

RWANDA / JUDGMENT

TRUST FOR SUSTAINABLE GROUP LTD vs RUGAMBWA

RCOMAA00017/2024/CA

COURT

Court of Appeal

DECIDED

29 November 2024

CASE / FILE NUMBER

RCOMAA00017/2024/CA

Source: amategeko.gov.rw · Research copy typeset by Esheria. Not court-issued or certified.

TRUST FOR SUSTAINABLE GROUP LTD vs RUGAMBWA

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2024-11-29
- Case/document no.: RCOMAA00017/2024/CA
- Collection: Court of Appeal

Text

Page 1

TRUST FOR SUSTAINABLE GROUP LTD vs RUGAMBWA [Rwanda URUKIKO RW'UBUJURIRE – RCOMAA00017/2024/CA (Munyangeri, P.J.) 29 Ugushyingo 2024] Amategeko akena ububasha bw'Inkiko – Ubujurire bwa kabiri – inzitizi – gutsindwa kabiri kubera impamvu zimwe – Mu gusuzuma niba umuburanyi yaratsinzwe mu nkiko zombi zabanje hashingiwe ku mpamvu zimwe, harebwa icyaburanwaga n'impamvu zashingiweho na buri Rukiko kugira ngo rugere ku cyemezo rwafashe, hitawe ku kureba niba ingingo zaburanywe mbere ari zo zagarutswaho mu bujurire kandi ko inkiko zombi zazisubije mu buryo bumwe. Amategeko akena ububasha bw'Inkiko – Ubujurire bwa kabiri – inzitizi – Agaciro k'ikiburanwa – Iyo hari indishyi zagenwe mu rubanza nizo zigomba gushingirwaho, naho byaba ngombwa ko hashingirwa ku gaciro k'ikiburanwa, hakarebwa agaciro kemejwe n'urukiko nyuma y'impaka z'ababuranyi, haba nta gaciro kagenwe n'inkiko hagashingirwa ku kagenwe n'umuhanga iyo bibaye ngombwa. Incamake y'ikibazo: Uru rubanza rwatangiye Rugambwa arega Trust For Sustainable Group Ltd mu mu Rukiko rw'Ubucuruzi, arusaba kuyitegeka kumwishyura ibirarane by'ubukode bihwanye

n'amadolari ibihumbi cumi na kimwe na magana inani (11,800\$), indishyi z'itandukanye ndtse n'amafaranga y'ikurikirana rubanza n'igihembo cya avoka bishingiye ku masezerano bagiranye y'ubukode bw'isambu (farm) ariko ntiyishyura ubukode nkuko babyumvikanye, bagirana n'amasezerano yo kwikiranura yemera kwishyura amafaranga y'u Rwanda miliyoni cumi n'imwe (11,000,000Frw) ariko nayo ntiyayishyura. Mbere yo kwiregura mu mizi y'urubanza, Trust For Sustainable Group Ltd yatanze inzitizi yo kutakira icyo kirego cya Rugambwa, ivuga ko nta bubasha (qualité) afite bwo kugitanga, kuko amasezerano y'ibanze y'ubukode ikirego gishingiyeho yayasinye ari kumwe n'umudamu we witwa Mwaminifu, ko rero bagombye kuba baratanze ikirego bombi. Urukiko rw'Ubucuruzi rwemeje ko iyo nzitizi nta shingiro ifite. Ku bijyanye n'urubanza mu mizi, Trust for Sustainable Group Ltd yireguye ivuga ko koko yagiranye amasezerano na Rugambwa, ko kuba itarahise yishyura ubukode, byatewe n'uko hari ibikorwa byihutirwaga yabanje gukora, ivuga ko Rugambwa ariwe wishe amasezerano kuko yahinduye ibyari byumvikanyweho mu mushinga w'amasezerano avuguruye, bituma nayo ifata umwanzuro wo kwisubira ku bwumvikane bari bagiranye. Urukiko mu rubanza RCOM00327/2022/TC rushingiye ku bikubiye mu masezerano, no ku ngingo ya 209 y'itegeko n° 32/2016 ryo ku wa 28/08/2016 rigenga amasezerano, rwemeje ko: ikirego cya Rugambwa gifite ishingiro kuri bimwe; ko Trust for Sustainable Group Ltd igomba kwishyura Rugambwa Celse 11,800 \$ y'ubukode bw'isambu (farm) ye, indishyi zitandukanye n'amafaranga y'ikurikirana rubanza n'igihembo cya Avoka, ko ikirego cya Trust For Sustainable Group Ltd kiregera kwiregura nta shingiro gifite. Trust for Sustainable Group Ltd yajuririye icyo cyemezo mu Rukiko Rukuru rw'Ubucuruzi, inenga Urukiko rw'Ubucuruzi kuba rwaravuze ko ikirego cyayo kiregera kwiregura nta shingiro gifite, kuba rwarayitegetse gusarurura imbuto zayo mu minsi mirongo itatu (30) kandi bidashoboka, kuba rwarayitegetse kwishyura Rugambwa amafaranga menshi. Rugambwa yireguye kuri izo mpamvu z'ubujurire avuga ko nta shingiro zifite, kuko yafashe icyemezo cyo gusesa amasezerano bitewe n'uko Trust for Sustainable Group Ltd itubahirije inshingano zayo zo kwishyura ubukode. Urukiko mu rubanza RCOMA00621/2022/HCC rushingiye ku ngingo ya 3, iya 10, iya 11, iya 12, igika cya mbere, iya 111 n'ya 152 z'itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi no ku ngingo ya 3 y'itegeko N°

Page 2

27/2016 r rigenga imicungire y'umutungo w'abashyingiranywe, impano n'izungura, rwemeje ko: ubujurire bwa Trust for Sustainable Group Ltd nta shingiro bufite; imikirize y'urubanza rwajuririwe idahindutse. Trust for Sustainable Group Ltd yajuririye icyo cyemezo mu Rukiko rw'Ubujurire, Rugambwa yabanje gutanga inzitizi y'iburabubasha bw'Urukiko rw'Ubujurire ivuga ko, Trust for Sustainable Group Ltd yatsinzwe mu nkiko zombi zibanza hashingiwe ku mpamvu zimwe n'ishingiye ku gaciro k'ikiburanwa. Uhagarariye Trust Sustainable Group Ltd bireguye kuri iyi nzitizi bavuga ko ubujurire bwa kabiri bwatanzwe na sosiyete bahagarariye buri mu bubasha bw'urukiko rw'Ubujurire. Urukiko rwemeje ko hagiye kubanza kuburanishwa impaka kuri iyo nzitizi rwasanga nta kibazo cy'iburabubasha gihari, rukabona kujya mu mizi y'urubanza Urukiko mu rubanza RCOMAA00017/2024/CA rwemeje ko Ubujurire bwa Trust Sustainable Group Ltd

butakiriwe ngo busuzumwe kuko butari mu bubasha bw'Urukiko rw'Ubujurire kuko yatsinzwe mu Nkiko zabanje hashingiwe ku mpamvu zimwe kandi n'indishyi zagenwe n'Urukiko zikaba zitageze kuri miliyoni mirongo irindwi n'eshanu (75,000,000Frw) ziteganywa n'amategako.

