza ko CODELOC Ltd ifite uburenganzira 100% ku mashini bityo ikaba itasaba ko yakwishyurwa umwenda wamaze kuvaho wahinduwe imigabane ifite kuri iyo mashini, aha byumvikana neza ko ikirego cyatanzwe na CODELOC Ltd ari sans objet kuko ntawaregera umwenda wavuyeho akaregera amafaranga afite deja. Kugeza ubu nta mwenda TRIPOD Logistics Ltd ibereyemo CODELOC Ltd kuko uwo mwenda wahinduwe imigabane 51% CODELOC Ltd ifite kuri iyo mashini, ariko isesengura ryakozwe n'urukiko rubanza kuri ayo masezerano ntirumvikana kuvuga ko TRIPOD Logistics Ltd ibereyemo umwenda CODELOC Ltd ntabwo twe twumva aho Urukiko rwabivanye habayeho kwirengagiza nkana. Aha wakwibaza Amasezerano impande zombi zakoreye imbere ya Noteri akemura ikibazo bari bafitanye agaciro Umucamanza yayahaye nyamara agaragaza mu cyemezo cye ko yabayeho ariko yarangiza akivuguruzwa agategeka ko habaho kwishyura umwenda wamaze kuvaho. Iyo rero turebye ayo masezerano ahubwo dusanga ari ntayegayezwa kuko afite ingufu zingana n'izurubanza rwaciwe bwa mbere n'ubwa nyuma kuko impande zombi

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zayashyizeho umukono zibyumvikanyeho ariko umuntu yakwibaza Umucamanza icyo yahereyeho ayaca uruhande bikakuyobera. Ni muri urwo rwego rero nyuma y'ibisobanuro byose twatanze dusaba ko icyemezo cyafashwe n'Urukiko rubanza gikurwaho kuko kirenganya kandi kibogamye kuko kitagendeye kumasezerano y'impande zombi bagiranye. [32] Basoza bavuga ko hazarebwe kandi ibiteganywa n'ingingo ya 64 y'Itegeko rigenga amasezerano icyo ivuga. Amasezerano aba itegeko kubayegiranye kandi aya amasezerano impande zombi zashyizeho umukono n'itegeko hagati yabo bityo nta mpamvu y'uko TRIPOD Logistics yategekwe kwishyura umwenda wamaze kuvaho ugahindurwa mu migabane nk'uko bisabwa na CODELOC Ltd kuko ikirego cye ni sans objet arasaba ibyo afite kandi ntawamwishyura ayo masezerano yakorewe imbere y'urwego rubifitiye ububasha taravuyeho cyangwa ngo aseswe binakozwe byaba bikozwe mu buryo bunyuranije n'amategeko. [33] Me Mwumvira yiregura ko isanga ibyo abarega bavuga ko hirengagijwe amasezerano yo kuwa kuwa 17/01/2022 nta shingiro bifite kuko, nk'uko twabigaragarije Urukiko rw'Ubucuruza, Abarega batigeze bayashyira mu bikorwa kuko a) iyo migabane ivugwamo yari yatanze nk'ingwate ku mashini ariko abarega banga ko byandikwa mu byangombwa by'iyi mashini kugira ngo koko bigaragare ko CODELOC Ltd iyifiteho uruhare; b) impande zombi ziyemeje ko imashini iba yagurishijwe mu gihe kitarenze iminsi 30, ni ukuvuga kuwa 17/02/2022 kugira ngo CODELOC yishyurwe, nyamara Abarega babangamira igurishwa ryayo. Bityo rero, ayo masezerano ntabwo yashoboye gushyirwa mu bikorwa hitabazwa Urukiko. [34] Ku kibazo cyo kumenya impamvu ki, bagarutse kurega kandi harabye amasezerano yo

