

RWANDA / JUDGMENT

TUYISHIME v TWAGIRAMUNGU N'ABANDI

RC 00002/2024/SC

COURT

Supreme Court

DECIDED

9 May 2025

CASE / FILE NUMBER

RC 00002/2024/SC

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

TUYISHIME v TWAGIRAMUNGU N'ABANDI

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2025-05-09
- Case/document no.: RC 00002/2024/SC
- Collection: Supreme Court

Text

Page 1

TUYISHIME v TWAGIRAMUNGU N'ABANDI [Rwanda URUKIKO RW'IKIRENGA – RC 00002/2024/SC (Muhumuza, P.J., Kazungu, Kalihangabo, J.) 09 Gicurasi 2025] Amategeko agenga imiburanishirize y'imanza – Imanza z'imbonezamubano – Iyakirwa ry'ikirego

- Ikirego cyakirwa mu rukiko iyo urega afite ububasha, inyungu n'ubushobozi byo kurega keretse igihe itegeko ribiteganywa ukundi Amategeko agenga imanza z'imbonezamubano – Izungura - Iyo iseswa ry'ivangamutungo rusange ribaye kubera urupfu rw'umwe mu bashyingiranywe, umutungo wegukanwa n'uwapfakaye kugeza igihe izungura rikorewe. Incamake y'ikibazo: Tuyishime mwene Bivumbuka yatanze ikirego mu Rukiko rw'Ikirenga aregera kuvanaho imanza yavugaga ko zivuguruzanywa, zaburwanwe na se atarapfa. Izo manza zemeje ko umurima uri ahitwa i Nyarusange, zimwe muri izo zemeje ko ari uwa Kanyanja, izindi zemeza ko ari uwa Bivumbuka Aloys. Uru rukiko rwasuzumye ikibazo cyo kumenya niba Tuyishime Samuel afite ububasha bwo kuregera ivuguruzanywa ry'imanza zaburanywe na se Bivumbuka Aloys atari yapfa, mu gihe umupfakazi wa nyakwigendera

akiriho. Nyirinkindi mwene Gatabazi, asobanura ko urega nta bubasha afite nta bubasha afite bwo gutanga iki kirego kuko ubwo bubasha bufitwe n'umubyeyi we ukiriho Mukasine Foyibi, umupfakazi wa Bivumbuka Aloys. Avuga ko n'ubwo umu- ryango waba waramuhaye uburenganzira bwo gukurikirana ikibazo cy'imanza zaburanywe na Bivumbuka Aloys akiriho, bitavuze ko yari gutanga ikirego mu izina rye ahubwo yari kugitanga mu izina rya nyina, we akagaragara mu rubanza nk'umuhagarariye. Urega avuga ko afite ububasha bwo kuburana uru rubanza kubera ko ari mu bazungura b'ibanze ba Bivumbuka kandi n'umuryango wose urimo na umupfakazi wa nyakwigendera ukaba waramuhaye ububasha bwo kuburana urwo rubanza. Incamake y'icyemezo: 1. Ikirego cyakirwa mu rukiko iyo urega afite ububasha, inyungu n'ubushobozi byo kurega keretse igihe itegeko ribiteganywa ukundi;

2. Iyo iseswa ry'ivangamutungo rusange ribaye kubera urupfu rw'umwe mu bashyingiranywe, umutungo wegukanwa n'uwapfakaye kugeza igihe izungura rikorewe. Ikirego nticyakiriwe. Amategeko yashingiweho: Itegeko N°22/2018 ryo kuwa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 3, 111. Amategeko yafashishijwe atagikoreshwa: Itegeko N°27/2016 ryo kuwa 08/07/2016 ryagengaga imicungire y'umutungo w'abashyingiranywe, impano n'izungura, ingingo ya, 2, 8, 76.

