

RWANDA / JUDGMENT

TUMUKUNDE v VUGUZIGA

RCA 00172/2021/HC/KIG

COURT

High Court

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TUMUKUNDE v VUGUZIGA

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Text

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TUMUKUNDE v VUGUZIGA [Rwanda URUKIKO RUKURU - RCA 00172/2021/HC/KIG (Hitimana, P.J.) 12 Mutarama 2024] Amategeko agenga imanza z'imbonezamubano – Imanza z'imitungo y'abashyingiranywe – Gutanga uburenganzira bumwe cyangwa bwose ku mutungo w'abashyingiranywe - Umwe mu bashyingiranywe afite uburenganzira bwo gutanga umutungo utimukanwa bahuriyeho cyangwa kuwutangaho ubundi burenganzira amaze kubyumvikanaho n'uwo bashyingiranywe, byaba bikozwe ntabwumvikane hakabaho kuwukurikirana mu gihe kitarenze imyaka itanu ku mutungo cyangwa ubundi burenganzira ku mutungo byatanzwe mu gihe hakurikizwaga Itegeko N° 22/99 ryo ku wa 12/11/1999 ryuzuza igitabo cya mbere cy'urwunge rw'amategeko mbonezamubano kandi rishyiraho igice cya gatanu cyerekeye imicungire y'umutungo w'abashyingiranywe, impano n'izungura. Incamake y'ikibazo: Tumukunde yashakanye na Habimana mu buryo bwemewe n'amategeko mu mwaka wa 1983 ariko nyuma y'igihe aza kwimukira mu Bwongereza asiga umugabo we mu Rwanda amusigira imitungo irimo inzu 2 zo guturamo n'izindi 2 z'ubucuruzi. Nyuma yaje kumenya ko hari Banki igiye kugurisha mu cyamunara imwe muri mu nzu yasigiye umugabo we kuko yananiwe kwishyura inguzanyo iyo Banki yari yaramuhaye hanyuma agaruka mu Rwanda asanga hari n'indi mitungo yagurishije

arayikurikirana, urukiko ruhagarika cyamunara ndetse haza kubaho ubwumvikane ku wundi mutungo wari wagurishijwe. Haje gusigara inzu yari yaraguzwe na Vuguziga waje kuregwa mu Rukiko kugirango iyo nzu nayo igaruzwe kuko yagurishijwe batabyumvikanyeho. Urukiko rwisumbuye rwemeje ko ikirego nta shingiro gifite bituma Tumukunde ajurira mu Rukiko Rukuru asaba ko Urukiko rwatesha agaciro icyangombwa cy'amasezezerano y'ubukode burambye cyanditse kuri Vuguziga. Urukiko Rukuru rwakiriye ubwo bujuriye busuzuma ikibazo cyo kumenya niba hari uburenganzira Tumukunde yari afite ku mutungo waguzwe na Vuguziga awugurishijwe na Habimana, umugabo wa Tumukunde. Urega avuga ko yasezeranye mu buryo bwemewe n'amategeko na Habimana mu mwaka wa 1983 ariko akaza kujya gutura mu Bwongereza, Habimana asigara acunga imitungo bari bafitanye ari nabwo yaje kugurisha inzu y'i Kanombe batabyumvikanyeho yaguzwe na Vuguziga aho abimenyeye mu mwaka wa 2009 akaba aribwo yatangiye kubikurikirana. Akomeza asaba ko iyo nzu yagaruzwa mu mutungo w'urugo hanyuma icyangombwa cy'ubutaka kikandikwaho n'umugabo we. Habimana nawe avuga ko yagurishije uwo mutungo abyumvikanyeho n'umugore we kuko hari n'igice cy'amafaranga yahaye musaza we ngo ayamushyire. Vuguziga we yiregura avuga ko yaguze inzu mu buryo bwemewe n'amategeko kuko bagura icyangombwa cy'uwo mutungo cyari cyanditse kuri Habimana gusa. Akomeza avuga ko nubwo baba barasezeranye, Habimana yagurishije abyumvikanyeho n'umugore we bitewe n'uko kuva baguze kugeza aho Tumukunde yaziye gutanga ikirego hashize igihe kirekire kingana n'imyaka 13 ku buryo bitumvikana uko Tumukunde yavugaga ko atari azi ko iyo nzu yagurishijwe. Incamake y'icyemezo: Umwe mu bashyingiranywe afite uburenganzira bwo gutanga umutungo utimukanwa bahuriyeho cyangwa kuwutangaho ubundi burenganzira amaze kubyumvikana n'uwo bashyingiranywe, byaba bikozwe ntabwumvikane hakabaho kuwukurikirana mu gihe kitarenze imyaka itanu ku mutungo cyangwa ubundi burenganzira ku mutungo byatanzwe mu gihe

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hakurikizwaga Itegeko N° 22/99 ryo ku wa 12/11/1999 ryuzuza igitabo cya mbere cy'urwunge rw'amategeko mbonezamubano kandi rishyiraho igice cya gatanu cyerekeye imicungire y'umutungo w'abashyingiranywe, impano n'izungura. Bityo, ibisabwa na Tumukunde bikaba nta shingiro bifite kuko yamenye ko inzu aburana yagurishijwe hanyuma igihe cyo kuyikurikirana kikarenga atabikoze. Ubujuriye nta shingiro bufite. Amategeko yifshishijwe atagikoreshwa: Itegeko N° 22/99 ryo ku wa 12/11/1999 ryuzuza igitabo cya mbere cy'urwunge rw'amategeko mbonezamubano kandi rishyiraho igice cya gatanu cyerekeye imicungire y'umutungo w'abashyingiranywe, impano n'izungura, ingingo ya 17, 21, 22. Imanza zifashishijwe: RCAA 0022/15/CS, Nduwayo na Mukakalisa, rwaciye n'Urukiko rw'Ikirenga Urubanza I. IMITERERE Y'URUBANZA [1] Tumukunde Rehema yareze Habimana Yunusu na Vuguziga Hermenegilde mu rukiko rwisumbuye rwa Nyarugenge avuga ko yashakanye na Habimana Yunusu mu buryo bwemewe n'amategeko kuwa 04/04/1993 mu cyahoze ari Komini ya Masango nk'uko byemezwa n'inyandiko y'ishyingirwa, bitewe n'uko bashyingiwe mbere y'itegeko no 22/99 ryo ku wa 12 Ugushyingo 1999 ryuzuza igitabo cya mbere cy'urwunge rw'amategeko mbonezamubano kandi rishyiraho igice cya gatanu cyerekeye imicungire y'umutungo w'abashyingiranywe, impano

