

RWANDA / JUDGMENT

UBUSHINJACYAHA v. KWIZERA N'UNDI

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UBUSHINJACYAHA v. KWIZERA N'UNDI [Rwanda URUKIKO RW'UBUJURIRE – RDPAA 00001/2025/CA (Ndahayo, P.J.) 23 Ukuboza 2025] Amategeko agenga imiburanishirize y'imanza z'inshinjabyaha – Ubujurire – Impamvu z'ubujurire zatanzwe nyuma y'ibihe by'ubujurire – Impamvu z'ubujurire zatanzwe nyuma y'ibihe by'ubujurire ntizigomba kwakirwa, ariko iyo umuburanyi yatinze kubona kopi, impamvu z'ubujurire zigomba gutangwa mu gihe kitarenze iminsi mirongo 30 uhareye igihe aboneye iyo kopi. Amategeko agenga imiburanishirize y'imanza z'inshinjabyaha – Ubujurire – Ingaruka zo kutakira ubujurire bwagomba kwakirwa – Iyo urukiko rwajuririwe rusanze urubanza rujuririrwa rutarakiriwe kandi rwaragombaga kwakirwa, rutesha agaciro urubanza rwajuririwe rukohereza dosiye urukiko rutari rwarwakiriye kugira ngo ruruburanishe mu mizi yarwo. Incamake y'ikibazo: Kwizera na Iradukunda nyuma yuko bajuririye mu Rukiko Rukuru urubanza rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge, urwo Rukiko ntirwakiriye ubujurire ku mpamvu rwagaragaje zuko mu kujurira hatubahirijwe ibihe byo kujurira kuko ku bihe biteganwa n'itegeko harenzeho iminsi 4 rukaba rwarafashe icyo cyemezo ku nzitizi yari yatanzwe n'Ubushinjacyaha. Kwizera na Iradukunda batishimiye icyo cyemezo bajuririye mu Rukiko rw'Ubujurire. Abajuriye bavuga ko Urukiko rwanze kwakira ubujurire bwabo ruvuga ko batinze kujurira kandi atari ukuri kuko bajuriye ku gihe. Ubushinjacyaha ku ruhanda rwabwo buvuga ko ubujurire bwa Kwizera na Iradukunda ubujurire bwabo bwagombaga kwakirwa bugasuzumwa n'Urukiko Rukuru kuko bajuriye ku gihe. Buvuga ko urubanza bajuririraga arirwo RP 00438/2024/TGI/NYGE rwaciwe ku wa 17/01/2025, copy ishyirwa muri systeme ya IECMS ku wa 05/02/2025, umwanzuro wiswe uw'inyongera ushyirwa muri systeme ya IECMS ku wa 19/02/2025, ko rero bigaragaza ko bajuriye ku gihe kuko batari kujurira batazi ibikubiye mu rubanza rwaciwe kuko rutari rwagashyizwe muri systeme ya IECMS. Bivuga ko kuba Urukiko Rukuru rwarabaze ibihe byo kujurira rushingiye ku gihe urubanza rwaciriwe ari inenge igomba gukosorwa n'Urukiko rw'Ubujurire. Incamake y'icyemezo: 1. Impamvu z'ubujurire zatanzwe nyuma y'ibihe by'ubujurire ntizigomba kwakirwa, ariko iyo umuburanyi yatinze kubona kopi, impamvu z'ubujurire zigomba gutangwa mu gihe kitarenze iminsi mirongo 30 uhareye igihe aboneye iyo kopi. 2. Iyo urukiko rwajuririwe rusanze urubanza rujuririrwa rutarakiriwe kandi rwaragombaga kwakirwa, rutesha agaciro urubanza rwajuririwe rukohereza dosiye urukiko rutari rwarwakiriye kugira ngo ruruburanishe mu mizi yarwo. Ubujurire bufite ishingiro. Urubanza rwaciwe n'Urukiko Rukuru ruvanyweho. Nta mategeko yashingiweho.