Page 2

Inyandiko z'abahanga zifashishijwe: Paul Delnoy, Précis de droit civil, Les libéralités et les successions, Liège, Collection de la Faculté de droit de l'Université de Liège, 2009, 3^e édition, p.98, n°59. Urubanza I. IMITERERE Y'URUBANZA [1] Tuyishime Samuel yatanze ikirego, kuwa 29/02/2024, mu Rukiko rw'Ubujurire aregera gukemura ikibazo cy'ivuguruzanya ry'imanza, cyandikwa kuri PST RC 00023/2024/CA, urubanza rwoherejwe mu Rukiko rw'Ikirenga rwandikwa kuri RC 00002/2024/SC hashingiwe ku murongo warwo wemeje ko ari rwo rufite ububasha bwo gukemura ukuvuguruzanya kuri hagati y'imanza zaciwe mu rwego rwa nyuma². [2] Tuyishime Samuel avuga ko umubyeyi we Bivumbuka Aloys yapfuye, kuwa 23/02/2021, asize imanza yaburanye zivuguruzanya ku buryo zarangijwe nabi. [3] Imanza zivuguruzanya zerekera n'umurima uri ahitwa i Nyarusange : zimwe muri izo zemeje ko ari uwa Kanyanja³, izindi zemeza ko ari uwa Bivumbuka Aloys. [4] Imanza zemeje ko uyu murima ari uwa Kanyanja ni: RCA 337/56/85 rwaciwe n'Urukiko rwa Mbere rw'Iremezo rwa Kibuye kuwa 16/12/1989, haburana KANDAMO na Bivumbuka, na Kanyanja na MUKARUBUGA barugobotsemo. icyemezo muri uru rubanza cyanditse gitya : « Rwemeje ko umurima w'i Nyagasozo (...) ukaba ugomba kuba uwa Bivumbuka (...) uw'i Nyarusange Kanyanja akaba awuragiriye MUKANDAMUTSA, (...) Kanyanja akaba akwiye kuwusubirana (...). Rwemeje ko Bivumbuka atsindiwe imirima (...) n'uw'i Nyarusange ». [5] Hari n'urubanza RC 30/R9/2000 rwaciwe n'Urukiko rwa Kanto ya Mwendo kuwa 22/01/2002, haburana TWAGIRAMUNGU na Kanyanja, icyemezo cyanditse gitya: « Rwemeje ko umurima waburanwaga (uw'i Nyarusange) nk'uko ibimenyetso byatanze mu rubanza

hamwe n'abagabo babajijwe bigaragaza ko ari uwa Nyirinkindi atuyemo kuva 1991 (...) ». [6] Uru rubanza TWAGIRAMUNGU yarujuririye mu Rukiko rw'Intara ya Kibuye rwandikwa kuri RCA 119/72/2002-RCA0184/4/TP/KBY, hago- botsemo kandi Bivumbuka ; maze rucibwa ku wa 10/08/2005, Urukiko rwemeza ko :« ahaburanwa ari aha Kanyanja yahatsindiye mu rubanza RCA 337/56/85 mu gihe yarugobokagamo (...), rutegeka ko urubanza rwajuririye rudahindutse mu ngingo zarwo zose ». [7] Uru rubanza TWAGIRAMUNGU na Bivumbuka bongeye kurujuririra ruhabwa RCA 0318/06/HC/RSZ-RCAA0789/05/HC/RUH, rucibwa n'Urukiko Rukuru rwa Repubulika, Urugereko rwa Rusizi ku wa 30/05/2008 rwemeza ko: « ubujurire nta shingiro kuko umurima uburanwa Kanyanja yawutsindiye mu rubanza RCA 337/56/85 rwaciwe ku wa 16/12/1989 kandi

1 Ni mwene Bivumbuka Aloys na Mukasine Foibi. 2 RC00001/2023/SC, rwaciwe ku wa 28/07/2023, haburana RUTAYISIRE Jean de Dieu na MUKANKURIKIYIMANA Béatrice na bagenze be 3Niwe wawuhaye Nyirinkindi Onesphore umuhungu we.