n'izungura, birumvikana neza ko basezeranye uburyo bw'ivangamutungo rusange, Tumukunde Rehema yagiye gutura mu Bwongereza (United Kingdom) mu mwaka 2001, Habimana Yunusu asigara mu Rwanda, akaba yarasigaye ariwe ucunga imitungo yabo ine yarimo amazu abiri (2) yo guturamo n'amazu abiri (2) y'ubucuruzi, mu mwaka wa 2009 yaje kumva ko Banki y'abaturage igiye guteza cyamunara inzu iri mu Biryogo, mu Murenge wa Nyarugenge, bitewe n'uko Habimana Yunusu yananiwe kwishyura umwenda banki yari yamuhaye agwatirije iyo nzu, Tumukunde Rehema yatanze ikirego mu rukiko ruhagarika iyo cyamunara, mu cyemezo cyo kuwa 11/17/2009, bitewe n'uko Habimana Yunusu yari yatanzeho iyo nzu ingwate atabyumvikanyeho n'umugore we, ko ubwo Tumukunde Rehema yaherukaga mu Rwanda mu mwaka wa 2018, yamenye amakuru ko umugabo we yagurishije indi nzu y'umuryango ihereye Kabeza mu Murenge wa Kanombe, yiyambaza urukiko ngo ruteshe agaciro ayo masezerano kuko nayo yayigurishije batabyumvikanyeho, urukiko rwakiriye ikirego ariko ikibazo cyaje gukemuka binyuze mu bwumvikanye hagati ya Tumukunde Rehema n'uware waguze na Habimana Yunusu ariwe Kalyango Steven, bityo uwaguze yemera kwishyura umugore 50% y'agaciro k'uwo mutungo wari wagurishijwe, nk'uko byemejwe mu rubanza RC 00750/2018/TGI/NYGE; [2] Tumukunde Rehema akomeza asobanura ko izo manza zatumye ashaka amakuru ku yandi mazu asigaye harimo iri mu kibanza ubu gifite UPI: 01/01/06/02/253 asanga cyanditse ku mazina ya Vuguziga Hermenegilde na Barampama Marie Goretti, ariko mbere yo kubarura ubutaka icyo

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kibanza kikaba cyari gifite n° 1292 kiri mu mazina ya Habimana Yunusu, kuko icyo gihe wari umutungo w'umuryango we n'umugore we, asanga nawo yarawugirishije nyamara umugore yari aziko amazu akodeshwa akamufasha mu buzima busanzwe bwa buri muni, abajije umugabo we niba koko yarahagurishije undi aramuhakanira, ariko ageze mu Bwongereza yakomeje kubaririza amakuru neza aza kumenya neza ko uwo mutungo wabo umugabo yawugurishije uwitwa Vuguziga Hermenegilde na Barampama Marie Goretti, ubu akaba ariwe ufite uwo mutungo, akaba yaratangajwe no kubona abantu bacuruzanyaga hamwe "Pieces de rechange" aribo baba baraguze umutungo w'umuryango bazi neza ko Tumukunde Rehema nk'umugore w'isezerano atabigizemo uruhare, amaze kubona ayo makuru neza yasanze nta kindi yakora uretse kugana urukiko asaba iseswa ry'ayo masezerano yabaye hagati y'umugabo we (Habimana Yunusu) na Vuguziga Hermenegilde kuko yakozwe mu buryo no mu nzira binyuranye n'amategeko, maze icyo kibanza kigasubizwa mu mutungo rusange w'umuryango wabo; [3] Mu kwiregura Habimana Yunusu asabonura ko yagurishije inzu ye na Vuguziga Hermenegilde mu mwaka wa 2006, nk'umugabo mu rugo umutungo wari wanditseho ku giti cye, ko bitari ngombwa kuzana umugore we kandi n'umugore akaba atari ahari akaba yumva nta cyaha cyangwa ikosa yakoze cyane ko uwo yagurishije bari basanzwe baziranye kandi bakorana, ariko akaba yumva uwo mutungo wagaruka mu muryango kuko umugore we atabimenye; [4] Vuguziga Hermenegilde nawe yiregura avuga ko yaguze umutungo na Habimana Yunusu, mu gihe ubugure bwakorwaga ku cyangombwa cy'umutungo Tumukunde Rehema akaba atakigaragaragaho, ko kuba rero arega avuga ko umutungo awufiteho uruhare kandi atabigaragariza ibimenyetso kuko utigeze umwandikwaho ndetse no kuwugura no kuwugurisha bigaragara ko umutungo ari uwa

Habimana Yunusu ari nawe wagurishije kandi nawe akaba yivugira ko umutungo yagurishije wari uwe, urega atagaragaza impamvu umutungo utakwitwa uwa Habimana Yunusu Yunuzu, ko kuba urega avuga ko awukomora ku isezerano ryo gushyingirwa agashingira ku mategeko yo muri 2016 kandi ubugure bwarakozwe muri 2006, akirengagiza ko itegeko ridasubira inyuma ku byakozwe ritarabaho, akaba asanga Tumukunde Rehema nta burenganzira afite bwo gusaba ko amasezerano yakozwe hagati y'umugabo we Habimana Yunusu na Vuguziga Hermenegilde yateshwa agaciro kuko hacyeho imyaka igera kuri 12 mu gihe itegeko riteganywa imyaka itanu, akaba asaba ko iki kirego kitahabwa ishingiro, ko urukiko rubibonye ukundi yasubizwa agaciro k'ibyo yongereye kuri uwo mutungo ubu hakoreshejwe igenagaciro rishya agasubizwa n'agaciro k'iyi nzu, agahabwa indishyi; [5] Mu ica ry'urwo rubanza kuwa 12/05/2021 Urukiko Rwisumbuye rwa Nyarugenge rwemeje ko ikirego cya Tumukunde Rehema nta shingiro gifite, rutegeka ko amafaranga y'amagarama yatanze na Tumukunde Rehema aregera urukiko ahwanye n'ibyarukozwemo, rushingiye ko mu gihe Tumukunde Rehema yazaga mu rwanda ntacyamubujije gukurikirana uwo mutungo wabo kuva mu mwaka wa 2006 kugeza atanze ikirego mu mwaka wa 2019; [6] Tumukunde Rehema yajuririyeho urwo rubanza mu Rukiko Rukuru asaba ko kuba Habimana Yunusu wagurishije umutungo w'umuryango atabyumvikanyeho n'umugore we byaba impamvu yo gutesha agaciro amasezerano y'ubugure yabaye hagati ya Habimana Yunusu na Vuguziga Hermenegilde Hermenegilde, urukiko rugatesha agaciro icyangombwa cy'amasezerano y'ubukode burambye yabaye hagati ya Repubulika y'u Rwanda, ihagarariwe n'Umubutsi w'impapuro mpamo z'ubutaka na Vuguziga Hermenegilde Hermenegilde na Barampama Marie Goretti, rugategeka kandi Vuguziga Hermenegilde Hermenegilde kwishyura indishyi mboneza musaruro zikomoka ku