Incamake y'icyemezo: 1. Mu gusuzuma niba umuburanyi yaratsinzwe mu nkiko zombi zabanje hashingiwe ku mpamvu zimwe, harebwa icyaburanwaga n'impamvu zashingiweho na buri Rukiko kugira ngo rugere ku cyemezo rwafashe, hitawe ku kureba niba ingingo zaburanywe mbere ari zo zagarutseweho mu bujurire kandi ko inkiko zombi zazisubije mu buryo bumwe.

2. Iyo hari indishyi zagenwe mu rubanza nizo zigomba gushingirwaho, naho byaba ngombwa ko hashingirwa ku gaciro k'ikiburanwa, hakarebwa agaciro kemejwe n'urukiko nyuma y'impaka z'ababuranyi, haba nta gaciro kagenwe n'inkiko hagashingirwa ku kagenwe n'umuhanga iyo bibaye ngombwa. Bityo, iyo indishyi zagenwe n'Urukiko zitageze kuri miliyoni mirongo irindwi n'eshanu (75,000,000Frw), Ubujurire bwa kabiri ntibwakirwa ngo buburanishwe mu Rukiko rw'Ubujurire. Amategako yashingiweho: Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, Ingingo ya 52, igika cya 2,3 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 111 Imanza zifashishijwe: Urubanza RS/INJUST/RCOM 00003/2020/SC haburana Sanlam Assurances Générales Plc na University of Rwanda (UR) rwaciwe n'Urukiko rw'Ikirenga ku wa 27/11/2020, igika cya 23. Urubanza rubanziriza urundi mu rubanza RCOMAA 00005/2023/CA haburana Heaven Construction and Supply Ltd na Niletrac Rwanda Ltd rwaciwe n'Urukiko rw'Ubujurire ku wa 17/05/2024, igika cya 18. Urubanza RS/INJUST/RCOM 00005/2020/SC haburana Banque Populaire du Rwanda Atlas Mara Plc na Nkusi Evariste, rwaciwe n'Urukiko rw'Ikirenga ku wa 27/11/2020 Urubanza RCOMAA 00027/2023/CA, haburana Dragon Supply Ltd na Kajangwe Joseph, rwaciwe n'Urukiko rw'Ubujurire ku wa 09/08/2023, Urubanza I. IMITERERE Y'URUBANZA

Page 3

- [1] Rugambwa Celse avuga ko ku wa 13/10/2020, yagiranye na Trust For Sustainable Group Ltd amasezerano yo gukodesha isambu ye (farm) iherereye mu Kagari ka Rugendabari, mu Murenge wa Mageragere, kugira ngo ayikorere ibikorwa by'ubuhinzi n'ubworozi, akaba yaragombaga kurangira mu gihe cy'imyaka icumi (10) ishobora kongerwa. Avuga ko bari bumvikanye ko mu mwaka wa mbere w'ubukode, izamwishyura amadolari igihumbi (1,000 \$) ku kwezi, ku mwaka wa kabiri ikishyura amadolari igihumbi na magana atanu (1,500), naho guhera ku mwaka wa gatatu (3) kugeza ku mwaka wa cumi (10) ikajya imwishyura amadolari igihumbi na magana inani (1,800 \$), ko ariko yaje kumara amezi agera kuri cumi na kumwe (11) itamwishyura, bituma ku wa 13/12/2020 afata umwanzuro wo gusesa ayo masezerano. [2] Rugambwa Celse akomeza avuga ko Trust For Sustainable Group Ltd imaze kubona ko aseshe amasezerano, yamubwiye ko hari ibyo ayigomba, biba ngombwa kwiyambaza ubuyobozi bw'Umudugudu n'Akagari iyo sambu iherereyemo, barahura baganira kuri icyo kibazo, bemeza ko Trust For Sustainable Group Ltd ari yo yishe amasezerano, bubagira inama yo kuvugurura amasezerano. Ku wa 5/01/2022 hakorwa inyandiko y'ubwumvikane, Trust For Sustainable Group Ltd yemera kwishyura amafaranga