Page 3

rwabaye itegeko kuko rutigeze rusabirwa iseswa. Rwemeje ko imikirize y'urubanza rwajuririye idahindutse uretse ku byerekeye amagarama n'indishyi ». [8] Imanza zemeje ko umurima w'i Nyarusange ari uwa Bivumbuka Aloys, ni izikurikira : RC 0103/12/TB/TWB-RC0104/12/TB/TWB,habu- rana Bivumbuka waregaga Kanyanja na UZAMUSHAKA ; rwaburanishijwe abaregwa badahari rucibwa n'Urukiko rw'Ibanze rwa Twumba ku wa 31/05/2012, mu byo rwemeje harimo ko : « imirima Bivumbuka Aloys yaregeye ariyo umurima w'i Nyarusange, umurima w'i Nyagasozu ari iye yose ». [9] Kanyanja na UZAMUSHAKA basubirishijemo urubanza ikirego cyabo cyandikwa kuri RC 0180/12/TB/TWB, urubanza rwaciwe ku wa 10/09/2012, Urukiko rwemeza ko batagaragaje impamvu ikomeye yatumye batitaba, baratsindwa ; Kanyanja na UZAMUSHAKA bajuririye uru rubanza mu Rukiko Rwisumbuye rwa Karongi ubujurire bwandikwa kuri RCA 0659/12/TGI/KGI-0660/12/TGI/KGI, Urukiko rwaciye urubanza ku wa 28/03/2013, rwemeza ko ubujurire bwabo nta shingiro bwahabwa kuko batatanze ikimenyetso cy'impamvu ikomeye yababujije kwitaba ubwo dosiye yaburanishwaga badahari; Kanyanja yasubirishijemo uru rubanza ingingo nshya mu Rukiko Rwisumbuye rwa Karongi, ikirego cyandikwa kuri RCA 0173/13/TGI/KGI, urubanza rwaciwe ku wa 30/12/2013, Urukiko rwemeza ko ikirego nta shingiro gifite. [10] Iburanisha ry'urubanza ryabaye mu ruhamu ku wa 08/04/2025, hitabye Tuyishime Samuel, yunganiwe na Me MURERA Paulin, Me MANIRAKIZA Claude ahagarariye Nyirinkindi Onesphore naho UZAMUSHAKA Anastasie na TWAGIRAMUNGU Célestin batitabye. Urukiko rwahaye ijamba ababuranyi bitabye kugira ngo bagire icyo bavuga ku batitabye, bese basaba ko urubanza rwaburanishwa kuko abasibye bari batumiwe mu nama ntegururubanza ntibitaba; rwemeje ko urubanza rugomba kuburanishwa kuko abatitabye bahamagajwe mu buryo bwubahirije amategeko. Urukiko rwamenyesheje ababuranyi ko uhagarariye Nyirinkindi Onesphore yatanze inzitizi y'iburabubasha bwa Tuyishime Samuel akaba ari yo yasuzumwe hamwe n'indishyi zisabwa mu rubanza. II. IBIBAZO BIGOMBA GUSUZUMWA N'ISESENGURA RYABYO A. Kumenya niba Tuyishime Samuel afite ububasha bwo kuregera ivuguruzanya ry'imanza zaburanywe na se Bivumbuka Aloys atari yapfa, mu gihe umupfakazi wa nyakwigendera akiriho [11] Me Manirakiza

Claude uhagarariye Nyirinkindi Onesphore avuga ko Tuyishime Samuel nta bubasha afite bwo gutanga iki kirego kuko ubwo bubasha bufitwe n'umubyeyi we ukiriho Mukasine Foyibi, umupfakazi wa Bivumbuka Aloys. Avuga ko n'ubwo umu- ryango waba waramuhaye uburenganzira bwo gukurikirana ikibazo cy'imanza zaburanywe na Bivumbuka Aloys akiriho, bitavuze ko yari gutanga ikirego mu izina rye ahubwo yari kugitanga mu izina rya nyina, we akagaragara mu rubanza nk'umuhagarariye. Asobanura ko ibi abishingira ku ngingo ya 76 y'itegeko N°27/2016 ryo ku wa 08/07/2016 rigenga imicungire y'umutungo w'abashyingiranywe, impano n'izu- ngura, ryariho igihe yatangaga ikirego.