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mutungo w'Umuryango amaze imyaka irenga cumi n'itanu atunze mu buryo bunyuranye n'amategeko, akanishyura amafaranga y'ikurikirana rubanza n'igihembo cya Avoka ; [7] Vuguziga Hermenegilde yireguye mu bujirire avuga ko yemera ko yagurishije umutungo w'umuryango umugore we atabizi agasaba ko wagarurwa mu muryango; [8] Habimana Yunusu nawe yiregura avuga ko ibivugwa na Tumukunde Rehema bikomezwa na Vuguziga Hermenegilde nta shingiro byahabwa kubera ko yaguze umutungo abona wanditse kuri Vuguziga Hermenegilde wenyine kandi akagura mu buryo bukurikije amategeko, ko nta mpamvu uwo mutungo wasubizwa abawumugurishije; [9] Iburanisha ry'urubanza ryabaye kuwa 25/07/2023 ndetse uwo muni rurapfundikirwa ariko nyuma y'iburanisha Me Dusenge Vestine ashyikiriza ibimenyetso bishya bitagiweho impaka n'abaturanyi bituma hemezwa isubukurwa ry'urubanza ryabaye kuwa 14/11/2023 icyo gihe abaturanyi bavugira kuri ibyo bimenyetso bishya urubanza rurapfundikirwa abaturanyi bahabwa igihe cyo kuzasomerwa; [10] Uru rukiko rurasuzuma ibyerekeye kumenya niba urukiko rwisumbuye rwarirengagije ko umutungo wagurishijwe Habimana Yunusu bikozwe na Vuguziga Hermenegilde hari uruhare Tumukunde Rehema yarawufiteho kuburyo amasezerano ashingiye kuri ubwo bugure yateshwa agaciro umutungo ugasubirana abari bawufatanyije, kumenya niba hari indishyi zagenwe muri uru rubanza; II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA Ku byerekeye kumenya niba urukiko rwisumbuye rwarirengagije

ko umutungo wagurishijwe na Habimana Yunusu bikozwe na Vuguziga Hermenegilde hari uruhare Tumukunde Rehema yarawufiteho kuburyo amasezerano ashingiye kuri ubwo bugure yateshwa agaciro umutungo ugasubirana abari bawufatanije; Mu gusobanura ubujurire bwe, Me Rugwizangoga Samuel uburanira Tumukunde Rehema avuga ko bashingiye ku biteganywa n'itegeko ry'amasezerano mu ngingo yaryo ya 4 ryateganije ko hari ibisabwa by'ibanze mu ikorwa ry'amasezerano, ibyo akaba ari : 1° kwemeranya kw'impande zigirana amasezerano, 20 ubushobozi bwo gukora amasezerano, 30 ishingiro ry'amasezerano, 40 impamvu yemewe n'amategeko, ko ibi kandi yabihuza n'ibiteganywa n'ingingo ya 6 y'itegeko n° 27/2016 ryo ku wa 08/07/2016 rigenga imicungire y'umutungo w'abashyingiranywe, impano n'izungura, aho iteganywa ibirebana n'imicungire y'umutungo w'abashyingiranywe aho umushingamategeko yasobanuye kubijyanye n'ububasha bwo kuwukoresha uko bikwiye, kuwikenura, kuwutanga no kuwugurisha, aha abashakanye bombi bakaba bafite ububasha bungana, nta n'umwe urusha undi uburenganzira ku mutungo w'umuryango, ko ibi rero bikaba bisobanura ko Habimana Yunusu adafite uburenganzira, ububasha n'ubushobozi byo kugira amasezerano y'ubugure yakora ku mutungo w'umuryango benewo (umugore n'umugabo) batabyumvikanyeho; [11] Me Rugwizangoga Samuel uburanira Tumukunde Rehema akomeza avuga ko kuba rero Habimana Yunusu yaba yaragurishije umutungo utari uwe (kuko awufiteho uburenganzira 50%) birumvikana neza ko amasezerano y'ubugure yagiranye na Vuguziga Hermenegilde akwiriye guseswa kuko yakozwe mu buryo no mu nzira binyuranye n'amategeko, byongeye kandi kuri iki

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kibazo baragaragaza ko ubwo bugure n'ubundi bukwiriye guseswa kuko habayemo uburiganya hagati y'uwagurishije n'uwaguze, ko ubwo buriganya bakaba babusobanura mu ngingo zikurikira:

- ko bitumvikana ukuntu Habimana Yunusu na Vuguziga Hermenegilde bari kwihererana bagakora amasezerano y'ubugure bw'umutungo w'umuryango nyamara bombi bazi neza ko uwo mutungo na Tumukunde Rehema awufiteho uburenganzira bungana na 50%, ko ibivugwa n'umucamanza wo ku rwego rwa mbere mu gika cya 19 ntabwo bukwiriye kugira ishingiro kuko Tumukunde Rehema atari azi ko umutungo wagurishijwe cyane cyane ko nta n'uwigeze abimumenyesha, kandi akaba yari azi ko umugabo yubahiriza inshingano ze zo gucunga imitungo basangiye, ko kuba rero umugore yarizeraga ibyo abwirwa n'umugabo we ko umutungo ukiri uwabo ko awucunga akanawubyaza umusaruro, ndetse akaba yaranabonaga ku mafaranga avuye muri uwo mutungo wabo, ntabwo bukwiriye gufatwa nk'aho umugore yaba yarateshutse ku nshingano ze, ibi byagira agaciro mu gihe umugore yari kuba yaramenyeshwe ko umutungo wagurishijwe ntagire icyo abikoraho, ko ubusanze hari ihame rya présomption de bonne foi, ko ariryo ryari gukurikizwa hano aho kuvuga gusa ngo umugore yagombaga nawe gukurikirana icungwa ry'umutungo wabo nk'aho atari yizeye umugabo we; [12] Me Rugwizangoga Samuel uburanira Tumukunde Rehema akomeza avuga ko indi ngingo igaragaza uburiganya bwakozwe na Habimana Yunusu afatanije na Vuguziga Hermenegilde aruko bagurishije iyo nzu ku giciro cy'intica ntikize (un prix dérisoire) kingana na miliyoni makumyabiri n'umunani (28.000.000Frw), ibi bikaba bitumvikana ukuntu inzu ya étage, yubatswe mu Muji rwagati (ku Muhima) yagura