y'u Rwanda miliyoni cumi n'imwe (11,000,000Frw) y'ibirane by'ubukode, ariko impande zombi zigomba kumvikana ku buryo azishyurwa. Trust For Sustainable Group Ltd yiyemeje ko izamwishyura ibyo birane mu byiciro bibiri (2), icyiciro cya mbere ikishyura amafaranga y'u Rwanda miliyoni eshanu n'ibihumbi magana atanu (5,500,000Frw) mu mpera z'ukwezi kwa Werurwe/2022, naho icya kabiri nacyo kingana n'amafaranga miliyoni eshanu n'ibihumbi magana atanu (5,500,000Frw) ikazacyishyura mu mpera z'ukwezi kwa Kemena/2022. Yemeye kandi ko niramuka irengeje icyo gihe, izamwishyura inyungu z'ubukererwe zibariwe kuri 10% ku kwezi, bukaba bwagombaga gutangira kubarwa ku wa 01/04/2022. [3] Mu gihe amasezerano avuguruye yarimo ategurwa, Trust For Sustainable Group Ltd yisubiyeho, bituma Rugambwa Celse atanga ikirego mu Rukiko rw'Ubucuruzi, arusaba kuyitegeka kumwishyura ibirane by'ubukode bihwaye n'amadolari ibihumbi cumi na kimwe na magana inane (11,800\$), indishyi mbonezamusaruro za 5% ku kwezi mu gihe cy'amezi cumi n'atatu (13) ayamaranye zingana n'amadolari ibihumbi birindwi na magana atandatu na mirongo irindwi (7,670 \$), amafaranga y'u Rwanda angana na miliyoni imwe n'ibihumbi magana abiri (1,200,000Frw) y'ubukode bw'aho ivuga ko yahinzemo ibinyomoro, n'amafaranga y'u Rwanda miliyoni enye (4,000,000Frw) y'ikurikiranarubanza n'igihembo cya Avoka. [4] Mbere yo kwiregura mu mizi y'urubanza, Trust For Sustainable Group Ltd yatanze inzitizi yo kutakira icyo kirego cya Rugambwa Celse, ivuga ko nta bubasha (qualité) afite bwo kugitanga, ngo kuko amasezerano y'ibanze y'ubukode ikirego gishingiyeho yayasinye ari kumwe n'umudamu we witwa Mwaminifu Médiatrice, ko rero bagombye kuba baratanze ikirego bombi. Urukiko rw'Ubucuruzi rwemeje ko iyo nzitizi nta shingiro ifite. [5] Ku bijyanye n'urubanza mu mizi, Trust For Sustainable Group Ltd yireguye ivuga ko koko yagiranye amasezerano na Rugambwa Celse, ko ariko kuba itarahise yishyura ubukode, byatewe n'uko hari ibikorwa byihutirwaga yabanje gukora birimo kuzitira isambu, kuvugurura ibiraro by'inka n'ibindi bikorwa, ngo Rugambwa n'umugore we Mwaminifu Médiatrice akaba ari bo bishe amasezerano kuko bahinduye ibyari byumvikanyweho mu mushinga w'amasezerano avuguruye, bigatuma ku wa 04/02/2022 ifata umwanzuro wo kwisubira ku bwumvikane bari bagiranye babifashijwemo n'ubuyobozi bw'Akagari ka Rugendabari. [6] Mu rubanza RCOM00327/2022/TC rwaciwe n'Urukiko rw'Ubucuruzi ku wa 02/09/2022, urwo rukiko rushingiye ku bikubiye mu masezerano yo ku wa 13/10/2020, no ku ngingo ya 209 y'itegeko N° 32/2016 ryo ku wa 28/08/2016, rwemeje ko: Ikirego cya Rugambwa Celse afite ububasha bwo gutanga ikirego;

Page 4

Ikirego cya Rugambwa Celse gifite ishingiro kuri bimwe; Trust For Sustainable Group Ltd igomba kwishyura Rugambwa Celse 11,800\$ y'ubukode bw'isambu (farm) ye, inyungu mbonezamusaruro zingana na 3,068 \$, amafaranga y'u Rwanda ibihumbi magana inani (800,000Frw) y'igihembo cya Avoka, amafaranga y'u Rwanda ibihumbi magana abiri (200,000Frw) y'ikurikiranarubanza n'amafaranga y'u Rwanda ibihumbi makumyabiri (20,000Frw) y'ingwate y'amagarama ; Trust For Sustainable Group Ltd itagomba kwishyura Rugambwa Celse amafaranga y'u Rwanda miliyoni imwe n'ibihumbi magana abiri (1,200,000Frw) avuga ko ari ay'ubukode bw'aho yahinze

ibinyomoro, ko ahubwo ihamwe iminsi mirongo itatu

- (30) yo kuba yabisaruye, itabisarura muri icyo gihe akaba yemerewe gukoresha ubwo butaka icyo ashaka, kandi ko icyo cyemezo gishyirwa mu bikorwa kabone n'ubwo urubanza rwajuririrwa ; Ikirego kiregera kwiregura cya Trust For Sustainable Group Ltd nta shingiro gifite; Trust For Sustainable Group Ltd yishyura Rugambwa Celse amadolari ibihumbi cumi na bine na magana inani na mirongo itandatu n'umunani (14,868 \$) n'amafaranga y'u Rwanda miliyoni imwe n'ibihumbi makumyabiri (1,020,000Frw); Trust For Sustainable Group Ltd isarura ibinyomoro yaba ifite ku butaka bwa Rugambwa Celse mu gihe cy'iminsi mirongo itatu (30) ibazwe guhera umunsi urubanza rusomeweho, iyo minsi yarangira Rugambwa Celse akaba yemerewe gukoresha ubwo butaka ibikorwa ashaka, kandi ko icyemezo kivugwa muri iki gika kigomba gushyirwa mu bikorwa kabone naho urubanza rwajuririrwa. [7] Trust For Sustainable Group Ltd yajuririye icyo cyemezo mu Rukiko Rukuru rw'Ubucuruzi, inenga Urukiko rw'Ubucuruzi kuba rwaravuze ko ikirego cyayo kiregera kwiregura nta shingiro gifite, kuba rwarayitegetse gusarurura imbuto zayo mu minsi mirongo itatu (30) kandi bidashoboka, kuba rwarayitegetse kwishyura Rugambwa Celse 11,800 \$ y'ubukode bw'isambu (farm) ye inamwishyure 3,068 \$ y'inyungu mbonezamusaruro n'indishyi zitandukanye kandi ayo mafaranga atari yo. [8] Rugambwa Celse yireguye kuri izo mpamvu z'ubujurire avuga ko nta shingiro zifite, kuko yafashe icyemezo cyo gusesa amasezerano bitewe n'uko Trust For Sustainable Group Ltd itubahirije inshingano zayo zo kwishyura ubukode, ikamara igihe kirenga umwaka wose. [9] Mu rubanza RCOMA00621/2022/HCC rwaciwe n'Urukiko Rukuru rw'Ubucuruzi ku wa 17/11/2023, urwo Rukiko rushingiye ku ngingo ya 3, iya 10, iya 11, iya 12, igika cya mbere, iya 111 n'ya 152 z'itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamu bano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi no ku ngingo ya 3 y'itegeko N° 27/2016 ryo ku wa 08/07/2016 rigenga imicungire y'umutungo w'abashyingiranywe, impano n'izungura, rwemeje ko : Ubujurire bwa Trust For Sustainable Group Ltd nta shingiro bufite ; Imikirize y'urubanza rwajuririye idahindutse ; Trust For Sustainable Group Ltd yishyura Rugambwa Celse amadolari ibihumbi cumi na bine na magana inani na mirongo itandatu n'umunani (14,868 \$) n'amafaranga y'u Rwanda miliyoni imwe n'ibihumbi makumyabiri (1,020,000Frw). [10] Trust For Sustainable Group Ltd yajuririye icyo cyemezo mu Rukiko rw'Ubujurire, ubujurire bwayo bwandikwa kuri RCOMAA00017/2024/CA maze nyuma y'imihango ntegururubanza yose, hemezwa ko ruzaburanishwa ku wa 02/10/2024 uwo munsu ntirwaburanishwa kubera izindi gahunda z'urukiko, iburanisha rishyirwa ku wa 04/11/2024.

