

RWANDA / JUDGMENT

TWAGIRAYEZU vs. EJO HAZAZA SACCO NYAGISOZI

RSOCA00019/2022/HC/NYZ

COURT

High Court

DECIDED

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TWAGIRAYEZU vs. EJO HAZAZA SACCO NYAGISOZI

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Text

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TWAGIRAYEZU vs. EJO HAZAZA SACCO NYAGISOZI [Rwanda URUKIKO RUKURU – RSOCA00019/2022/HC/NYZ – (Ndadijimana, J. P.) 31 Gicurasi 2023] Amategeko agenga imanza z’umurimo – Amasezerano y’umurimo – Ikosa rikomeye – Iyirukanwa ry’umukozi – Igihe umukoresha yirukanye umukozi kubera ikosa rikomeye ariko ntakurikize igihe giteganywa n’amategeko, aba amwirukanye mu buryo budakurikije amategeko. Incamake y’ikibazo: Twagirayezu yareze Ejo Hazaza Sacco Nyagasozi mu Rukiko Rwisumbuye rwa Nyamagabe ko yamwirukanye mu buryo bunyuranyije n’amategeko, aho amasezerano y’akazi bari bafitanye yayasheshe nta nteguza ahawe ndetse atabanje no gusabwa ibisobanuro ku makosa yashingiweho yirukanwa; ibi bikaba aribyo yasabiye indishyi zitandukanye. Ejo Hazaza Sacco Nyagasozi yisobanuye ivuga ko Twagirayezu wari umubaruramari nawe ubwe yemera ikosa rikomeye yakoze ryo kudakora igenzura ndetse no kutagaragaza inyerezwa ry’amafaranga kandi byari mu nshingano ze, bityo, nayo ikaba yarasabye indishyi zijyanye no gushorwa mu manza nta mpamvu. Urukiko Rwisumbuye rwemeje ko Urega atirukanywe mu buryo budakurikije amategeko ndetse

rumutegeka kwishyura Uregwa indishyi zitandukanye. Iki cyemezo Urega yakijuririye uru Rukiko Rukuru maze habanza gusuzumwa ikibazo yatanze kijyanye no kumenya niba amategeko arebana n'uko ibihano byo mu rwego rw'akazi bitangwa atarubahirijwe bituma iryo yirukanwa ridakurikije amategeko. Kuri iki kibazo, Twagirayezu avuga ko yirukanwe binyuranyije n'amategeko kuko inzira zibanze zitubahirijwe, dore ko hakozwe inama agahita yirukanwa adasobanujwe ibura ryayo mafaranga ashinjwa. Avuga kandi ko kuva aho ikosa rikomeye rimenyekaniye kugeza yirukanwe nta nyandiko irimumenyesha yigeze ahabwa, ndetse n'ubugenzuzi yakorewe na Banki Nkuru ya Kigali bwakozwe yaragiye mu butumwa bw'akazi I Kigali. Bityo, akaba asaba Urukiko Rukuru ko rwasuzuma niba amasaha mirongo ine n' umunani (48) agomba kubahirizwa mu kwirukana umukozi hashingiye kw'ikosa rikomeye yarubahirijwe. Uregwa yisobanuye avuga ko ubujurire bw'uwo baburana nta shingiro bufite kuko avuga gusa ingingo z'amategeko ariko ntagaragaze ikitarubahirijwe giteganywa nayo. Ikindi ni uko yakoze amakosa na we yemera aho yiyandikiye mu nyandiko ko atamenye ibyayo mafaranga kubera kutagenzura ayaraye mu mutamenwa nyamara yari umucungamutungo ariko ntabigaragaze bityo, akaba ari ikosa ritakwihanganirwa rigomba guhanishwa igihano cyo kwirukanwa burundu nkuko amategeko agenga umurimo abiteganywa. Akomeza avuga ko ibyo Urega avuga atabitangiye ibimenyetso, nko kuvuga ko igenzura ryakozwe ari mu butumwa bw'akazi nyamara akaba nta nyandiko yabitangiye ibigaragaza, akaba ari impamvu yahimbye nyuma. Ikindi ni uko amasaha mirongo ine n'umunani yubahirijwe mu gihe cyo gusesa amasezerano kuko Urega yakorewe igenzura maze nyuma y'amasaha makumyabiri n'ane ahabwa ibaruwa imusezerera mu kazi burundu. Incamake y'icyemezo: Igihe umukoresha yirukanye umukozi kubera ikosa rikomeye ariko ntakurikize igihe giteganywa n'amategeko, aba amwirukanye mu buryo budakurikije amategeko. Ubujurire nta shingiro bufite. Amategeko yashingiweho:

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Itegeko N° 66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda, ingingo ya 17, 24, 26, 27, 30 n'ya 40. Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 111, 152 n'ya 276. Itegeko N°45/2011 ryo kuwa 25/11/2011 rigenga amasezerano, ingingo ya 64 n'ya 70. Itegeko N°15/2004 ryo kuwa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo ya 3. Imanza zifashishijwe: RSOCA 0120/15/HC/KIG rwaciwe n' Urukiko Rukuru ku wa 20 Ugushyingo 2015. Urubanza I. IMITERERE Y'URUBANZA [1] Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Nyamagabe Twagirayezu Jean arega Ejo Hazaza Sacco Nyagisozi, ko yamwirukanye mu buryo bunyuranyije n'amategeko asobanura ko ku wa 30/06/2016 yagiranye amasezerano y'akazi y'igihe kitazwi n' iyo Sacco, ashingwa umurimo wo kuba Umucungamutungo wayo, ku wa 12/03/2019 aza gusezererwa mu kazi kubera ko mu igenzura ryari ryakozwe muri Sacco Ejo Hazaza Nyagisozi hari hamaze gutahurwa inyerezwa ry'amafaranga y'abaturage angana na 2.208.565frw, we akabona iryo seswa ry'amasezerano y'akazi ritakurikije amategeko kubera ko nta nteguza yigeze ahabwa n'umukoresha we, ndetse ko nta n'ibisobanuro yigeze asabwa ku ibura ry'amafaranga yagarutseweho ngo abe yarisobanuye, ashingiye kandi ku kuba atarigeze yihanangirizwa, bituma atanga ikirego asaba indishyi

zinyuranye zirimo izo kwirukanwa binyuranyije n'amategako. [2] Ejo Hazaza Sacco Nyagisozi yo yabonaga ko Twagirayezu Jean atirukanywe binyuranyije n'amategako kubera ko ikosa yirukaniwe ari ikosa rikomeye ritagombaga kwihanganirwa kandi na we ubwe yemera ko igenzura ryakozwe na BNR ryagaragaje ko hari amafaranga ya Sacco yanyerejwe, kandi nk' umubaruramari ntiyabigaragaza kandi byari biri mu nshingano ze, ko yabibajijwe na we akemera amakosa yo kuba atarakoraga igenzura byatumye Sacco ifata icyemezo cyo kumusezerera kubera ko yabonaga ayo makosa atakwihanganirwa, bituma nayo isaba indishyi zo gushorwa mu manza nta mpamvu. [3] Urwo rubanza rumaze kuburanishwa Urukiko Rwisumbuye rwa Nyamagabe rwasanze Twagirayezu Jean atarirukanywe mu buryo binyuranyije n' amategako, rumunategeka kwishyura Sacco Ejo Hazaza Nyagisozi indishyi zingana n'amafaranga ibihumbi magana atanu (500.000frw) y'igihembo cy' Avocat, Twagirayezu Jean ajurira avuga ko yiruhanywe mu buryo binyuranyije n' amategako kubera ko hatubahirijwe amategako arebana n' uko ibihano byo mu rwego rw' akazi bitangwa, ahubwo hakorwa inama ahita yirukanwa, ko ibimenyetso by' uko atari ahari bituma adakora igenzura byirengagijwe n' uko kuba ataragenzuye byakwitwa ikosa rikomeye. [4] Ibibazo bisuzumwa muri uru rubanza bijyanye no:

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- Kumenya niba amategako arebana n' uko ibihano byo mu rwego rw' akazi bitangwa atarubahirijwe bituma iryo yirukanwa ridakurikije amategako (hasuzumwa niba inzira zibanze zitarubahirijwe no kuba ataragenzuye byakwitwa ikosa rikomeye), no kumenya niba ibimenyetso by' uko Twagirayezu Jean atari ahari bituma adakora igenzura byirengagijwe n' uko kuba ataragenzuye byakwitwa ikosa rikomeye. - Ibijyanye n'indishyi z'ikurikiranarubanza no guhamba Avoka zisabwa. II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA
- 1. Kumenya niba amategako arebana n'uko ibihano byo mu rwego rw'akazi bitangwa atarubahirijwe bituma iryo yirukanwa ridakurikije amategako, ko ibimenyetso by'uko Twagirayezu Jean atari ahari bituma adakora igenzura byirengagijwe n'uko kuba ataragenzuye byakwitwa ikosa rikomeye [5] Twagirayezu Jean na Me Ndatsikira Jean Marie Vianney umwunganira bavuga ko yarirukanwe binyuranyije n' amategako kuko inzira zibanze zitubahirijwe , ko bashingiye ku ngingo ya 42 y'Itegeko rigenga umurimo aho ivuga uburyo ibihano ku rwego rw'akazi bitangwa bitarakurikijwe ahubwo hagakorwa inama ahita yirukanwa ndetse atanasobanujwe kubijyanye n' amafaranga yabuze kuko ubwo hakorwaga igenzura babonye ko hari icyinyuranyo cya miliyoni ebyiri ibihumbi magana abiri n'umunani magana atatu mirongo itandatu n'atanu (2,208,565 frw) , uwitwa Mwongereza Benoît yemera ko yayatwaye ndetse aranabyandika, ko no mu rubanza RP/ECON 0006/2019/ TGI/NYBE icyaha cyo kunyereza umutungo kitigeze kimuhama ari cyo yirukaniwe kandi igihe ayo mafaranga atandikwaga nk' icyinyuranyo Twagirayezu Jean akaba atari ahari kuko yari yagiye i Kigali mu butumwa bw'akazi. [6] Banavuga ko bashingiye ku ngingo ya 3 agaka kayo ka 17 y'Itegeko rigenga umurimo aho iteganya ibijyanye no gusesa amasezerano y'umurimo bikoze n'umukoresha nta mpamvu ifite ishingiro cyangwa bidakurikije uburyo buteganywa n'amategako, banashingiye nanone ku ngingo ya 24 igika cyayo cya 2 aho

iteganya ibijyanye no gutanga integuza iteganya ko bigomba gukorwa mu nyandiko kandi hakagaragazwa impamvu yo gusesa amasezerano y'umurimo, kimwe no ku ngingo ya 29 y'Itegeko rigenga umurimo mu Rwanda iteganya ko integuza igomba kumenyeshwa mu nyandiko uruhande ireba hakagaragazwa n'impamvu zituma amasezerano aseswa n' uko mu gihe cy'iteguza, umukoresha n'umukozi bagomba kubahiriza ibyo bumvikanyeho basanga ibyo byose bigaragaza ko Twagirayezu Jean yirukanwe binyuranije n' amategeko ndetse akaba anabisabira indishyi. [7] Bavuga nanone ko Urukiko rwasuzuma niba amasaha mirongo ine n' umunani (48) agomba kubahirizwa mu kwirukana umukozi hashingiye kubikosa rikomeye yarubahirijwe, kubera ko ikimeneytso cy'ikosa rikomeye cyagaragaye ku wa 22/02/2019 ubwo hakorwaga igenzura ry'amafaranga yo ku wa 21 z'uko kwezi yaraye mu mutamenwa bagasanga atuzuye, maze iyirukanwa rya Twagirayezu riba ku wa 12/03/2019 nyamara kandi kuva ikosa rimenyekaneye kugera yirukanwe nta nyandiko imumenyesha ikosa rikomeye yahawe muri ayo masaha bivuze ko ingingo ya 26 y'Itegeko ry'umurimo ibiteganya itubahirijwe , bityo bakavuga ko kuba iyo ngingo ubwayo itarubahirijwe Twagirayezu atirukaniwe ikosa rikomeye bityo bakabishingiraho bavuga ko yirukaniwe ubusa. [8] Basobanura kandi ko ku bijyanye n' uko Twagirayezu nta bimenyetso yagaragarije Urukiko by'uko atari ahari ari nabyo byatumye atarakoze igenzura, yari yatanze ibimenyetso birirengagizwa kubera ko