ayo mafaranga, ko ibi rero babifata nk'uburiganya bwakozwe n'umugabo wa Tumukunde Rehema hamwe na Vuguziga Hermenegilde bari basanzwe baziranye bakorera hamwe imirimo y'ubucuruzi bwa pieces de rechanges; [13] Me Rugwizangoga Samuel uburanira Tumukunde Rehema akomeza avuga ko mu makuru yabashije kumenya aruko iyo nzu yaguzwe miliyoni ijana na makumyabiri (120.000.000Frw) ariko kubera uburiganya bw'uwigurishaga n'uwiguraga bakaba barabeshye ko bahaguze 28.000.000Frw, Tumukunde Rehema akaba asaba Urukiko rujuririrwe ko rwakora iperereza muri I&M Bank Rwanda Ltd yahose yitwa BCR Ltd kuko bamenye ko ubwishyu bwacishijwe kuri Konti ya Habimana Yunusu muri iyo Banki kandi ko amafaranga yishyuwe ari 120.000.000Frw, gusa banki yanze kubaha ikimenyetso ngo kuko iyo konti atari iya Tumukunde Rehema, ariko mu rwego rwo kugira ngo ukuri kurusheho kujya ahagaragara basabaga ko Urukiko rwategeko ko Habimana Yunusu yazana historique ya Konti ye muri muri I&M Bank Rwanda Ltd yahose yitwa BCR Ltd mu gihe ayo masezerano y'ubugure yakorwaga, ko ibi bikaba byagaragarira Urukiko uburiganya batahwemye kuvuga bwabaye hagati y'uwiguraga n'uwigurishaga, nanone kandi ntabwo urukiko rwari gushingira ku ngingo ya 108 y'itegeko no 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko "Ibimenyetso bicukumbuwe no gusesengura urubanza ni ibimenyetso bitacukumbuwe n'amategeko, bicukumburwa n'ubwenge n'ubushishozi bw'abacamanza»; [14] Me Rugwizangoga Samuel uburanira Tumukunde Rehema akomeza avuga ko abacamanza bagomba kwemera gusa ibyo bimenyetso iyo bikomeye, bisobanuye kandi bihuje, kuko hari amategeko asobanutse neza yemeza ko umutungo w'umuryango umwe mu bashyingiranywe atemewe kuwugurisha atabyumvikanyeho n'uwo bashakanye, ko bitumvikana ukuntu umucamanza yirengagiza nkana ibiteganywa n'amategeko akajya gushingira ku bimenyetso bicukumbuye nk'aho amategeko atabisobanuye, ko ibi bisobanuro aribyo bashingiraho basaba ko Urukiko Rukuru rukwiriye gukosora amakosa yakozwe ku rwego rwa mbere rukemeza ko

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amasezerano y'ubugure yabaye hagati ya Habimana Yunusu na Vuguziga Hermenegilde ku mutungo w'umuryango wari mu kibanza cyari gifite n° 1292 cyaje kubarurwa kuri UPI: I/01/06/02/253 akwiriye guseswa kuko yakozwe mu buryo bunyuranye n' amategeko nk'uko yabisobanuye haruguru, ndetse n'amasezerano y'ubukode burambye akwiriye guteshwa agaciro maze Urukiko rugategeka Umubitsi w'inyandikompamo ko hakorwa amasezerano y'ubukode burambye ku kibanza kibaruye kuri UPI : 01/01/06/02/253 hagati ya Repubulika y'u Rwanda, ihagarariwe n'Umubutsi w'impapuro mpamo z'ubutaka, ku ruhande rumwe na Habimana Yunusu na Tumukunde Rehema ku rundi ruhande, aba bagahita basimbura Vuguziga Hermenegilde Hermenegilde na Barampama Marie Goretti, ko ibi babisaba bashingiye no kubyemejwe mu rubanza RCAA 0018/13/CS rwaciwe n 'Urukiko rw'ikirenga kuwa 24/12/2014 ; [15] Me Mugemanyi Vedaste uburanira Vuguziga Hermenegilde avuga ko ingingo ya 6 y'itegeko n0 27/2016 ryo ku wa 08/07/2016 rigenga imicungire y'umutungo w'abashyingiranywe, impano n'izungura, aho iteganya ibirebana n'imicungire y'umutungo w'abashyingiranywe aho umushingamategeko yasobanuye kubijyanye n'ububasha bwo kuwukoresha uko bikwiye, kuwikenura, kuwutanga no kuwugurisha,

aha abashakanye bombi bakaba bafite ububasha bungana, nta n'umwe urusha undi uburenganzira ku mutungo w'umuryango, ko iri tegeko rigaragaza neza ibyo basobanuye ko Tumukunde Rehema yari azi neza ko umutungo wagurishijwe na Habimana Yunusu ibi bishimangirwa n'invugo z'urega aho agaragaza ko yazaga mu Rwanda, kuba rero yarazaga mu Rwanda akaba afite uburenganzira bumwe n'ubw'umugabo we mu micungire y'umutungo bisobanuye ko igihe yagombaga kuba yaratanze ikirego ku mutungo avuga ko wagurishijwe atabizi cyaba cyaramurenganye mu gihe nanone yamara imyaka ingana kuriya atabizi bisobanuye ko hari impamvu ikomeye yabimuteye nabwo yaba afite imyaka itanu byaba bitarakorwa atakaza uburenganzira bwo kubikurikirana, ibyo bagarukaho, ko ibi bikaba bisobanura ko Habimana Yunusu adafite uburenganzira, ububasha n'ubushobozi byo kugira amasezerano y'ubugure yakora ku mutungo w'umuryango benewo (umugore n'umugabo) batabyumvikanyeho, kandi ko ngo Habimana Yunusu yaba yaragurishije umutungo utari uwe (kuko awufiteho uburenganzira bungana na 50%) ntabwo ari ukuri kuko umutungo Vuguziga Hermenegilde yaguze wari uwa Habimana Yunusu 100% ari nacyo ibyangombwa yaguriyeho bigaragaza, bityo ntabwo byumvikana ibivugwa n'urega ko amasezerano y'ubugure yagiranye na Vuguziga Hermenegilde akwiriye guseswa kuko yakozwe mu buryo no mu nzira bikurikije amategeko, ibyo bikaba byaragaragarijwe urukiko ku rwego rwisumbuye ari naho rwahereye ruvuga ko batsinzwe nta buriganya bwakozwe ku ruhande rwa Vuguziga Hermenegilde kuko yaguze umutungo awugura nuwo wanditseho bibera imbere ya notaire, ko niyo haba uburiganya bwaba bwakozwe na Habimana Yunusu n'umugore we akaba aribo bakwirengera ingaruka zabyo ntaho Vuguziga Hermenegilde yaryozwa imicungire mibi y'umutungo yakozwe n'abashakanye hagati yabo byaba ari akarengane kuko iyo umutungo uza kuba wanditse kuri banyirawo nk'uko Tumukunde Rehema abivuga nta muntu numwe wari kwemera kuwugura undi bafatanyije adasinye, kuba rero abashakanye ubwabo aribo birengagije nkana kwiwandikaho umutungo bagomba kubiryoza bo ubwabo ntibigomba kubangamira Vuguziga Hermenegilde ku mutungo yaguze akaba awumaranye imyaka cumi n'itanu (15), bakaba bashimangiye kubugure bwabaye ndetse amafaranga akishyurwa kuri konti none se abashakanye mu mitungo bafatanyije ntiharimo n'amafaranga ari kuri za konti bo ubwabo bakaba babyiyemerera ko bishyuwe ibijyanye nayo bishyuranye ntaho byahurizwa nibyo baburana ko waguzwe batawuzi kuko byakozwe hagati yabagiranye amasezerano, ko kuba Tumukunde Rehema atarahabonetse akaba atanditse no ku cyangombwa ibyo bireba umugabo n'umugore ntabwo byaryozwa Vuguziga Hermenegilde;