Page 5

- [11] Uwo munsu ababuranyi bose baritabye, Trust For Sustainable Group Ltd ihagarariwe na Hategekimana Nadjibu yunganiwe na Me Munyentwali Charles, Rugambwa Celse yunganiwe na Me Ndagijimana Janvier. [12] Rugambwa Celse n'umwunganira batanze inzitizi y'iburabubasha bw'uru Rukiko ishingiyeye ku kuba Trust For Sustainable Group Ltd yaratsinzwe mu nkiko zombi zibanza hashingiye ku mpamvu zimwe n'ishingiye ku gaciro k'ikiburanwa. [13] Uhagarariye Trust Sustainable Group Ltd n'umwunganira bireguye kuri iyi

nzitizi bavuga ko ubujurire bwa kabiri bwatanzwe na sosiyete bahagarariye buri mu bubasha bw'uru Rukiko. Urukiko rwemeje ko hagiye kubanza kuburanishwa impaka kuri iyo nzitizi rwasanga nta kibazo cy'iburabubasha gihari, rukabona kujya mu mizi y'urubanza.

ISESENGURA RY'IBIBAZO BIGIZE URUBANZA 1. Kumenya niba ubujurire TRUST FOR SUSTAINABLE GROUP Ltd yatanze, butari mu bubasha bw'Urukiko rw'Ubujuirire. A. Kumenya niba TRUST FOR SUSTAINABLE GROUP Ltd yaratsinzwe mu nkiko zombi zibanza hashingiwe ku mpamvu zimwe. [14] Rugambwa Celse n'umwunganira bavuga ko ubujurire bwa kabiri Trust For Sustainable Group Ltd yatanze butari mu bubasha bw'uru Rukiko kubera ko yatsinzwe mu nkiko zombi zibanza hashingiwe ku mpamvu zimwe. Basobanura ko ku kibazo cyo kumenya uwishe amasezerano hagati ya Rugambwa Celse na Trust For Sustainable Group Ltd, inkiko zombi zemeje ko ari Trust For Sustainable Group Ltd yayishe kubera ko itishyuye ubukode bwumvikanyweho kandi hari ingingo y'amasezerano ivuga ko ukodesha namara amezi atatu atishyura, amasezerano azaseswa nta nteguza. Ku kibazo cyo kumenya niba Rugambwa Celse atari afite ububasha bwo gusesa amasezerano no kurega wenyine, bavuga ko inkiko zombi zemeje ko yari afite ububasha bwo guhagararira no gukurikirana umutungo afatanyije n'umugore we mu nyungu z'umuryango, bitabaye ngombwa ko n'umugore we Mwaminifu na we aboneka. Naho ku kibazo cyo kumenya niba Trust For Sustainable Group Ltd yasubizwa agaciro k'ibikorwa yashyize mu isambu yari yakodesheje, bavuga ko inkiko zombi zemeje ko nta kimenyetso kigaragaza ko hari ibikorwa yakoreye muri iyo sambu. [15] Kuri iyi nzitizi, uhagarariye Trust For Sustainable Group Ltd n'umwunganira bireguye bavuga ko sosiyete bahagarariye itatsinzwe mu nkiko zombi zibanza hashingiwe ku mpamvu zimwe. Basobanura ko Urukiko rw'Ubucuruza rwasuzumye ibibazo bitandatu (6) naho Urukiko Rukuru rw'Ubucuruza rugasuzuma ibibazo bitatu (3), bityo ko ingingo zasuzumwe atari zimwe. Bakomeza bavuga ko ku kibazo kirebana no kumenya niba Rugambwa Celse yari afite ububasha bwo kurega ku giti cye n'icyo kumenya niba sosiyete ahagarariye yasubizwa agaciro k'ibyo yashyize ku butaka yakodesheje, Urukiko rw'Ubucuruza rwashingiye ku ngingo ya 209 y'itegeko rigenga abantu n'umuryango no kuri raporo y'ubuyobozi bw'Akagari ka Kankuba n'Umugudugu wa Rugendabari, rwemeza ko Rugambwa Celse afite ububasha bwo kurega ku giti cye, kubera ko we n'umugore bagabanye inshingano n'uwo mugore akaba yaritabiraga iburanisha kandi ko raporo igaragaza ko nta mbuto yasize ku butaka yakodeshaga naho Urukiko Rukuru rw'Ubucuruza rushingira ku ngingo ya 109 y'itegeko N° 45/2011 ryo ku wa 25/11/2011 rigenga amasezerano, ruvuga ko Trust For Sustainable Group Ltd itagaragaza icyo yaba yarangirijwe mu gihe Rugambwa Celse yareze wenyine ndetse ko itakwishyuye ibikorwa yaba yarashyize kuri ubwo butaka mu gihe yabuvuyemo itabumurikiye nyirabwo. Bavuga kandi ko Urukiko Rukuru rw'Ubucuruza rutigeze ruvuga ku kibazo cy'inka, nyamara cyaravuzweho mu Rukiko rw'Ubucuruza. [16] Bakomeza bavuga ko ku rwego rwa mbere, Rugambwa Celse yaregeye kumenya niba amasezerano yaraseshwe mu buryo bwemewe cyangwa butemewe n'amategeko abisabira n'indishyi, naho