Imanza zifashishijwe: RPA 00047/2021/CA; Ubushinjacyaha bwa Gisirikare Vs Maj (Rtd) MUDATHIRU Habib alias Mussa rwaciwe n'Urukiko rw'Ubujurire ku wa 09/06/2023; RPAA 00060/2023/CA; Ubushinjacyaha vs Bakundukize Niyonsaba bahimba Mudari rwaciwe n'Urukiko rw'Ubujurire ku wa 16/01/2025; RPAA 00382/2025/CA; Ubushinjacyaha vs Bugingo Adolphe

rwaciwe n'Urukiko rw'Ubujurire ku wa 22/05/2025. Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 07/08/2025 Urukiko Rukuru rwafashe icyemezo mu rubanza RPA 00204/2025/HC/KIG ku nzitizi yo kutakira ubujurire bwa Kwizera David na Iradukunda Emmanuel ku bujurire bw'urubanza RP 00438/2024/TGI/NYGE, rwaciwe n'Urukiko rwisumbuye rwa Nyarugenge ku wa 17/01/2025 yari yatanze n'ubushinjacyaha. [2] Urukiko rwasanze abajuriye baratanze ubujurire bwabo bacyerewe, rubisobanura ruvuga ko urubanza bajuririraga rwaciwe ku wa 17/01/2025 hanyuma batanga umwanzuro bise uw'inyongera watanze n'umwunganizi wabo ku wa 19/02/2025, ariko ko n'ubwo uwo mwanzuro bawise uw'inyongera, batigeze bagaragaza umwanzuro wa mbere w'ubujurire, ko rero batubahirije ibihe by'ubujurire kuko baba barajuriye bitarenze ku wa 15/02/2025, bakaba bararengejeho iminsi 4. [3] Kwizera David na Iradukunda Emmanuel bajuririyeye icyo cyemezo mu rukiko rw'Ubujurire, urubanza ruhabwa RDPA00001/2025/CA iburanishwa rishyirwa ku wa 03/12/2025, abaregwa bunganiwe na Me Uwamabera Beatha, Ubushinjacyaha buhagarariye na Ndagijimana Charles, umushinjacyaha ku rwego rw'igihugu. Kuri uwo munsu urubanza ntirwaburanishijwe kuko uregera indishyi atari afite umwunganizi, iburanisha rishyirwa ku wa 12/12/2025 abaregwa baritaba bunganiwe na Me Uwamabera Beatha, ubushinjacyaha buhagarariye na Bunyoye Grace, uregera indishyi Nirere Jacqueline ahagaraariye na Me Dukundane Jean Luc. [4] Mu mwanzuro utanga ubujurire no mu miburanire ya Kwizera David na Iradukunda Emmanuel n'umwunganizi wabo basobanura ko Urukiko rwanze kwakira ubujurire bwabo ruvuga ko batinze kujurira kandi atari ukuri kuko bajuriye ku gihe. [5] Uhagarariye ubushinjacyaha yasobanuye ko nawe asanga ubujurire bwabo bwaragombaga kwakirwa kuko bajuririyeye mu bihe biteganwa n'amategeko. Ikibazo kigomba gusuzumwa ni ukumenya niba ubujurire bw'abaregwa bwaragombaga kwakirwa mu rukiko Rukuru. II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA [6] Kwizera David na Iradukunda Emmanuel n'umwunganizi wabo basobanura ko ubujurire bwabo bwagombaga kwakirwa bugasuzumwa kuko bajuriye ku gihe, kuko urubanza bajuririyeye