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yagaragaje ibimenyetso by'aho yari bigizwe n' inyandiko nsobanurampavu ya Ministiri igaragaza impamvu y'urugendo ndetse na Liste y'abitabiriye igikorwa, kimwe n'ubuhamya bw'abakozi bakorana nabo bemeza ko umunsi amafaranga abura atari ahari, ko no kubijyanye no kuba ataragenzuye byakwitwaga ikosa rikomeye nkuko byashingiweho n'urukiko n' ubwo kutagenzura byaba ari ikosa rikomeye muri iyi cas atari ko bimeze cyangwa byafatwa kubera ko kutagenzura kuri Twagirayezu ari uko atari ahari,ko byari kuba ikosa rikomeye iyo atagenzura nkana kandi anahari, ariko mu gihe atari ahari hari umusimbura wemewe n'amategeko ari we wari bubikore cyangwa akaba ari we iryo kosa rikomeye rireba. [9] Me Bigirimana Benoît uburanira Ejo Hazaza Sacco Nyagisozi avuga ko ubujurire bwa Twagirayezu Jean nta shingiro bwahabwa, ko uretse kuvuga ingingo z' amategeko gusa ariko ntagaragaza ikitarubahirijwe giteganywa nayo , ko atirukanwe mu buryo bunyuranyije n'amategeko kuko yakozwe amakosa na we yemera nk'uko yabiyandikiye mu nyandiko ye yo ku wa 22/02/2019 aho yagize ati: nkaba nemera ko ntabashije kumenya igihe iki kinyuranyo cyabereye kubera kutagenzura amafaranga araye mu mutamenwa, ko ayo mafaranga miliyoni ebyiri n'ibihumbi magana abiri n'umunani na magana atanu mirongo itandatu n'atanu (2,208,565 frw) yibwe nk'uko byemejwe n'urubanza RP/ECON 0006/2019/TGI/NYBE rwemeje ko uwitwaga Mwongereza Benoît ari we wibye ayo mafaranga kandi Twagirayezu Jean wari Umucungamutungo akaba atarabigaragaje , ko iryo aro ikosa rikomeye ridashobora kwihanganirwa rihanishwa igihano cyo kwirukanwa burundu hashingiwe ku biteganywa n'ingingo ya 9 agaka ka 18 y'amabwiriza yabo iteganywa ko ateganywa ibikorwa cyangwa imyitwarire bitihanganirwa mu micungire n'imiyoborere ya SACCO ari nayo mpamvu bituma umukozi ubigaragawe ashobora kugenerwa igihano cyo kwirukanwa burundu, muri ibyo

bikorwa by'imyitwarire akaba ari: ...18. Kutuzuzwa ibitabo by'icungamutungo buri muni no kubyuzuzwa nabi kutagenzura ibitabo by'icungamutungo kandi biri mu nshingano ze 31. Kutuzuzwa inshingano nk'uko ziri mu masezerano y'akazi, ko kandi umuni atakoze iryo genzura n ubwo avugako yari mu butumwa bw'akazi nta kimenyetso yabitangiye cy'uko yabanje kubimenyesha umukoresha we. [10] Ku bijyanye no kubahiriza amasaha mirongo ine n'umunani (48), Me Bigirimana B  no  t uburanira Ejo Hazaza Sacco Nyagisozi avugako ayo masaha mirongo ine n'umunani (48) ateganywa n'itegeko rigenga umurimo yubahirijwe kuko igenzura ryarangiye ku wa 08/03/2019 SACCO imenyeshwa "draft" yaryo uwo muni hakaba hari ku wa 5 bucya ari ku wa gatandatu no ku cyumweru ari iminsi y'impera z'icyumweru bituma kubara ayo masaha bitangira ku wa mbere tariki ya 11 Twagirayezu Jean agezwaho ibaruwa imusezerera ku wa kabiri tariki ya 12 nyuma y'amasaha 24 igenzura rirangiye. [11] Agaruka kubijyanye n'igenzura ritakozwe, Me Bigirimana B  no  t uburanira Ejo Hazaza Sacco Nyagisozi avugako Twagirayezu mu nyandiko ye yo ku wa 22/02/2022 yiyemereye ko atakoze igenzura kandi ko atazi igihe ayo mafaranga yaburiye, ko kuba atari ahari ntakibigaragaza kuko uwo muni ari bwo yiyemereye ko atakoze igenzura abarero yarasobanuye ko yagize impamvu z'uko atari ahari, ko ibyo bishatse kuvugako ari impamvu yahimbye nyuma, ko mu mikorere y'ibigo by'imari manager atajya agenda uko abonye kubera imirimo yihutirwa ya buri muni iba imureba, ko Twagirayezu atagaragaza ko yamenyesheje umukoresha we ko adahari ngo amuhe n'uruhusa, ko iyo hari aho agiye kujya haba iherekanyabubasha bw'imirimo yari ashinzwe nyamara akaba atagaragaza inyandimvugo y'iryo hererekanyabubasha n'iryo imfunguzo zumutamenwa, ko ayo yose ari amakosa agomba kwirengera, ko kandi n'ibyo avugako yari yagiye gusura Urwibutso rwa jenocide yakorewe Abatutsi atari byo kuko atagaragaza itariki yagiriye uretse ko bitanamuvanaho amakosa kuko n'aho agarukiye niba koko yari adahari yari kubanza gusuzuma ibyaraye bikozwe no kugenzura niba amafaranga ari mu mutamenwa ahura neza n'ari muri raporo, ko ubwe mu ibazwa rye yemeza ko cashier atemerwe kubika imfunguzo z'umutamenwa nyamara ko we yazimusigiyeho.