kwikiranura, asubiza ko hasuzumwe ayo masezerano basanga kuyashyira mu bikorwa bitari gushoboka, kuko harimo ingingo nyinshi zivuguruzanya, nkaho bavuga ko bamuhaye imigabane ku mashini, ahandi ko nibamara kugurisha imodoka imigabane azayasubiza. UKO URUKIKO RUBIBONA [35] Ingingo ya 83, igika cya 4 y'itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu Impamvu ituma ikirego kitakirwa ni ingingo yose isaba kutakira ikirego cy'umuburanyi, hatinjiwe mu mizi yacyo, kubera ko adafite uburenganzira bwo kurega, nko kuba adafite ububasha n'inyungu zo kurega, ubusaze bw'ikirego, kurenza igihe cyo kurega, urubanza rwabaye itegeko cyangwa kudatanga amagarama, harabayeho amasezerano yo kwikiranura cyangwa iyo hari imihango itarubahirijwe iteganywa n'itegeko. Ingingo ya 241, 6° y'iryo tegeko yo iteganywa ko Inyandikompesha ni inyandiko zishingiye ku byemezo by'inzego zibifitiye ububasha cyangwa byemeranyijweho n'abo bireba, zishobora kurangizwa ku gahato zimaze kugenzurwa no kwemezwa n'umwanditsi w'urukiko, cyangwa undi mukozi ubifitiye ububasha. Inyandikompesha ni izi zikurikira: 6° amasezerano yo kwikiranura yakorewe imbere ya noteri; [36] Urukiko rusanga kuwa 17/01/2022, CODELOC Ltd ihagarariwe na Munezero Ntabwoba na Market Impact Ltd & TRIPOD Logistics Ltd zihagarariwe na Benimana Jean Claude harabayeho amasezerano y'ubwumvikane bwo gusubiza CODELOC Ltd amadorari ibihumbi mirongo itatu na bitanu na Magana inani (35,800 USD) yari yaratanzeho comande ya Excavator, ayo masezerano akaba yaranashyizweho umukono na noteri Mugiraneza Marie Amabilis ku itariki yavuzwe haruguru, kuba impande zifitanye ikibazo zaramaze kugikemura biciye mu

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masezerano amaze kuvugwa, kugaruka kuregera icyo kibazo bikaba binyuranye n'ibiteganywa n'ingingo ya 83, igika cya 4 y'itegeko No 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, isobanura neza ko iyo habayeho bene ayo masezerano ikirego kitagomba kwakirwa mu rukiko, bityo urukiko rubanza rukaba rutaragombaga kwakira ikirego ngo rwongere kugisuzuma bundi bushyashya. [37] Urukiko rusanga ayo masezerano ariyo agomba gushyirwamu bikorwa kuko kuba ariho umukono wa noteri afite agaciro k'inyandikompesha ivugwa mu ngingo ya 241, 6° y'itegeko No 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, bityo akaba agoba kurangizwa hashingiwe kubiteganywa n'amategeko arebana no kurangiza urubanza rushingiye ku nyandikompesha. Ibi bikaba binashimangirwa n'umurongo watanze n'Urukiko rw'Ikirenga rw'u Rwanda mu rubanza RS/INJUST/RC 0004/16/CS rwaciwe hagati ya Mageza Emmanuel vs Murindangabo Jacob kuwa 30/10/2020 aho rwasobanuye ko ibikubiye mu nyandiko y'ubwumvikane bigomba gushyirwa mu bikorwa nk'uko impande zombi zabyumvikanye hakurikijwe amategeko agenga uburyo inyandikompesha zirangizwa. [38] Kubirebana no kuvuga ko icyatumye baza kurega aruko hasuzumwe ayo masezerano basanga kuyashyira mubikorwa bitari gushoboka, kuko harimo ingingo nyinshi zivuguruzanya, nkaho bavuga ko bamuhaye imigabane ku mashini, ahandi ko nibamara kugurisha imodoka imigabane azayasubiza, nta shingiro byahabwa kuko ayo masezerano asobanutse mu ngingo zayo zose. Byongeye kandi niyo harikuba harimo ingingo zivuguruzanya, hakaba hatarikuregerwa umwenda wa 35,800 USD n'indishyi zitandukanye mugihe cyose hatabayeho gushyira mubikorwa amasezerano yavuzwe

haruguru noneho ngo bigaragare ko hari impaka zavutse mw'irangiza ry'ayo masezerano, kuko arizo zakabaye ziregerwa. [39] Urukiko rusanga nyuma yo kugaragaza ko ikirego kitagombaga kwakirwa, nta mpamvu yo gusuzuma izindi ngingo z'ubujurire. E. Urukiko kandi ruzasuzuma indishyi zisabwa na TRIPOD LOGISTICS Ltd kubwo gushorwa mumanza ku maherere. [40] Benimana n'umwunganizi we basobanura ko TRIPOD Logistics Ltd yajuriye ko nta mwenda TRIPOD Logistics Ltd ibereyemo CODELOC Ltd kuko umwenda yari iwubereyemo wahinduwe imigabane 51% ku mashini yatanzwe na Market Impact Ltd ubu ikiri muri MAGERWA kubera amananiza ya CODELOC Ltd. Kumushora mumanza rero nyamara urega yarazi neza ko nta mwenda aberewemo byatumye imibereho y'Umuyobozi w'izo Sosiyete iba mibi cyane kuko byamuteye guhangayika no gutuma imirimo ye y'ubucuruzi atayikora neza bityo TRIPOD Logistics ikaba ibisabira indishyi z'akababaro za 5,000,000 Frw. [41] Bakomeza basobanura ko gukomeza gushora TRIPOD Logistics kandi mumanza zidashira kuko habayeho urubanza RCOM 00295/2022/TC rwihutirwa ndetse runajuririrwa rwandikwa kuri RCOMA 00231/2022/HCC ibi byose byamuteye igihombo gikomeye cyane dore ko ubu adashobora no kugira icyo akora kuri iyo mashini mugihe ifaturirwe bitari ngombwa kandi ntawakabaye afatira ibyo afiteho uburenganzira bityo rero akaba saba indishyi z'igihombo yatewe zingana na 6,000,000 Frw.