Page 4

[12] Tuyishime Samuel asubiza ko afite ububasha n'inyungu byo gutanga iki kirego kuko ari umuzungura wo ku rwego rwa mbere, akaba kandi yarabihereye uburenganzira n'inama y'umuryango yateranye ku wa 13/02/2023. Asoza avuga ko ikirego yatanze cyubahirije ibiteganywa n'ingingo ya 3 n'itegeko N°22/2018 ryo kuwa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets n'uko ryahinduwe, iteganya ko kugira ngo ikirego cyakirwe ugitanze agomba kuba afite inyungu, ububasha n'ubushobozi. UKO URUKIKO RUBIBONA [13] Ingingo ya 3 y'itegeko N°22/2018 ryo kuwa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegets n'uko ryahinduwe, iteganya ko: "Ikirego cyakirwa mu rukiko iyo urega afite ububasha, inyungu n'ubushobozi byo kurega keretse igihe itegeko ribiteganywa ukundi (...)" [14] Ingingo ya 76, igika cya 1, 1°, y'itegeko N°27/2016 ryo ku wa 08/07/2016 ryagengaga imicungire y'umutungo w'abashyingiranywe, impano n'izungura⁴, igihe ikirego cyatangwaga yateganyaga ko : "Abashyingiranywe bafitanye amasezerano y'ivangamutungo rusange bazungurwa mu buryo bukurikira: 1° iyo umwe apfuye usigaye yegukana umutungo wose akubahiriza inshingano yo kurera abana babo n'ab'uwapfuye bemewe n'amategeko". [15] Ingingo ya 8, igika cya 2, y'iri tegeko yo iteganya ko iyo iseswa ry'ivangamutungo rusange ribaye kubera urupfu rw'umwe mu bashyingiranywe, umutungo wegukanwa n'uwapfakaye kugeza igihe izungura rikorewe. [16] Ingingo ya 2, igika cya 1, 5°, y'iri tegeko na none iteganya ko umutungo ari ibintu bifatika n'ibidafatika, imyenda, hamwe n'uburenganzira n'inshingano abifiteho; agace ka 6° k'iyi ngingo ko gateganya ko umutungo uzungurwa ari umutungo wose usizwe n'uwapfuye kandi wemerewe kuzungurwa. [17] Umuhanga mu mategeko, Paul DELNOY asobanura ko umutungo uzungurwa ari ibyo uwapfuye yaratunze asize bishobora kubarurwa bigahabwa agaciro cyangwa ako gaciro kakamenyekana n'inshingano ze⁵. [18] Dosiye y'urubanza irimo inyandiko mvugo y'inama y'umuryango igaragaza ko Bivumbuka na Mukasine bashyingiranywe; mu mwaka wa 1999 hatangajwe itegeko rya mbere mu Rwanda ryerekeye imicungire y'umutungo w'abashyingiranywe, impano n'izungura⁶; kuwa aho iri tegeko⁷ rigiriyeho kuko kandi ababyeyi ba Tuyishime Samuel batahisemo uburyo bwo

4 Iri tegeko ryavanyweho n'itegeko n°71/2024 ryo ku wa 26/06/2024 rigenga abantu, umuryango, impano n'izungura. 5 « (...) l'objet de la succession est le patrimoine, c'est-à-dire toutes les prérogatives estimables et toutes les obligations dont le défunt est titulaire à son décès. » (Paul

Delnoy, Précis de droit civil, Les libéralités et les successions, Liège, Collection de la Faculté de droit de l'Université de Liège, 2009, 3è édition, p.98, n°59). 6 Itegeko n°22/99 ryo ku wa 12/11/1999 ryuzuza igitabo cya mbere cy'urwunge rw'amategeko mbonezamubano kandi rishyiraho igitabo cya gatanu cyerekeye imicungire y'umutungo w'abashyingiranywe, impano n'izungura. 7 Iri tegeko ryavanyweho n'itegeko n°27/20216 rigenga imicungire y'umutungo w'abashyingiranywe, impano n'izungura, naryo rivanwaho n'itegeko n°71/2024 ryo ku wa 26/06/2024 rigenga abantu n'umuryango.