Page 6

mu bujurire Trust For Sustainable Group Ltd iregera ko amafaranga Urukiko rw'Ubucuruzi rwategetse atari yo, kandi ko igomba kwishyura mu mafaranga y'Amanyarwanda aho kuba mu madolari, ngo ibi bibazo bikaba bitandukanye. [17] Bavuga kandi ko Rugambwa Celse yatsinzwe ku kibazo cyo kuba yarasabaga kwishyurwa amafaranga y'ubukode bw'aho Trust For Sustainable Group Ltd yahinze ibinyomoro, ahubwo Urukiko ruzanamo ikindi kibazo gishya cyo kuyitegeka gusarura imbuto zayo mu minsi mirongo itatu (30). Ko mu Rukiko Rukuru rw'Ubucuruzi, Trust For Sustainable Group Ltd yatanze ikirego gishya isaba gusubizwa agaciro k'ibyo yashyize muri iyo sambu, ngo icyo kibazo kikaba gitandukanye n'icyo Rugambwa Celse yari yatanze ku rwego rwa mbere asaba guhabwa ubukode bw'ahahinzwe ibinyomoro. [18] Basaza bavuga ko kuba ingingo z'ingenzi zasuzumwe ndetse n'impamvu zashingiweho n'inkiko zombi kugira ngo hagerwe ku cyemezo cyafashwe atari zimwe n'ibyemezo byafashwe bikaba bidasa, basanga Trust For Sustainable Group Ltd itaratsinzwe mu nkiko zibanza hashingiwe ku mpamvu zimwe. Uko Urukiko rubibona [19] Impaka kuri iyi ngingo zishingiye ku kumenya niba Trust For Sustainable Group Ltd yaratsinzwe mu nkiko zibanza hashingiwe ku mpamvu zimwe, ku buryo ubujurire bwa kabiri yatanze bwaba butari mu bubasha bw'Urukiko rw'Ubujurire. [20] Ingingo ya 52, igika cya 3 y'itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko iteganya ibikurikira : "Icyakora kandi ubujurire bwa kabiri ntibushobora kwakirwa ku manza z'ababuranye bemera ibyo baregwa cyangwa ku muburanyi watsinzwe mu nkiko zombi hashingiwe ku mpamvu zimwe." [21] Ikibazo cyerekeranye no gutsindwa mu nkiko zombi zibanza hashingiwe ku mpamvu zimwe cyafashweho umurongo mu manza zinyuranye zaciwe n'Urukiko rw'Ikirenga¹ ndetse n'uru Rukiko², aho zagaragaje ko mu gusuzuma niba umuburanyi yaratsinzwe mu nkiko zombi zabanje hashingiwe ku mpamvu zimwe, harebwa icyaburanwaga n'impamvu zashingiweho na buri Rukiko kugira ngo rugere ku cyemezo rwafashe, hitawe ku kureba niba ingingo zaburanywe mbere ari zo zagarutseho mu bujurire kandi ko inkiko zombi zazisubije mu buryo bumwe. Mu rubanza RCOM00327/2022/TC, Urukiko rw'Ubucuruzi rwasuzumye ibibazo Bikurikira : Kumenye niba Trust For Sustainable Group Ltd yaba yarishe amasezerano y'ubukode yagiranye na nyir'isambu ; Kumenya niba uregwa yategekwa kwishyura indishyi mbonezamusaruro z'igihe amaranye amafaranga y'ubukode ; Kumenya niba uregwa yategekwa kwishyura ubukode bw'aho ahinze ibinyomoro ; Kumenya niba Rugambwa Celse yaraseshe amasezerano abifitiye ububasha ndetse no gusuzuma niba byarakozwe mu buryo bukurikije amasezerano n'itegeko rigenga amasezerano ; Kumenya niba nyuma y'amasezerano yasashwe, Trust For Sustainable Group Ltd idakwiyegusubizwa agaciro k'ibikorwa yari imaze gukorera mu isambu yari yarakodeshejwe ; Kumenya niba Trust For Sustainable Group Ltd yakwishyura Rugambwa

1 Urubanza n° RS/INJUST/RCOM 00003/2020/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 27/11/2020, hagati ya Sanlam Assurances Générales Plc na University of Rwanda (UR), igika cya 23. 2 Urubanza rubanziriza urundi mu rubanza n° RCOMAA 00005/2023/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 17/05/2024, haburana Heaven Construction and Supply Ltd na Niletrac Rwanda Ltd, igika cya 18.

Page 7

Celse indishyi zijyanye n'ibyo yatanze ku rubanza [22] Mu rubanza RCOMA00621/2022/HCC, Urukiko Rukuru rw'Ubucuruzi rwasuzumye Ibibazo bikurikira : Kumenya niba Urukiko rw'Ubucuruzi rutaragombaga kwemeza ko ikirego cya Trust For Sustainable Group Ltd kiregera kwiregura nta shingiro gifite ; Kumenya niba Urukiko rw'Ubucuruzi rwarategetse Trust For Sustainable Group Ltd gusarura imbuto mu minsi mirongo itatu (30) kandi bidashoboka ; Kumenya niba Urukiko rw'Ubucuruzi rwarategetse Trust For Sustainable Group Ltd kwishyura Rugambwa Celse 11,800\$ y'ubukode bw'isambu (farm) ye na 3,068\$ y'inyungu mbonezamusaruro n'indishyi zitandukanye kandi ayo mafaranga atari yo ; Kumenya niba hari amafaranga y'ikurikiranarubanza n'igihembo cya Avoka akwiye kugenwa muri uru rubanza n'uruhande ruyagomba urundi. [23] Urukiko rurasanga ibibazo byasuzumwe n'Urukiko rw'Ubucuruzi atari ko byose byasuzumwe n'Urukiko Rukuru rw'Ubucuruzi, ikigaragara akaba ari uko zihuriza ku bibazo by'ingenzi bikurikira : Kumenya niba Rugambwa Celse yari afite ububasha bwo gusesa amasezerano no kuregera urukiko wenyine ; Kumenya niba amasezerano yaraseshwe nta mpamvu ; Kumenya niba Trust For Sustainable Group Ltd yahabwa agaciro k'ibyo yakoze mu isambu ya Rugambwa Celse; Kumenya niba Trust For Sustainable Group Ltd yarategetswe gutanga Amafaranga y'ubukode n'inyungu mbonezamusaruro kandi atari yo. [24] Uru Rukiko rusanga izi ngingo ari zo zigomba gukorerwaho igereranya hagamijwe kureba niba inkiko zombi zabanje zarashingiye ku mpamvu zimwe zemeza ko Trust For Sustainable Group Ltd yatsinzwe. [25] Ku kibazo cyo kumenya niba Rugambwa Celse yaraseshe amasezerano abifitiye ububasha ndetse n'icyo kumenya niba byarakozwe mu buryo bukurikije amasezerano n'itegeko rigenga amasezerano, mu gika cya 24, Urukiko rw'Ubucuruzi rushingiye ku ngingo ya 209 y'itegeko N° 32/2016 ryo ku wa 28/08/2016 rigenga abantu n'umuryango no ku ngingo ya 7 y'amasezerano impande zombi zagiranye, rwanzuye ko Rugambwa Celse yari afite ububasha bwo gusesa amasezerano kandi ko impamvu yatumye aseswa yumvikana. [26] Urukiko Rukuru rw'Ubucuruzi rwasuzumye ikibazo cyo kumenya niba Urukiko rw'Ubucuruzi rutaragombaga kwemeza ko ikirego cya Trust For Sustainable Group Ltd kiregera kwiregura nta shingiro gifite kuri byose, urwo rukiko rushingiye ku ngingo ya 3, iya 96 n'ya 100 z'itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezambano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, no ku ngingo ya 3 y'itegeko N° 27/2016 ryo ku wa 08/07/2016 rigenga imicungire y'umutungo w'abashyingiranywe, impano n'izungura, mu gika cya 29 rwasobanuye ko mu gihe Trust For Sustainable Group Ltd itagaragaje icyo kuba Rugambwa Celse yararegeye urukiko wenyine cyangwa agasesa amasezerano wenyine byayangirije, inzitizi yatanze itagombaga guhabwa ishingiro koko, cyane ko na nyuma y'amasezerano yo ku wa 13/10/2020 hari ibikorwa bishingiye kuri ayo masezerano yagiye igirana na Rugambwa Celse wenyine harimo inyandiko yo ku wa 31/12/2021 n'iyi ku wa 05/01/2022 kandi ko isesengura yakoreye ingingo ya 109 y'itegeko rigenga amasezerano ritayirengera, ahubwo rirengera Rugambwa Celse.