rwari rwasomwe kuwa 17/01/2025, batanga ubujurire ku wa 11/02/2025 ikirego cyemezwa ko cyageze mu Rukiko ku wa 12/02/2025 ariko bavuga ko hari imyanzuro irambuye izatangwa na avoka bazabashakira. Bongeyeho kandi ko bajuririyeye urubanza RP 00438/2024/TGI/NYGE kubera ko muri urwo rubanza Urukiko rwabahamije icyaha batakoze, basobanuramo uko ibintu byagenze ndetse bagaragaza ko ntaho bahuriye n'icyo cyaha. [7] Bavuga rero ko avoka atigeze ahindura impamvu z'ubujurire cyangwa ngo atange izindi mpamvu nshya, ko ahubwo yasobanuye izatanze n'abajuriye anagaragaza ingingo z'amategeko zishingirwaho, ko atigeze avugamo indi ngingo nshyashya, ahubwo yagumye mu murongo w'inenge abari bajuriye bagaragaje mu myanzuro bari batanze mbere bajuriye ibihe byo kujurira bitaragenda. [8] Uhagarariye ubushinjacyaha asobanura ko asanga nawe ubujurire bwabo bwaragombaga kwakirwa bugasuzumwa n'Urukiko Rukuru kuko bajuriye ku gihe. Asobanura ko urubanza bajuririraga arirwo RP 00438/2024/TGI/NYGE rwaciwe ku wa 17/01/2025, copy ishyirwa muri systeme ya IECMS ku wa 05/02/2025, umwanzuro wiswe uw'inyongera ushyirwa muri systeme ya IECMS ku wa 19/02/2025, ko rero bigaragaza ko bajuriye ku gihe kuko batari kujurira batazi ibikubiye mu rubanza rwaciwe kuko rutari rwagashyizwe muri systeme ya IECMS. [9] Ubushinjacyaha busobanura rero ko kuba Urukiko Rukuru rwarabaze ibihe byo kujurira

ruhereye igihe urubanza rwasomewe kuwa 17/01/2025 mu gihe urubanza rwashyizwe muri IECMS kuwa 05/02/2025, busanga ari inenge ikwiye gukosorwa n'Urukiko rw'Ubujurire rukemeza ko Kwizera David na Iradukunda Emmanuel bajuririye ku gihe. UKO URUKIKO RUBIBONA [10] Mu gusesengura iki kibanza hashingirwa ku murongo wemejwe mu rubanza rubanziriza urundi RPA 00047/2021/CA rwaciwe ku wa 09/06/2023 haburana Ubushinjacyaha bwa Gisirikare na Maj(Rtd) MUDATHIRU Habib alias Mussa. Muri urwo rubanza, urukiko rwemeje ko impamvu z'ubujurire zatanze nyuma y'ibihe by'ubujurire zitagomba kwakirwa, ariko ko iyo umuburanyi yatinze kubona kopi, impamvu z'ubujurire zigomba gutangwa mu gihe kitarenze iminsi mirongo 30 uhaye igihe abonye iyo kopi. [11] Hashingirwa kandi ku byemejwe mu rubanza RPAA 00060/2023/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 16/01/2025 haburana Ubushinjacyaha na Bakundukize Niyonsaba bahimba Mudari, aho Urukiko rwemeje ko iyo urukiko rwajuririwe rusanze urubanza rujuririrwa rutarakiriwe kandi rwaragombaga kwakirwa, rutesha agaciro urubanza rwajuririwe rukohereza dosiye urukiko rutari rwarwakiriye kugira ngo ruruburanishe mu mizi yarwo. Uyu murongo wagiye ukurikizwa no mu zindi manza zitandukanye, uruhuka akaba ari urubanza RPAA 00382/2025/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 22/05/2025 haburana Ubushinjacyaha na Bugingo Adolphe (igika cya 20). [12] Dosiye igaragaza ko mu rubanza rujuririrwa mu bika bya 13-15, Urukiko Rukuru rwasobanuye ko inzitizi yatanze n'ubushinjacyaha yo kutakira ubujurire bwa Iradukunda Emmanuel na Kwizera David ifite ishingiro kuko bajuririye batinze, rushingiye ku murongo watanze mu rubanza RCOMAA 00071/2017/SC2 rwaciwe ku wa 26/10/2018, aho Urukiko rwatanze umurongo ujyanye n'igihe impamvu z'ubujurire cyangwa igihe inenge ziri mu rubanza