Page 5

gucunga umutungo wabo nk'uko iryo tegeko ryabiteganyaga, hashingiwe ku ngingo ya 2, igika cya 2, ya ryo bafatwa nk'abashyingiranywe mu ivangamutungo rusange. [19] Urukiko rusanga inyandiko yakira ikirego yakozwe ku itariki ya 12/04/2024 igaragaza ko ikirego cyatanze na Tuyishime Samuel, icyo kirego kikaba ari nacyo cyari cyaratanze mu Rukiko rw'Ubujurire. [20] Rurasanga nyamara inama y'umuryango yateranye ku wa 13/02/2023, yarahaye Tuyishime Samuel, mu nyungu z'umuryango, uburenganzira bwo gukurikirana ikibazo cy'imanza zivugwa; yemeje ndetse ko azasubizwa amafaranga azatanga ku munyamategeko uzamufasha kuri uwo murimo ahawe. Abazungura biyemeje kandi kumuha inkunga yose azakenera kugira ngo inshingano ahawe ayisozwe neza. [21] Urukiko rusanga hashingiwe ku ngingo z'amategeko zavuzwe, Mukasine Foibi ari we ufite uburenganzira ku mutungo wose wasizwe na Bivumbuka Aloys, bityo akaba ari nawe ufite uburenganzira bwo kuregera ivuguruzanya rivugwa mu manza zaruregowe. [22] Urukiko rurasanga iyo ikirego gitangwa mu izina rya Mukasine Foibi uhagarariwe na Tuyishime Samuel byari kuba ari byo bihuye n'amategeko n'umwanzuro wafatiwe mu nama y'umuryango yavuzwe. [23] Urukiko rusanga hashingiwe ku mategeko yibukijwe n'ibisobanuro byatanze, Tuyishime Samuel atari we wari kuregera ivuguruzanya ry'imanza zivugwa muri dosiye, kuko ubwo burenganzira bufitwe n'umubyeyi we Mukasine Foibi. Bityo kuba nta bubasha Tuyishime Samuel afite, ikirego cye kikaba kitakwagirwa.

1. B. Kumenya niba hari indishyi zatangwa muri uru rubanza [24] Nyirinkindi Onesphore asaba indishyi zigizwe na 1.000.000 Frw y'igihembo cy'Avoka na 500.000 Frw y'ikurikiranarubanza. [25] Tuyishime Samuel avuga ko izi ndishyi nta shingiro kuko ikirego cye kiri mu nyungu z'abaturanyi bose, kigamije gukuraho urujijo ruterwa n'ivuguruzanya hagati y'imanza baturiraho bose ko ndetse ajya gutanga iki kirego yabigiriwemo inama n'inzego za Leta zitandukanye harimo n'Umuvunyi Mukuru. UKO URUKIKO RUBIBONA [26] Ingingo ya 111 y'itegeko N°22/2018 ryo kuwa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruza, iz'umurimo n'iz'ubutegetsi nk'uko ryahinduwe, iteganya 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'ayo ikirego cy'iremezo cyaba kitakiriwe" [27] Urukiko rusanga Nyirinkindi Onesphore yariyambaje Avoka wo kumufasha gutegura urubanza no kuruburana, akaba kandi atsinda urubanza kuko ikirego cya Tuyishime Samuel kitakiriwe, bityo akaba agomba guhabwa indishyi.

Page 6

[28] Urukiko rusanga ariko indishyi Nyirinkindi Onesphore asaba zikabije kuba nyinshi, bityo mu bushishozi bwa rwo rumugeneye 500.000 Frw y'igihembo cy'Avoka na 300.000 Frw y'ikurikiranarubanza. III. ICYEMEZO CY'URUKIKO [29] Rwemeje ko ikirego cy'ivuguruzanya ry'imanza cyatanzwe na Tuyishime Samuel kitakiriwe. [30] Rutegetse Tuyishime Samuel kwishyura Nyirinkindi Onesphore indishyi zingana na 500.000 Frw y'igihembo cy'Avoka na 300.000 Frw y'ikurikiranarubanza.

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/9960/10466>

CASE PAGE <https://chat.esheria.ai/case-law/rwanda/tuyishime-samuel-v-twagiramungu-celestin-locusstandi-supreme-court-2025>

Prepared on 12 October 2026 · Esheria