Page 8

[27] Ku kibazo cyo kumenya niba Trust For Sustainable Group Ltd yaba yarishe amasezerano y'ubukode yagiranye na Rugambwa Celse, Urukiko rw'Ubucuruzi rushingiye ku masezerano impande zombi zagiranye ku wa 13/10/2020, ku nyandiko yo ku wa 31/12/2021 yakozwe n'ubuyobozi bw'Umudugudu wa Rugendabari bufatanyije n'ubw'Akagari ka Kankuba, ku bikubiye mu nyandiko yo ku wa 05/01/2022, kuri raporo y'ubuyobozi bw'Akagari ka Rugendabari yo ku wa 08/02/2022, ku kuba nta bimenyetso uregwa ashigikiza imyiregurire ye, rwemeje ko Trust For Sustainable Group Ltd yishe amasezerano yagiranye na Rugambwa Celse, ikaba igomba kumwishyura ibirarane by'ubukode bingana n'amadolari 11,800 \$ abazwe guhera ku wa 01/02/2021 kugeza ku wa 31/01/2022. [28] Ku kibazo nk'iki, Urukiko Rukuru rw'Ubucuruzi rushingiye ku ngingo ya 12 y'itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ku ngingo ya 2, iya 3 n'ya 4 z'itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, mu gika cya 32, rwasobanuye ko impamvu yatumye amasezerano aseswa ifite ishingiro kubera ko ubukode butishyuwe, naho ibyo Trust For Sustainable Group Ltd ivuga ko yabujijwe n'uko yarimo itunganya ahazakorera ubuhinzi n'ubworozi bikaba nta shingiro byahabwa. [29] Ku kibazo cyo kumenya niba nyuma yo gusesa amasezerano, Trust For Sustainable Group Ltd yasubizwa agaciro k'ibikorwa yari imaze gukorera mu isambu yari yarakodesheje, Urukiko rw'Ubucuruzi rushingiye kuri raporo y'ubuyobozi bw'inzego z'ibanze yo ku wa 08/02/2022 no ku ngingo ya 12 y'itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, mu gika cya 27 rwanzuye ko ikirego kiregera kwiregura cyayo nta shingiro cyahabwa kubera ko nta bimenyetso yatanze bigaragaza ko hari ibikorwa yari ifite mu isambu ya Rugambwa Celse. [30] Ku kibazo kirebana no gusubiza Trust For Sustainable Group Ltd agaciro k'ibikorwa yavugaga ko yashyize mu isambu ya Rugambwa Celse, mu gika cya 33, Urukiko Rukuru rw'Ubucuruzi rwasobanuye ko nta kigaragaza ko ijya kuva mu isambu ya Rugambwa Celse, hari ibikorwa byayo yasizemo kandi ko bishimangirwa na raporo y'ubuyobozi bw'inzego z'ibanze yo ku wa 08/02/2022, ikaba itarashoboye gutanga ibimenyetso biyivuguruzwa cyangwa ngo igire icyo inenga isesengura Urukiko rw'Ubucuruzi rwakoze mu gika cya 12 cy'urubanza rwajuririwe. [31] Ku kibazo cyo kumenya niba uregwa yategekwe kwishyura indishyi mbonezamusaruro z'igihe amaranye amafaranga y'ubukode, mu gika cya 18, Urukiko rw'Ubucuruzi rushingiye ku bikubiye mu nyandiko yo ku wa 05/01/2022, aho Hategekimana Nadjibu uhagarariye Trust For Sustainable Group Ltd yiyemereye ko azatanga indishyi mbonezamusaruro ndetse ko narenza ku wa 30/06/2022 atarishyura, hazatangwa n'inyungu z'ubukererwe, ku ngingo ya 146 y'itegeko N° 45/2011 ryo ku wa 25/11/2011 rigenga amasezerano, rwasanze igomba kumuha inyungu mbonezamusaruro zingana na 3,068 \$ zibazwe mu buryo bukurikira: 11,800 \$ x amezi 13 x 2%. [32] Urukiko Rukuru rw'Ubucuruzi rwasuzumye ikibazo cyo kumenya niba Urukiko rw'Ubucuruzi rwarategetse Trust For Sustainable Group Ltd kwishyura Rugambwa Celse 11,800\$ y'ubukode bw'isambu ye na 3,068\$ y'inyungu mbonezamusaruro n'indishyi zitandukanye kandi ayo mafaranga atari yo,

rushingiye ku ngingo ya 12 y'itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ryavuzwe haruguru, ku ngingo ya 2, iya 3 n'ya 4 z'itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ku bikubiye mu masezerano yo ku wa 13/10/2020, n'ibisobanuro urukiko rubanza rwatanze mu gika cya 14, mu gika cya 60 cy'urubanza rujuririrwa, rwasobanuye ko uretse kunenga gusa, itabashije gutanga ibimenyetso bivuguruzwa ibyashingiweho cyangwa ko ibyashingiweho binyuranyije n'amategeko. [33] Nk'uko byagaragajwe haruguru, ku kibazo kirebana n'ububasha bwo gusesa amasezerano no kuregera urukiko wenyine, inkiko zombi zibanza zasobanuye ko kuba ibyo Rugambwa Celse yakoze