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- [16] Me Mugemanyi Vedaste uburanira Vuguziga Hermenegilde akomeza avuga ko aho Tumukunde Rehema avuga ko urukiko rutari kugendera ku bimenyetso bicukumbuye ko ari ukwirengagiza ko imibare bagaragaza nk'umutungo inzu yinjiza ntawabura kwibaza no gucukumbura kuko ari amafaranga atari makeya ku buryo buri wese yakwibaza aho Tumukunde Rehema yari mu myaka 15 kuburyo atamenye imicungire y'umutungo avuga ko afatanyije n'umugabo we, ko bisaba rero gucukumbura ibyo urega yavugaga aricyo urukiko rwakoze ndetse n'urukiko rukuru kugirango rwumve neza ruzashingira ku bimenyetso

bicukumbuye kuko nta muntu wamara 12 atazi uko uwo bafatanyije umutungo awucunga, urukiko ruzibonere ko ibyo bavuga nta shingiro batsindwe no kutagaragaza ukuri kubyo bavuga; [17] Me Mugemanyi Vedaste uburanira Vuguziga Hermenegilde akomeza avuga ko ibivugwa na Tumukunde Rehema ndetse na Habimana Yunusu byo gutesha agaciro amasezerano y'ubugure kimwe n'icyangombwa cy'ubutaka ko basanga nta gaciro byahabwa kuko umutungo ari uwa Vuguziga Hermenegilde wawuguze kandi yagaragaje uburyo yawuguze bikabera imbere ya notaire wa Leta ubugure rero bwabaye itegeko ukurikije uko bwakozwe igihe bwabereye n'abagiranye amasezerano nubu barahari niba hari ibyo uwagurishije atubahirije abifatanyije n'umugore ntabwo byaryozwa uwaguze nta buryarya (acquerreur de bonne foi) byaryozwa uwakoze amakosa, ko kuba rero atunze icyangombwa ku mutungo yaguze ntabwo cyateshwa agaciro kuko agifitiye uburenganzira ahabwa n'amategeko, bityo ibivugwa nta shingiro ryabyo, ko kuba Tumukunde Rehema akwiye kugaragaza aho muri icyo mitungo yagurishijwe aho Rehema yasinze, Me Samuel agaragaze inyandiko yanditse ya Rehema mu yindi mitungo Yunusu yagurishije, inzu barayiguze bongeraho niveau 2, kuba Tumukunde Rehema avuga ko yagize ngo umugabo niwe urigusana, ko atigeze amusaba ku mafaranga y'ubukode, ko abagore icyo bagiye gutandukana n'abagabo bashakira hose kugirango bagabane, Habimana Yunusu yakwirengera ibibazo hagati ye n'umugore ariko Vuguziga Hermenegilde akagumana umutungo we; [18] Mu kwiregura kwa Habimana Yunusu wunganirwa na Me Dusenge Vestine bavuga ko Tumukunde Rehema yasezeranye mu mategeko na Habimana Yunusu, inzu bayiguze mu mwaka wa 1998, bigeze mu mwaka wa 2006 ayigurisha na Vuguziga Hermenegilde, mu myaka ya kera icyangombwa cyabaga cyanditse ku muntu umwe 100%, ko hari n'ibibanza n'amazu baguze byari bimwanditseho wenyine akabigurisha ariko ko atigeze yumva iki kibazo cyo kugurisha atumvikanye n'umugore we, ko amafaranga yagurishije bayakoresheje mu rwego rwo kwita ku mibereho y' abana baba i Burayi basana n'inzu bari bafite, ko atari azi ko Tumukunde Rehema yareze mu rukiko rwisumbuye, Vuguziga Hermenegilde ko ariwe wamurefonnye amubwira ko Tumukunde Rehema yabarezwe, ibintu byabaye byose ari ibyo umugore we yatekinitse, ntabyo we yarazi, ko uwitwa Me Rukundo Rene yaramuhamagaye amubwira impamvu yaje kumuhagararira mu rukiko atabizi, ko ubu we n'umugore we bari muri mu manza z'ubutane (divorce), ariho ahera acura uburyo yagaruza ibyagurishijwe bakibana, ko mu manza za mbere atigeze agaragaramo, ko adashobora kwemera guhuguza umuntu waguze ikintu cye barangije bamushyiriraho na system atabizi bakamushyiriraho repos medical atabizi, umugore we babanye kuva 2006 kugera 2015 kandi ko yagiye aza mu Rwanda ko atigeze avuga ngo yagurishije batumvikanye, ko hari n'andi mazu yari afite bagabanye neza ; [19] Me Dusenge Vestine uburanira Habimana Yunusu aburana avuga ku bijyanye n'ubugure uhagarariye Tumukunde Rehema avuga ko habayeho uburiganya, ko nta buriganya bwabayeho, ko icyangombwa cy'umutungo cyari cyanditse mu mazina ya Habimana Yunusu ku 100%, ko notaire w'ubutaka ko nta burenganzira yatse nuko ntabwagombaga, ko Tumukunde Rehema

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yamenye uko ibintu byagenze, ko yabaye mu Bwongereza yideclaye, ko hari na miliyoni cumi (10.000.000Frw) Habimana Yunusu yahaye musaza wa Tumukunde Rehema, hakaba hari urubanza rw'ubutane bareze mu rukiko rwisumbuye rwa Nyarugenge, ko Tumukunde Rehema yaravuze ngo Habimana Yunusu azamuhe igice cy'amafaranga atamuhaye, ko Me Napoleon yavuye muri dosiye abona ko ibiri muri dosiye ataribyo, ararwaye ariko ajya aburanira kuri Skype, havugwa igihe abashakanye bagomba kuba batatse ubugure bwabaye, ingingo ya 69 na 70, ingingo ya 22 y'itegeko rya 1999 niryo ikurikizwa, hari umutungo wagurishijwe 2016 Tumukunde Rehema yaraje baragabana; Uko uru rukiko rubibona [20] Uru rukiko rusanga impaka ziri muri uru rubanza ari ukumenya niba mu kugurisha umutungo kwakozwe na Habimana Yunusu akawugurisha Vuguziga Hermenegilde ko hari uruhare Tumukunde Rehema bashyingiranwe yarafiteho niba yaramenye iby'ubwo bugure, kwibaza niba ufite uruhare ku mutungo atarigeze awukurikirana hagashira imyaka 15 byatuma amasezerano y'ubugure ateshwa agaciro mu gihe urega avuga ko yageraga mu rwanda ntamenya iby'ubugure bwabaye ariko agakurikirana indi mitungo uwo ntawugereho no kwibaza niba hari ibimenyetso ko hari inyungu umugore yavanye muri ubwo bugure; [21] Uru rukiko rusanga Tumukunde Rehema arega agamije ko umutungo yari afatanije n'umugabo we Habimana Yunusu hashingiwe ku masezerano y'ishyingiranwa wagaruzwa mu muryango bakawugabana kubera ko bari mu manza z'ubutane agahabwa kimwe cya kabiri cyawo kingana na 50%, uregwa ariwe waguze, Vuguziga Hermenegilde akavuga ko yaguze uwo mutungo wanditse ku mazina ya Habimana Yunusu ko nta cyagaragazaga ko uwo mutungo Tumukunde Rehema awusangiye na Habimana Yunusu wamugurishije; [22] Uru rukiko rusanga nta mpaka zijyanye nuko Tumukunde Rehema na Habimana Yunusu bari barashyingiranwe byemewe n'amategeko kandi ko bashyingiranywe ivangamutungo, impaka zitumvikanwaho n'ababuranyi muri uru rubanza nuko urega atemera ko yaba yaramenye iby'ubwo bugure kuri uwo mutungo, Habimana Yunusu na Vuguziga Hermenegilde bakemeza ko ubwo bugure yaba yarabumenye kuko nubwo yabaga hanze y'u rwanda mu bwongereza ariko kandi ko yaregeye izi manza nyuma y'imyaka 15 yarasanzwe aza mu rwanda atarigeze akurikirana iby'uwo mutungo wari uw'umuryango nkuko Tumukunde Rehema abivuga ariko akicecekerako akaba azanye ikibazo aruko hatangiye imanza z'ubutane; [23] Uru rukiko rusanga Tumukunde Rehema ubwe yemera ko yoherejwe hanze mu bwongereza n'umugabo we Habimana Yunusu mu mwaka wa 2001 kandi ko asanzwe abasura ndetse ko hari n'amafaranga abaha nk'uhahira urugo, Tumukunde Rehema aburana kandi yemeza ko nubwo yagiye mu bwongereza ko asanzwe agaruka mu rwanda aribwo yamenye ko imitungo yari asangiye na Habimana Yunusu yagiye ayigurisha atabizi akayikurikirana ashaka ko yagarurwa mu mitungo y'umuryango ndetse imwe muriyo akayigaruka; [24] Ku bijyanye no kumenya niba Tumukunde Rehema asangiye umutungo na Habimana Yunusu umutungo uregerwa rusanga nta mpaka ibi byagakwiye gutera kubera ko [25] Ingingo ya 17 y'itegeko N° 22/99 ryo ku wa 12/11/1999 ryuzuza igitabo cya mbere cy'urwunge rw'amategeko mbonezamubano kandi rishyiraho igice cya gatanu cyerekeye