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[42] Basoba basaba ko gushora mu manza kandi TRIPOD Logistics z'urudaca zose byatumye izo manza zose ahagararirwa na Avocat bityo akaba abisabira indishyi z'igihombo cy'Avoka zingana na 3,000,000 Frw n'amafaranga y'ikurikiranarubanza angana na 1,500,000 Frw. [43] Me Mwumvira yiregura ivuga ko abarega basaba indishyi z'igihombo batewe zingana na 6,000,000 FRW, indishyi z'igihombo cy'Avoka zingana na 3,000,000 FRW n'amafaranga y'ikurikiranarubanza angana na 1,500,000 FRW. Nk'uko twabisobanuye, dusanga izi ndishyi zisabwa n'Abarega nta shingiro zifite kuko aribo batubahirije amasezerano yo kwishyura CODELOC. Bityo kuba CODELOC Ltd irimo gukurikirana uburenganzira bwayo ikaba itabiryoza. 18. Kubw'iyi mpamvu, dushingiye ku ngingo ya 152 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, atanze ubujurire bwuririye ku bundi, asaba ibi bikurira: a) Gutegeka Market Impact na TRIPOD Logistics Ltd gusubiza CODELOC Ltd 300.000 FRW y'ikurikiranarubanza na 500.000 FRW y'igihombo cy'avocat yishyuye ku rwego rw'ubujurire, yiyongera kuyo zaciwe ku rwego rwo ku Rukiko rw'Ubucuruzi. b) Gutegeka Market Impact na TRIPOD Logistics Ltd gutanga inyungu zigomba kwiyongera kuzo yaciwe mu Rukiko rw'Ubucuruzi kugeza igihe urubanza ruzasomerwa (article 154, al. 2, CPCCSA). UKO URUKIKO RUBIBONA [44] Ingingo ya 111 y'itegeko No 22/2018 ryo ku wa 29/04/2018, ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi nkuko ryavugururwe kandi ryujijwe kugeza ubu niteganya ko Ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikira ku kirego cy'iremezo kigamije kwishyura ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishirizwa rimwe n'ikirego cy'iremezo. Gishobora kandi kwakirwa kikanaburanishwa n'iyi ikirego cy'iremezo cyaba kitakiriwe. [45]

Urukiko rusanga indishyi z'igihombo zisabwa zitagomba gutangwa kuko nk'uko byasobanuwe ko ikirego kitagombaga kwakirwa, bityo n'indishyi zigomba gutangwa akaba ari iz'ibyagiye k'urubanza gusa. [46] Urukiko rusanga indishyi z'ikurikiranarubanza n'igihembo cy'umu avoka zisabwa na n'abajuriye zifite ishingiro kuko kuba CODELOC Ltd yarabashoye mu manza aho gushyira mu bikorwa amasezerano bagiranye, ibyo batakaje byose mu manza, bikaba bigomba kwishyurwa nayo hashingiwe ku ngingo imaze kuvugwa haruguru kuko ariyo nyirabayazana w'igihombo yagize, bityo ikaba igomba kubishura amafaranga ibihumbi Magana arindwi (700,000FRW) y'indishyi z'ikurikiranarubanza n'igihembo cy'umu avoka agenywe mu bushishozi bw'urukiko kuko ayasabwa ari umurenge. [47] Urukiko rusanga indishyi zisabwa n'uregwa zitagomba gutangwa kuko urubanza rumutsinda. III. ICYEMEZO CY'URUKIKO [48] Rwemeje ko ikirego cya CODELOC Ltd kitagombaga kwakirwa.

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[49] Rwemeje ko urubanza RCOM 00294/2022/TC ruteshejwe agaciro. [50] Rutegetse CODELOC Ltd kwishyura TRIPOD Logistics Ltd na Market Impact Ltd amafaranga ibihumbi Magana arindwi (700,000FRW) y'indishyi z'ikurikiranarubanza n'igihembo cy'umu avoka mu bujurire no kuyisubiza amafaranga 40,000 y'amagarama zishyuye zijurira.

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