Page 9

yabikora wenyine mu rwego rwo kurengera inyungu z'umuryango, nta kibazo kirimo. Ku kibazo cyo kumenya niba amasezerano yabaye hagati ya Rugambwa Celse na Trust For Sustainable Group Ltd yaraseshwe nta mpamvu, inkiko zombi zasobanuye ko impamvu yo gusesa amasezerano yumvikana kandi ko ishingiyeye ku kuba Trust For Sustainable Group Ltd itarubahirije ibihe byo kwishyura ubukode. Ku kibazo cyo kumenya niba Trust For Sustainable Group Ltd yahabwa gaciro k'ibikorwa yasize mu isambu ya Rugambwa Celse, inkiko zombi zasobanuye ko nta bimenyetso yatanze byashingirwaho yemererwa ibyo asaba. Ku kibazo cyo kumenya niba Trust For Sustainable Group Ltd yakwishyura amafaranga y'ubukode n'indishyi mbonezamusaruro, inkiko zombi zasobanuye ko igomba kwishyura ibyo isabwa hashingiwe ku bikubiye mu masezerano yo ku wa 13/10/2020 no ku wa 05/01/2022. [34] Nk'uko byagaragajwe haruguru, Urukiko rw'Ubujurire rurasanga ibibazo inkiko zombi zabanje zasuzumye Trust For Sustainable Group Ltd yarabitsindiwe hashingiwe ku mpamvu zimwe, bityo ubujurire bwa kabiri yatanze bukaba butagomba kwakirwa kubera ko butari mu bubasha bw'uru rukiko. [35] Ku bijyanye no kuba abahagarariye Trust For Sustainable Group Ltd bavuga ko kuba umubare w'ibibazo byasuzumwe mu nkiko zombi zibanza utangana, byumvikanisha ko itatsinzwe ku mpamvu zimwe, uru Rukiko rurasanga nta shingiro bifite kuko mu gusuzuma niba uwajuriye yaratsinzwe mu nkiko zibanza hashingiwe ku mpamvu zimwe, hatarebwa umubare w'ibibazo izo nkiko zombi zasuzumye, ahubwo hakorwa igereranya ry'imitekerereze ya buri rukiko ku bibazo zasuzumye kandi bisa, ibi akaba ari nabyo Urukiko rw'Ikirenga rwatanzeho umurongo mu rubanza RS/INJUST/RCOM00005/2020/SC rwaciye ku wa 27/11/2020 haburana Banque Populaire du Rwanda Atlas Mara Plc na Nkusi Evariste, aho rwasobanuye ko nta gereranya rishobora gukorerwa ku bibazo bidafitanye isano. B. Kumenya niba hashingiwe ku gaciro k'ikiburanwa, ubujurire bwa TRUST FOR SUSTAINABLE GROUP Ltd butari mu bubasha bw'Urukiko rw'Ubujurire [36] Rugambwa Celse n'umwunganira, bashingiyeye ku biteganywa n'ingingo ya 52, igika cya 2, 8°, n'igika cya kane by'itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, bavuga ko ubujurire bwa kabiri Trust For Sustainable Group Ltd yatanze butagomba kwakirwa. Basobanura ko mu nkiko zibanza, ikiburanwa cyari ukutubahiriza amasezerano y'ubukode bw'isambu yo ku wa 13/10/2020 impande zombi zagiranye, ko kandi nta binyomoro yigeze ihinga mu isambu yari yakodesheje bifite agaciro kangana n'amafaranga y'u Rwanda miliyoni ijana na cumi n'icyenda n'ibihumbi magana atanu (119,500,000 Frw), kandi ko ingingo

irebana n'ibyo binyomoro yavugaga ko yahinze yayitsinzwe mu nkiko zombi zibanza bitewe no kubura ibimenyetso [37] Uhagarariye Trust For Sustainable Group Ltd n'umwunganira bavuga ko bashingiye ku ngingo ya 52, igika cya kane, y'itegeko rigena ububasha bw'inkiko, ku murongo watanze n'Urukiko rw'Ubujurire mu rubanza RCOMAA00009/2019/CA no mu rubanza RCOMAA00018/2018/CA CMBRCOMAA00024/2018/CA, basanga ubujurire bwa sosiyete bahagarariye buri mu bubasha bw'uru Rukiko. Basobanura ko ikiburanwa atari ibinyomoro 84, ko ahubwo harimo n'imbuto za marakuja zingana n'ibihumbi bitandatu na magana atanu (6,500) n'ibiti by'ipapayi ibihumbi icumi (10,000Frw), ngo akaba ari na byo impande zombi zari zahereyeho zikora amasezerano avuguruye yo ku wa 05/01/2022. [38] Bashingiye ku kuba ikiburanwa muri uru rubanza ari iseswa ry'amasezerano n'ingaruka zo kuyasesa, no kuba Trust For Sustainable Group Ltd yarategetswe gusubiza ubutaka n'imbuto zihinzeho, bavuga ko ubujurire bwayo buri mu bubasha bw'Urukiko rw'Ubujurire, kubera ko agaciro k'ikiburanwa karengaje amafaranga y'u Rwanda miliyoni mirongo irindwi n'eshanu (75,000,000Frw) ziteganywa n'itegeko. Bashingira ku ngingo ya 2354, agace ka gatatu y'itegeko N° 22/2018 ryo ku wa 29/04/2018

3 Urubanza n° RS/INJUST/RCOM 00005/2020/SC rwo ku wa 27/11/2020, igika cya 29. 4 Agace ka 3 k'ingingo y'itegeko gateganywa ko" Irangizwa ry'urubanza ry'agateganyo ribujijwe: 3° mu byerekeye ibintu bitimukanwa, iyo ari byo biburanwa."

Page 10

ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ku ngingo ya 75 y'itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko no kuri raporo y'igenagaciro. Uko Urukiko rubibona [39] Impaka kuri iyi ngingo zishingiye ku kumenya niba ikiburanwa gifite agaciro kangana nibura n'amafaranga miliyoni mirongo irindwi n'eshanu (75,000,000Frw) ku buryo ubujurire bwa Trust For Sustainable Group Ltd bwaba mu bubasha bw'uru Rukiko. [40] Ingingo ya 52, igika cya kabiri y'itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko iteganywa ko" Urukiko rw'Ubujurire rufite ububasha bwo kuburanisha mu rwego rw'ubujurire bwa kabiri imanza zaciwe n'Urukiko Rukuru rw'Ubucuruzi [...] 8° iyo zagenwemo n'Urukiko indishyi zingana nibura n'amafaranga miliyoni mirongo irindwi n'eshanu (75,000,000Frw) cyangwa zifite agaciro kagenwe n'umucamanza mu gihe habaye impaka , kangana nibura n'amafaranga miliyoni mirongo irindwi n'eshanu (75,000,000Frw)". [41] Iyi ngingo yumvikanisha ko kugira ngo imanza zaciwe n'Urukiko Rukuru rw'Ubucuruzi zijuririrwe bwa kabiri muri uru Rukiko, ikiburanwa kigomba kuba gifite agaciro kangana nibura n'amafaranga y'u Rwanda miliyoni mirongo irindwi n'eshanu (75,000,000Frw) cyangwa zaragenwemo indishyi zingana nibura n'amafaranga y'u Rwanda miliyoni mirongo irindwi n'eshanu (75,000,000Frw) cyangwa zifite agaciro kagenwe n'umucamanza mu gihe habaye impaka, kangana nibura n'amafaranga y'u Rwanda miliyoni mirongo irindwi n'eshanu (75,000,000Frw). [42] Impaka nk'izi zatanze umurongo mu rubanza RCOMAA00027/2023/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 09/08/2023, haburana Dragon Supply Ltd na Kajangwe Joseph. Muri urwo rubanza, uru Rukiko rwasobanuye ko "iyo hari indishyi zagenwe mu rubanza ari zo zigomba gushingirwaho, naho byaba ngombwa ko hashingirwa ku gaciro k'ikiburanwa,