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UKO URUKIKO RUBIBONA [12] Ingingo ya 26 y'Itegeko N   66/2018 ryo ku wa 30/08/2018 rigenga umurimo mu Rwanda iteganya ko umukoresha asese amasezerano y'umurimo hadatanze integuzamu gihe umukozi akoze ikosa rikomeye. Mu gihe iseswa ry'amasezerano y'umurimo ritewe n'ikosa rikomeye umukoresha agomba kumenyesha umukozi mu nyandiko mu gihe kitarenze amasaha mirongo ine n'umunani (48) uhaye igihe ibimenyetso by'ikosa rikomeye bigaragariye kandi akagaragaza impamvu z'iseswa, iya 27 y'iryo Tegeko No 66/2018 ryo kuwa 30/08/2018 rivuzwe igateganya ko amasezerano y'umurimo y'igihe kitazwi ashobora guseswa n'umwe mu bayagiranye bitewe n'impamvu zifite ishingiro, naho iya 24 yaryo igateganya ko gutanga integuzabigomba gukorwa mu nyandiko kandi hakagaragazwa impamvu yo gusesa amasezerano y'umurimo. [13] Ibijyanye no kwirukanwa kubera ikosa rikomeye byanagarutseweho mu rubanza RSOCA0120/15/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 20 Ugushyingo 2015, rugaragaza ko byitwa kwirukanwa mu buryo bunyuranyije n'amategeko igihe umukoresha yirukanye umukozi kubera ikosa rikomeye ariko ntakurikize igihe giteganwa n'amategeko - Ikosa rikomeye ni ikosa ry'umukozi ryica inshingano ze mu kazi cyangwa mu mikoranyire ye