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imicungire y'umutungo w'abashyingiranywe, impano n'izungura, ryakurikizwaga ubwo Habimana Yunusu yagiranaga amasezerano y'ubugure na Vuguziga Hermenegilde kuko rubona amasezerano yakozwe kuwa 20/10/2006, iyo ngingo ivuga ko «Ugucunga umutungo bijyana n'ububasha bwo kuwukoresha uko bikwiye no kuwikenuza haseguriwe ibyo amategeko atemera. Mu buryo bw'ivangamutungo rusange cyangwa, ubw'ivangamutungo w'umuhahano, abashyingiranywe bumvikana ku ucunga umutungo bahuriyeho, bafite kandi ububasha bungana bwo kuwukurikirana no kuwuhagararira. Buri wese mu bashyingiranywe acunga umutungo n'ibikoresho bye bwite»; [26] Rusesenguye iyi ngingo rusanga ibivugwa na Tumukunde Rehema ko yagiye mu bwongereza mu mwaka wa 2001 ariko ko atamenye iby'uko umutungo uburanwa muri uru rubanza wagurishijwe kugeza areze mu rukiko mu mwaka wa 2018 akavuga ko yabimenye nyuma yo gukurikirana indi mitungo umugabo we yari yaragurishije, ariko yemera ko yarasanzwe aza mu rwanda, rusanga iby'iyi ngingo ivuga ko yari afite inshingano zingana n'iza Habimana Yunusu zo gukurikirana uwo mutungo aho uherereye cyane ko kuva mu mwaka wa 2006 uwaguze agaragaza ko yahinduye uwo mutungo akawongeraho izindi nzu, Tumukunde Rehema akaba atakwitwaza ko yari yizeye umugabo we kandi iyi ngingo imaze kuvugwa imuha ububasha bwo gukurikirana uwo mutungo no kuwuhagararira kimwe n'umugabo we Habimana Yunusu; [27] Kuba harabayeho kugurisha umutungo w'abashakanye byakozwe n'umugabo Habimana Yunusu ariko umugore we Tumukunde Rehema akavuga ko atabimenye, uru rukiko rusanga rwashingira ku murongo watanze n'urukiko rw'ikirenga mu rubanza RCAA 0022/15/CS1, aho urwo rukiko rwashingiye ku biteganywa n'ingingo ya 21 y'Itegeko N° 22/99 ryo ku wa 12/11/1999 ryuzuzwa igitabo cya mbere cy'urwunge rw'amategeko mbonezamubano kandi rishyiraho igice cya gatanu cyerekeye imicungire y'umutungo w'abashyingiranywe, impano n'izungura, akaba ari naryo tegeko ryagengaga imicungire y'imitungo y'abashakanye mu mwaka wa 2006 igihe igikorwa cyo kugurisha cyabaye, iyo ngingo iteganya ko "Uko imicungire y'umutungo n'uburyo bawucunga byaba bimeze kose, ubwumvikane bw'abashyingiranywe ari ngombwa mu gutanga ikitimukanwa bwite n'umutungo bahuriyeho no kubitangaho ubundi burenganzira", urukiko rwikirenga muri urwo rubanza rwashingiye ku biteganywa n'ingingo ya 22 y'Iryo Tegeko, igira iti "Umwe mu bashyingiranywe wagize amasezerano ku mutungo agomba ubwumvikane bwabo bombi, agomba mu gihe cyo kuyakora cyangwa mu gihe cy'amezi atandatu akurikira, gusaba uwo bashyingiranywe ko ayemera. Iryo yemera rimenyeshwa mu nyandiko uwo bagiranye amasezerano; iyo nta gisubizo yatanze nyuma y'ukwezi gukurikira umunsi yabimenyesherejweho, ukwemera kwe gufatwa nk'aho kwatanze mu buryo budasubirwaho. Iyo uwagombaga kubyemera atabashije kuboneka cyangwa kugaragaza igitekerezo cye abitewe n'impamvu zikomeye, amasezerano aba ntakuka iyo hashize umwaka umwe (1) ku bintu byimukanwa n'imyaka itanu (5) ku bintu bitimukanwa"; [28] Mu isesengura ry'izo ngingo ya 21 n'ya 22 urukiko rwikirenga rwavuze mu bika bya 24 na 25 by'urwo rubanza (RCAA 0022/15/CS), ko zumvikanisha ko ari ihame ku bashyingiranywe kugirana ubwumvikane mbere yo gutanga (donation) umutungo utimukanwa bahuriyeho cyangwa kuwutangaho ubundi burenganzira (kuwutangaho ingwate, kuwugurisha...), igihe amasezerano yakozwe n'umwe muri bo, akaba agomba kuyamenyesha mugenzi we kugira ngo agaragaze ko

1Reba icyegeranyo cy'ibyemezo by'inkiko, RLR, V. 3, 07/2020, akaba ari urubanza rwa Nduwayo Nathan na Mukakalisa Dancille.