hakarebwa agaciro kemejwe n'urukiko nyuma y'impaka z'ababuranyi, haba nta gaciro kagenwe n'inkiko hagashingirwa ku kagenwe n'umuhanga iyo bibaye ngombwa. Ko iyakirwa ry'ubujurire bwa kabiri ridashingirwa ku gaciro umuburanyi yigeneye ubwe6." [43] No mu rubanza rujuririrwa rero, uru Rukiko rusanga haragenwemo indishyi akaba ari zo zigomba gushingirwaho hagenwa ububasha bwarwo. Urukiko Rukuru rw'Ubucuruzi rwategetse Trust For Sustainable Group Ltd kwishyura Rugambwa Celse amadolari ibihumbi cumi na bine na magana inani na mirongo itandatu n'umunani (14,868\$) n'amafaranga y'u Rwanda miliyoni imwe n'ibihumbi makumyabiri (1,020,000Frw). [44] Uru Rukiko rusanga indishyi Urukiko Rukuru rw'Ubucuruzi rwategetse mu rubanza RCOMAA00621/2022/HCC zitageze nibura ku mafaranga y'u Rwanda miliyoni mirongo irindwi n'eshanu (75,000,000Frw), bityo, iyi nzitizi nayo ikaba ituma ubujurire bwa kabiri Trust For Sustainable Group Ltd yatanze butaba mu bubasha bw'Urukiko rw'Ubujurire. 2.Ibyerekeye amafaranga y'ikurikiranarubanza n'igihembo cya Avoka

5 Ingingo ya 7 y'itegeko rigena ububasha bw'inkiko iteganya ko" Mu manza zerekeye agaciro cyangwa iseswa ry'amasezerano y'ubukode, agaciro k'ikiburanwa kagaragazwa, ku byerekeye agaciro k'ayo masezerano n'igiteranyo cy'amafaranga yose yishyuzwa, naho ku byerekeye iseswa ryayo kagaragazwa n'umubare w'amafaranga y'igihe cy'ubukode gisigaye, uretse igihe amasezerano abiteganya ukundi." 6 Reba urubanza RCOMAA00027/2023/CA rwo ku wa 09/08/2023, igika cya 17.

Page 11

[45] Uhagarariye Trust For Sustainable Group Ltd n'umwunganira basaba uru Rukiko gutegeka Rugambwa Celse kuyiha amafaranga miliyoni esheshatu (6,000,000Frw) y'ikurikiranarubanza n'igihembo cya Avoka. Ku mafaranga Rugambwa Celse asaba, bavuga ko nta shingiro afite, ko ariko Urukiko rubibonye ukundi, rwamugenera amafaranga ibihumbi magana inani (800,000Frw) akubiyemo amafaranga ibihumbi magana atatu (300,000Frw) y'ikurikiranarubanza n'amafaranga ibihumbi magana atanu (500,000Frw) y'igihembo cya Avoka. [46] Rugambwa Celse n'umwunganira bavuga ko amafaranga Trust For Sustainable Group Ltd isaba idakwiye kuyahabwa, kubera ko ari yo yishe amasezerano. Basaba ahubwo uru Rukiko kuyitegeka kumuha amafaranga miliyoni imwe (1,000,000Frw) y'ikurikiranarubanza kuri uru rwego n'amafaranga miliyoni ebyiri (2,000,000Frw) y'igihembo cya Avoka.

Uko Urukiko rubibona

[47] Ingingo ya 111 y'itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ibikurikira : " Ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikiye ku kirego cy'iremezo kigamije kwishyura ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishwa rimwe n'ikirego cy'iremezo. Gishobora kandi kwakirwa kikaburanishwa n'iyi ikirego cy'iremezo cyaba kitakiriwe." [48] Kuba ubujurire bwa Trust For Sustainable Group Ltd butakiriwe, uru Rukiko rurasanga igomba guha Rugambwa Celse amafaranga y'ibyo yakoresheje mu rubanza kubera ko yashatse Avoka wo kumwunganira no

kurukurikirana, ayo mafaranga akaba agomba kugenwa mu bushishozi bwarwo kubera ko ayo asaba ari menshi. Bityo, Trust For Sustainable Group Ltd ikaba igomba guha Rugambwa Celse amafaranga ibihumbi magana atatu (300,000Frw) y'ikurikiranarubanza n'amafaranga ibihumbi magana atanu (500,000Frw) y'igihembo cya Avoka kuri uru rwego. III. ICYEMEZO CY'URUKIKO [49] Rwemeje ko inzitizi Rugambwa Celse yatanze, ifite ishingiro. [50] Rwemeje ko ubujurire bwa kabiri Trust For Sustainable Group Ltd yatanze butakiriwe, kubera ko butari mu bubasha bw'Urukiko rw'Ubujurire. [51] Rutegetse Trust For Sustainable Group Ltd guha Rugambwa Celse amafaranga ibihumbi magana atatu (300,000Frw) y'ikurikiranarubanza n'amafaranga ibihumbi magana atanu (500,000Frw) y'igihembo cya Avoka kuri uru rwego. [52] Ruvuze ko amafaranga y'ingwate y'amagarama Trust For Sustainable Group Ltd yatanze ijurira, ahwanye n'ibyakoze mu rubanza.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.amategeko.gov.rw/view/doc/8905/9248>

CASE PAGE <https://chat.esheria.ai/case-law/rwanda/trust-for-sustainable-group-ltd-v-rugambwa-celse-leaseagreements-court-of-appeal-2024>

Prepared on 13 October 2026 · Esheria