n'umukoresha kuburyo bituma umukozi atakwihanganirwa kuguma mu kazi mu gihe cy'iteguzwa. [14] Mu byashyingiweho ku rwego rwa mbere harimo ko dosiye y'urubanza igaragaza ku wa 22/02/2019 Twagirayezu Jean yiyandikiye inyandiko yemera amakosa yagaragaweho yo kuba atarakoze inshingano ze nk' uko bikwiriye zirimo gukora igenzura rihoraho, aho yemera ko atabashije gutahura inyerezwa ryakozwe n'umucungasanduka witwa Mwongereza Bénéît kuko nta genzura yakozwe nyamara kandi byari mu nshingano ze za buri munsu, rwanasanze kandi hari ibaruwa yo ku wa 12/03/2019 Twagirayezu Jean yandikiye n'Ubuyobozi bwa Sacco Ejo Hazaza Nyagisozi isesa amasezerano y'akazi yari hagati yayo na we, muri icyo baruwa akaba yaribukijwe ko ayo masezerano asheshwe kubera amakosa akomeye ashingiye ku kuba atarakoraga igenzura nk'uko bikwiriye, ko nyuma y'igenzura ryakozwe muri Sacco Ejo Hazaza Nyagisozi yakorewe igenzurwa n'itsinda ry'abakozi ba Banki Nkuru y'u Rwanda guhera ku wa 21/02/2019 ku wa 08/03/2019, igenzura rigaragaza ko habayeho inyerezwa rya 2.208.565frw ryabayeho ku wa 21/02/2019, kandi ko iryo nyerezwa ry'ayo mafaranga ritigeze ribonwa n'umubacungamari Twagirayezu Jean kubera ko atakozwe igenzura. [15] Rushingiye ku bimaze gusobanurwa no kubateganyijwe mu masezerano y' akazi yo ku wa 30/06/2016 hagati ya Sacco Ejo Hazaza Nyagisozi na Twagirayezu Jean, rugasanga Urukiko Rwisumbuye rubyemeza gutyo nta makosa rwakozwe kuko ari impamvu zumvikana kandi zifatika, kubera ko mu ngingo ya 9 y'Amasezerano hatateganyijwemo amakosa adashobora kwihanganirwa ashobora gutuma umukozi yirukanwa burundu, nk' ikosa ryo kudashyira mu bikorwa ibyemezo byemejwe n'inzego zibifitiye ububasha cyane cyane Banki Nkuru y'u Rwanda (BNR), mu gace ka 23 hatateganywa ikosa ryo kudakora igenzura, naho mu gace ka 32 hatateganywa irindi kosa iryo ari ryo ryose rishobora gutuma habaho igihombo, bityo ibyo bikaba byaragomba kubahirizwa n'impande zagiranye amasezerano uko biteganywa n' ingingo ya 64 y'Itegeko N°45/2011 ryo kuwa 25/11/2011 rigenga amasezerano, iteganya ko amasezerano akozwe ku buryo bukurikije amategeko aba itegeko ku bayagiranye, ko ashobora guseswa ari uko babyumvikanyeho cyangwa kumpamvu zemewe n'amategeko, ko agomba kubahirizwa nta buriganya, no mu ngingo ya 70 y'iryo tegeko igateganya ko buri ruhande rufite inshingano yo kurangiza amasezerano nta buriganya kandi rukarangwa 1 icyegeranyo cy' Ibyemezobye Inkiko, V. 2 - 2018 Mata, 2018, p.99.

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n'imikorere myiza yemerwa ku bagiranye amasezerano, uko byanibukijwe ku rwego rwa mbere kandi Urukiko Rwisumbuye rufite ukuri. [16] Ibivuzwe haruguru binashimangirwa n'ibikubiye mu ibaruwa yo ku wa 12/03/2019 y'isezererwa ryo ku kazi rya Twagirayezu Jean aho igaragaza ko mu byashyingiweho harimo ingingo ya 16 y'amabwiriza numero 2299/2016-00438/0010 NBR ya BNR yo ku wa 30 Gicurasi 2016 agenga ibihano ku rwego rw'abakozi n'abo mu nzego zatowe, isobanura ko umukozi wakoze ubujura, uwamufashije ndetse n'utakozwe igenzura aho byagombaga, birukanwa, bagakurikiranwa n'amategeko mpanabyaha bari hanzwe ya Sacco. Muri icyo baruwa kandi hakaba haranasobanuwe ko nk'uko byemejwe mu nama y'Ubutegetsi ya Sacco Ejo Hazaza Nyagisozi yateranye ku wa 12/03/2019, amenyeshejwe ko guhera ku wa 13/03/2019 atakibazirwa mu bakozi ba Sacco Ejo Hazaza Nyagisozi. [17] Ku bijyanye n'iyubahirizwa ry'ibihe mu gusezererwa mu kazi, Urukiko rushingiye kuri ibyo byasobanuwe muri icyo baruwa ivuzwe,

rugasanga n'ubwo ikosa ryashingiweho Twagirayezu Jean yirukanwa ryaturutse ku igenzura ryakozwe n'itsinda ry'abakozi ba Banki Nkuru y'u Rwanda guhera ku itariki 21/02/2019 kugeza kuya 08/03/2019, rutafata ko imenyeshwa ry'iryo kosa ritakurikije ibihe biteganywa n'Itegeko, kuko dosiye igaragaza ko ikosa yirukaniwe ryafashwe ko ari ikosa rikomeye mu nama y'Ubutegetsi ya Sacco Ejo Hazaza Nyagisozi yateranye ku wa 12/03/2019, arimenyeshwa uwo munsu. [18] Ibivuzwe haruguru binashimangirwa kandi n' uko iryo genzura ryarabaye ku wa 08/03/2019 SACCO ari ku wa gatanu (Friday), Umunsi wa mbere w' akazi ukurikiraho ukagera ku wa 11/03/2019 mbere (Monday) akamenyeshwa ku wa 12/03/2019, rusanga amasaha mirongo ine n' umunani (48) avugwa yarubahirijwe, dore ko ingingo ya ingingo ya 26 y'Itegeko N° 66/2018 ryo ku wa 30/08/2018 ryavuzwe ivuga gusa ayo masaha, mu gihe ingingo ya 276 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ko iminsi y'ikiruhuko yemewe n'iminsi y'impera y'icyumweru ntabwo ibarwa mu kubara ibihe bivugwa mu ngingo ya