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ayemera, uwo bagiranye amasezerano akabimenyeshwa. Igihe umwe mu bashyingiranywe adashoboye kuboneka ku mpamvu iyo ari yo yose ngo agaragaze ukwemera kwe, umushingamategeko yashyizeho igihe cy'umwaka umwe (1) ku bintu byimukanwa, n'imyaka itanu (5) ku bintu bitimukanwa kugira ngo amasezerano yakozwe umwe mu bashyingiranywe adahari agaragaze ko ayemera cyangwa atayemera, haba nta gikozwe muri icyo gihe, ayo masezerana akaba ndakuka. [29] Muri urwo rubanza (RCAA 0022/15/CS), urukiko rwikirenga rwakomeje ruvuga ko iki gihe (umwaka cyangwa imyaka itanu) aricyo umushingamategeko yasanze gikwiye kugira ngo umwe mu bashakanye utarabashije kugaragaza ko yemera amasezerano yakozwe na mugenzi we adahari abe yasaba ko ateshwa agaciro mu gihe asanze atayemera. Ibi bikaba ari ngombwa kandi ku ruhande rw'uwiguze kugira ngo yumve atekanye mu buryo bwo gukoresha umutungo we atikanga ko igihe icyo aricyo cyose hazagira uza kuwutambamira²; [30] Mu gika cya 29 cy'urwo rubanza RCAA 0022/15/CS, urukiko rwikirenga rwasobanuye ibi bikurikira: «Urukiko rw'Ikirenga rurasanga ariko, n'ubwo Mukakalisa Dancille atamenyeshejwe n'umugabo we Nduwayo Nathan amasezerano y'ubugure yagiranye na Ndahunga Jean Marie Vianney ku mutungo bari basangiye ku mpamvu iyo ariyo yose, yari afite igihe kingana n'imyaka itanu (5) kugira ngo akurikirane umutungo we nk'uko biteganyanywa n'ingingo ya 22 y'Itegeko N° 22/99 ryo ku wa 12/11/1999 yavuzwe haruguru, cyane cyane ko yari amaze kubona ko umugabo we avuga ko batumvikanaga agiye i Burayi, akaba yari afite ububasha bwo kuwukurikirana no kuwuhagararira ahabwa n'ingingo ya 17 y'Itegako rimaze kuvugwa. Kuba rero Mukakalisa Dancille wagombaga kugira icyo avuga ku masezerano y'ubugure yabaye hagati y'umugabo we Nduwayo Nathan na Ndahunga Jean Marie Vianney hagashira imyaka irenga itanu

- (5) ntacyo akoze, bivuze ko ayo masezerano yabaye ndakuka bityo akaba adashobora guseswa ku mpamvu y'uko gusa atayemeye ubwo yakorwaga»; [31] Ku byerekeranye n'uru rubanza, imiburanire ya Tumukunde Rehema ubwe agaragaza ko umutungo uri mu kibanza UPI: 253 cyahozwe cyanditse kuri 1292 cyagurishijwe na Habimana Yunusu mu mwaka wa 2006 nkuko amasezerano y'ubugure abigaragaza, ariko akavuga ko atamenye iby'ubwo bugure bw'umutungo yarasangiye n'umugabo we, akavuga ko yabimenye aje gukurikirana indi mitungo irimo umutungo Habimana Yunusu yatanzeho ingwate asaba inguzanyo muri Banki y'Abaturage y'u Rwanda, akaza mu Rwanda gutanga ikirego mu rukiko rwisumbuye rwa Nyarugenge cyamunara yari iteganyijwe ihagarikwa mu cyemezo cyo kuwa 17/11/2009, bigaragara ko kuba yamenye ko imitungo yatangiye gutangwaho ingwate ndetse no kugurishwa bikozwe n'umugabo we Habimana Yunusu ari nawo mwaka avuga ko Habimana Yunusu yamusanze mu bwongereza agira ngo babane nk'umugabo n'umugore, byumvikana ko Tumukunde Rehema yari afite inshingano zo gukurikirana no guhagararira imitungo yari asangiye n'umugabo we Habimana Yunusu nkuko byemejwe n'urukiko rwikirenga kandi bishingiye ku biteganywa n'ingingo ya 17 y'itegeko ryavuzwe haruguru ryariho icyo gihe akagenzura niba iyo mitungo iriho n'uwo yasize wanditse kuri 1292 yari ikiriho kandi ko

nayo yaba itaragurishijwe; [32] Uru rukiko rusanga usibye n'icyo gihe kimaze kuvugwa, ko Tumukunde Rehema ubwe yivugira ko mu mwaka wa 2009 yamenye ko umugabo we yagwatirije imwe mu mitungo bari

2 Reba igika cya 24 cy'urubanza RCAA 0022/15/CS ruboneka mu cyegeranyo cy'ibyemezo by'inkiko, RLR V. 3, 07/2020, ku rupapuro rwa 75-91.

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basangiye akayihira Banki y'Abaturage y'u rwanda, ariko anivugira ko nyuma y'icyo gihe hari indi mutungo yamenye ko Habimana Yunusu yagurishije uwitwa Karyango, Tumukunde Rehema akaza nawo kuwurengera (akaba agaragaza ko wo yawukurikiranye ndetse akawurengera) ndetse nyuma y'uko awukurikiranye habayeho ubwumvikane agasubizwa na Karyango igice cye gihwanye na 50% y'uruhare rwe nkuko amasezerano y'ubwumvikane abigaragaza ; [33] Uru rukiko rusanga mu kirego cy'ubutane Tumukunde Rehema yatanze mu rukiko rw'ibanze rwa Nyarugenge cyanditswe kuri RC 00463/2021/TB/Nyge akaba ari ikirego yatanze mu mwaka wa 2021, Tumukunde Rehema yivugira ubwe ko impamvu asaba ubutane aruko we n'umugabo we bamaze igihe kirenga imyaka umunane (8) batabana nk'umugore n'umugabo ndetse n'ihohoterwa rishingiye ku gitsina kubera imitungo yose y'umuryango yagurishije undi atabizi nta n'uruhare abigizemo, bisobanuye ko muri icyo myaka umunane (8) yose ishize Tumukunde Rehema yari azi neza ko umutungo yarasangiye n'umugabo we uherereye ku Muhima wagurishijwe nubwo avuga ko atabimenye ariko kandi yari afite inshingano zo kuwugaruza mu gihe cy'imyaka itanu iteganywa n'ingingo yavuzwe haruguru ya 22 y'itegeko N° 22/99 ryo ku wa 12/11/1999 ryuzuza igitabo cya mbere cy'urwunge rw'amategeko mbonezamubano kandi rishyiraho igice cya gatanu cyerekeye imicungire y'umutungo w'abashyingiranywe, impano n'izungura, cyane ko yiyemerera ko mu mwaka wa 2009 yamenye uburiganya ku mitungo yabo Habimana Yunusu umugabo we yakozwe, bivuze rero ko nubwo atamenyeshejwe iby'ubwo bugure bwakozwe na Habimana Yunusu wagurishije Vuguziga Hermenegilde akaba yarafite iza nshingano zo gukurikirana uwo mutungo mu gihe kitarenze imyaka itanu kuva ubugure bubayeho ariko kuko atabikoze ko uru rukiko rwashingira narwo ku murongo watanze n'urukiko rwikirenga mu rubanza rwavuzwe haruguru RCAA 0022/15/CS, aho mu bika bya 32 na 33 rwemeje ko amasezerano y'ubugure aba ndakuka nyuma y'imyaka itanu uvuga ko yakozwe ku mutungo basangiye nk'abashyingiranwe umwe atabizi, nubwo muri uru rubanza rusanga rwo Tumukunde Rehema bigaragara ko yabimenye kandi ko yari afite inshingano zo gukurikirana uwo mutungo kuva mu mwaka wa 2009 ariko ntabikore ngo atange ikirego cyo gusesa ubwo bugure hatarashira icyo myaka itanu iteganywa n'itegeko, akaba yararegeye urukiko nyuma y'imyaka 13 umutungo ugurishijwe n'umugabo we ndetse na nyuma y'imyaka 10 kuko yaregeye urukiko rwisumbuye mu mwaka wa 2019 mu rubanza rujuririrwa kandi mu mwaka wa 2009 nyuma y'imyaka itatu uwo mutungo ugurishijwe ko aribwo Tumukunde Rehema yemera ko umugabo we yamusanze mu bwongereza ngo babane bakaba barabanye igihe cy'imyaka itandatu nkuko abyivugira ko umugabo we yagarutse mu rwanda mu mwaka wa 2015, kandi uwo mutungo aregera ukaba utaragurishijwe nyuma y'icyo gihe aruko batandukanye ahubwo ko wagurishijwe mbere y'uko umugabo we Habimana Yunusu amusanga mu bwongereza mu mwaka wa 2009; [34] Uru rukiko rusanga hashingiye ku