275. Nyamara, iyo umunsi igikorwa kigomba kurangiraho ari umunsi w'ikiruhuko, icyo gihe cyongerwaho umunsi ukurikira w'akazi. [19] Ku birebana no kuba Twagirayezu Jean yari yagiye mu butumwa bw'akazi, uru Rukiko rusanga uretse kubivuga gusa nta kimenyetso cy' uko yavuye ku kazi inzego zimukuriye zibizi kandi zabimwemerereye, kandi buri muburanyi agomba kugaragaza ukuri kw'ibyo avuga uko biteganywa n' ingingo 3 y'Itegeko N°15/2004 ryo kuwa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, iteganya ko buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana, bityo inyandiko nsobanurampavu ya Ministiri igaragaza impamvu y'urugendo ndetse na Liste y'abitabiriye igikorwa, kimwe n' ubuhamya bw'abakozi bakorana nabo bemeza ko umunsi amafaranga abura atari ahari ubwabyo bikaba bidahagije mu kugaragaza ko yavuye ku kazi abyemerewe cyangwa yakoze inshingano ze nk' umucungamutungo. [20] Uru Rukiko rugasanga ku bw'ibyo n'ibivugwa na Twagirayezu Jean by'uko urubanza rw'inshinjabyaha yakurikiranywemo atahamijwe icyaha nta shingiro byahabwa, kubera ko n'ubwo avuga ko rutamuhamije icyaha ariko ntabwo yabashije kugenzura ko amafaranga yibwe kuko atavugurujwe ko urwo rubanza RP/ECON 0006/2019/TGI/NYBE rwemeje ko uwitwa Mwongereza Benoît ari we wibye ayo mafaranga kandi Twagirayezu Jean wari Umucungamutungo akaba atarabigaragaje, rugasanga rero impamvu z'ubujurire yatanze nta shingiro zigomba guhabwa, bityo n'indishyi zijyanye no kwirukanwa ku buryo bunyuranyije n'amategeko asaba rukaba rutakwirirwa ruzisuzuma kubera ko zatangwa ari uko iyirukanwa ritakurikije amategeko nkuko biteganywa n'ingingo ya 30 y'Itegeko No 66/2018 ryo ku wa 30/08/2018

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ryavuzwe iteganya ko iseswa ry'amasezerano y'umurimo rinyuranyije n'amategeko rituma hatangwa indishyi, ahubwo hagomba kurebwa niba indishyi z'ikurikiranarubanza no guhemba avoka zisabwa na Sacco Ejo Hazaza Nyagisozi mu bujurire bwuririye ku bundi zatangwa.

2. Kumenya niba indishyi z' ikurikiranarubanza no guhemba Avoka zatangwa [21] Me Bigirimana Benoît uburanira Ejo Hazaza Sacco Nyagisozi bavuga ko Twagirayezu yakomeje gushora mu manza Sacco Ejo Hazaza Nyagisozi bituma itakaza amafaranga menshi bityo ikaba isaba Urukiko kumutegeka kuyiha indishyi zingana na 250,000 Frw y'igihembo cy'avoka 500,000 Frw y'amafaranga yatakaje ubwo "manager" na Perezida bajyaga kubonana n'Avoka i Nyamagabe bigatuma badakora imirimo basanzwe bakorera Sacco, 200,000 Frw Sacco yatanze ku ngendo z'abo bakozi bayo bajya i Nyamagabe n'ayo yabahaye bajya i Nyanza mu nama ntegurarubanza no kugurikirana iburanisha no gusomerwa, 1,000,000 Frw y'igisebo yayiteje ayirega kutubahiriza amategeko kandi ari ikigo cy'imari. [22] Twagirayezu Jean na Me Ndatsikira Jean Marie Vianney umwunganira bavuga ko kubijyanye n'indishyi zisabwa mu kirego cyo kwiregura, indishyi Sacco isaba itazihabwa kubera ko yajuriye kubera ko atishimiye imikirize yurubanza kuba rero yarakomeje kurega Sacco Ejo Hazaza Nyagisozi asaba kurenganurwa kubwo kuba yaramwirukanye idakurikije amategeko agenga abakozi bidaha Sacco n'uyiburanira ko barega basaba indishyi ikindi , ko ikindi inkomoko y'amakosa yatewe na Sacco ko idakwiye kuba iregera indishyi ahubwo mu bushishozi bw'Urukiko ikwiye guha Twagirayezu Jean ibyo yemererwa n' itegeko kuko yirukanywe birengagijwe amasezerano Sacco yari ifitanye na Twagirayezu Jean, ko mu gihe Urukiko rwasanga ikirego cya Twagirayezu gifite ishingiro basaba ko Twagirayezu yasubizwa 1.000.000 frw y'igihembo cy'Avoka mu Rukiko Rwisumbuye rwa Nyamagabe no mu bujurire, 60.000 frw y'igarama mu rwego rubanza no mu bujurire. UKO URUKIKO RUBIBONA [23] Ingingo ya 111 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryavuzwe, iteganya ko ikirego cy'amafaranga y'ikurikiranarubanza ari ikirego gishamikira ku kirego cy'iremezo kigamije kwishyura ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishirizwa rimwe n'ikirego cy'iremezo. Gishobora kandi kwakirwa kikanaburanishwa n'iyi ikirego cy'iremezo cyaba kitakiriwe, iya 152 y' iryo Tegeko yo igateganya ko uregwa mu Rukiko rujuririrwa ashobora na we kugira ibyo asaba yiregura, iya 12 y'Itegeko No 22/2018 ryo kuwa 29/04/2018 ryavuzwe iha inshingano urega mu kugaragaza ibimenyetso by'ibyo aregera, iya 3 y'Itegeko N° 15/2004 ryo ku wa 12/06/2004 ryavuzwe ivuga ko buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana, naho iya 33 y'Amabwiriza No 01/2014 agenga ibihembo mbonera by'abavoka nayo iteganya ko mu bujurire, avoka w'urega n'uw'uregwa bafite uburenganzira kuri ½ cy'igihembo cyumvikanyweho ku rwego rwa mbere. [24] Rushingiye ku biteganywa n'izi ngingo, rugasanga ibishingirwaho Ejo Hazaza Sacco Nyagisozi indishyi zinyuranye nko kuba Umucungamutungo na Perezida barajyanye kubonana na Avoka , kujya mu nama ntegurarubanza ,bidatandukanywa n' ibiri mu nshingano zabo bakora nk' akazi ka buri munsu kimwe n' uko ibyo mu Rukiko birebana n'inshingano z' umu Avoka , bityo indishyi zidashidikanywaho zikaba ari izijyanye n' igihembo cy' Avoka zingana n' ibihumbi magana abiri na mirongo itanu (250.000 Frws) Twagirayezu Jean agomba kuyishyura Ejo Hazaza Sacco Nyagisozi. Kubw'ibyo urubanza RSOC

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00001/2021/TGI/NYBE rwaciwe n'Urukiko Rwisumbuye rwa Nyamagabe ku wa 21/10/2021 ikaba igomba guhinduka ku bijyanye n'indishyi zigenwe kuri uru rwego rw'ubujurire. III. ICYEMEZO CY'URUKIKO [25] Rwemeje ko ubujurire bwatanzwe na Twagirayezu Jean nta shingiro bufite. [26] Rwemeje ko imikirize y'urubanza RSOC 00001/2021/TGI/NYBE rwaciwe n'Urukiko Rwisumbuye rwa Nyamagabe ku wa 21/10/2021 ihindutse ku bijyanye n'indishyi zigenwe mu bujurire. [27] Rutegetse Twagirayezu Jean kwishyura Ejo Hazaza Sacco Nyagisozi indishyi z'igihembo cy'Avoka zingana n'amafaranga y' u Rwanda ibihumbi magana abiri na mirongo itanu (250.000 Frws), kuva uru rubanza rubaye ndakuka bitaba ibyo agakurwa mu bye ku ngufu za Leta. [28] Rutegetse ko amafaranga Twagirayezu Jean yatanzeho igarama mu kujurira ahwanye n'ibyakozwe muri uru rubanza, akaba aheze mu isanduku ya Leta.

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