bisobanuro no ku mategeko byagaragajwe haruguru, rukanashingira ku byemejwe n'urukiko rwikirenga mu rubanza rwavuzwe haruguru, rusanga rwakwemeza ko amasezerano y'ubugure bw'inzu iri mu kibanza UPI: 1/01/06/02/253 yahoze ari 1292 gihereye ku Muhima yabaye hagati ya Vuguziga Hermenegilde na Habimana Yunusu ku itariki ya 20/10/2006 atagomba guteshwa agaciro nkuko bisabwa na Tumukunde Rehema kubera ko ubwe yatinze kuyaregera ko yateshwa agaciro; [35] Ku byerekeye kumenya niba uru rukiko rwasuzuma ibyerekeye ibisabwa na Tumukunde Rehema ko hateshwa agaciro ibyemezo by'umutungo byanditse ku mazina ya Vuguziga Hermenegilde akaba ari umutungo yagurishijwe na Habimana Yunusu nkuko byasobanuwe haruguru, ndetse n'ikibazo cyo kumenya niba hakwishyurwa indishyi mboneza musaruro

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zikomoka ku mutungo uburanwa Tumukunde Rehema avuga ko Vuguziga Hermenegilde amaze imyaka irenga cumi n'itanu atunze mu buryo bunyuranye n'amategeko, ko rusanga atari ngombwa gusuzuma izi ngingo z'ubujurire kubera ko amasezerano y'ubugure Tumukunde Rehema yaregeraga ko aseswa agumanye agaciro kayo kuko igihe cyo kuyaregera ngo aseswe cyarenze; Ku byerekeye kumenya niba hari indishyi zagenwa muri uru rubanza; [36] Me Rugwizangoga Samuel uburanira Tumukunde Rehema avuga ko nyuma yo kwemeza ko ubujurire bwa Tumukunde Rehema bufite ishingiro, ko asaba Urukiko rwajuririwe kumugenera amafaranga y'ikurikirana rubanza n'igihembo cya Avoka abazwe mu buryo bukurikira: - Amafanga y'ikurikirana rubanza ku rwego rwa mbere ndetse no ku rwego rw'ubujurire: 400.000Frw, - Igihembo cya Avoka ku rwego rwa mbere no ku rwego rw'ubujurire: 3.000.000Frw,

- Amafanga y'amagarama ku rwego rwa mbere no ku rwego rw'ubujurire: 60.000Frw Yose hamwe 3.460.000Frw, ko ibi abisaba ashingiye ku ngingo ya 111 y'itegeko n° 22/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi; [37] Me Dusenge Vestine uburanira Vuguziga Hermenegilde avuga ko nta shingiro indishyi zisabwa na Tumukunde Rehema zifite kuko n'ikirego cye nta shingiro ariko urukiko rusanze gifite ishingiro rwayagena mu bushishozi bwarwo, ko ahubwo kuba akomeje gushorwa mu manza ko urukiko rwategeka ko yagenerwa indishyi zikurikirana rubanza zihwanye na 200.000Frw n'igihembo cya avocat kingana na 1.000.000Frw; Uko uru rukiko rubibona [38] Uru rukiko rushingiye kubyavuzwe haruguru rukabihuza n'impamvu z'ubujurire za Tumukunde Rehema usaba gusesa amasezerano y'igurishwa ry'umutungo byakozwe na Habimana Yunusu ku mutungo basangiye nk'abashyingiranwe ariko rukaba rusanga ikirego cye nta shingiro cyahawe bityo n'indishyi asaba ko yagenerwa na Vuguziga Hermenegilde kimwe na Habimana Yunusu akaba adakwiye kuzigenerwa kuko ntaho zaba zishingiye; [39] Ku byerekeye indishyi zikurikirana rubanza n'igihembo cya avocat bisabwa na Vuguziga Hermenegilde mu bujurire rusanga byo byasuzumwa hashingiwe ko Tumukunde Rehema ariwe wamushoye mu bujurire butahawe ishingiro, ariko mu kugena izo ndishyi Vuguziga Hermenegilde akaba akwiye kuzigenerwa mu bushishozi bw'urukiko, akagenerwa izihwanye na 200.000Frw yo gushorwa mu bujurire nta mpamvu ndetse akishyurwa n'igihembo cya avoka gihwanye na 500.000Frw, yose akishyurwa na Tumukunde

Rehema wamushoye mu bujurire nta mpamvu yumvikana yatuma asaba gusesa amasezerano y'ubugure bw'umutungo kandi yaramenye neza ko wagurishijwe akaba atarasabye iseswa ry'ubwo bugure mu gihe giteganywa n'amategeko. III. ICYEMEZO CY'URUKIKO RUKURU [40] Rwemeje ko ubujurire bwatanzwe na Tumukunde Rehema nta shingiro bufite. [41] Rwemeje ko imikirize y'urubanza RC 00355/2019/TGI/Nyge rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge kuwa 12/05/2021 idahindutse mu ngingo zayo zose.

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[42] Rutegetse Tumukunde Rehema kwishyura Vuguziga Hermenegilde indishyi zikurikirana rubanza no kumushora mu manza z'amaherere zihwanye na 200.000Frw n'igihembo cya avocat gihwanye na 500.000Frw. [43] Rutegetse ko ingwate y'amagarama yatanze na Tumukunde Rehema ahwanye n'amagarama y'ibyakoze muri uru rubanza.

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