rujuririrwa bigomba gutangwa, ruvuga ko bigomba kuba biri mu nyandiko y'ubujurire zaramuka zitanze nyuma y'ibihe by'ubujurire ntibyakirwe. [13] Urukiko rukuru rero rwashingiye kuri uwo murongo rusanga Kwizera David na Iradukunda Emmanuel baratanze impamvu z'ubujurire barengeje iminsi mirongo itatu kuko batanze umwanzuro w'ubujurire kuwa 19/02/2025, urubanza rwaraciwe kuwa 17/01/2025, bakaba barajuririye muri systeme ya IECMS ku gihe ariko ntibagaragaza inenge cyangwa amakosa ari mu rubanza rwabo. [14] Dosiye igaragaza ko urubanza RP 00438/2024/TGI/NYGE rwasomwe ku wa 17/01/2025, copy ishyirwa muri systeme ya IECMS ku wa 05/02/2025, abaregwa bajurira ku wa 11/02/2025 munshamake y'ubujurire bwabo basobanura ko icyo batishimiye ari uko bahamijwe icyaha ntacyo bakoze, ndetse basobanura ko impamvu z'ubujurire bazazigaragaza bamaze kubona avoka. Nyuma haza gutangwa umwanzuro w'inyongera ukubiyemo impamvu z'ubujurire washyizwe muri systeme ya IECMS ku wa 19/02/2025. [15] Nk'uko bigaragara muri dosiye, urubanza Iradukunda Emmanuel na Kwizera bajuririraga ari rwo RP 00438/2024/TGI/NYGE rwaciwe ku wa 17/01/2025, copy ishyirwa muri systeme ya IECMS ku wa 05/02/2025, abaregwa bajurira ku wa 11/02/2025(case submitted) ariko bavugaga muri ground of claim ko imyanzuro irambuye izatangwa na avoka bazabashakira, basobanuraga mu bujurire bwabo ko bajuririye urubanza RP 00438/2024/TGI/NYGE ndetse banavugaga ko impamvu z'ubujurire ari uko Urukiko rwabahamije icyaha batakoze, bagasaba kugirwa abere. Banasobanuramo uko ibintu byagenze bakavugaga ko ntaho bahuriye n'icyo cyaha, nyuma ku wa 19/02/2025 avoka wabo aza gutanga umwanzuro w'inyongera ukubiyemo impamvu z'ubujurire mu buryo burambuye. [16] Urukiko rushingiye ku murongo wagaragajwe haruguru

ujyanye n'igihe giteganywa n'amategeko abajurira bagomba gutangiraho ubujurire bwabo ndetse n'igihe inenge ziri mu rubanza zigomba kugaragazwa, rurasanga abajuriye barubahirije igihe cy'ubujurire kuko kopi y'urubanza bajuririraga yashyizwe muri systeme ku wa 05/02/2025, avoka wabo ashyiramo umwanzuro w'inyongera ukubiyemo impamvu z'ubujurire ku wa 19/02/2025, bivuze ko umwanzuro w'inyongera watanzwe ku gihe kandi ukaba waraje wuzuza impamvu y'ubujurire nayo yari yatanzwe ku gihe kuko muri uwo mwanzuro umwunganizi wabo asaba ko abaregwa bagirwa abere, ibi akaba ari nabyo byari byasabwe n'abajuriye. [17] Hashingiwe rero ku bimaze gusobanurwa, Urukiko rurasanga ubujurire bwa Iradukunda Emmanuel na Kwizera David bwagombaga kwakirwa mu Rukiko Rukuru, bityo urubanza rwajuririwe rukaba rugomba kuvanwaho, urubanza rukaba rugomba gusubizwa muri urwo Rukiko Rukuru kugira ngo rukiburanishe mu mizi. III. ICYEMEZO CY'URUKIKO [18] Rwemeje ko ubujurire bwa Iradukunda Emmanuel na Kwizera David bufite ishingiro; [19] Rwemeje ko ubujurire Iradukunda Emmanuel na Kwizera David batanze mu Rukiko Rukuru bwagombaga kwakirwa;

[20] Rwemeje ko urubanza RPA 00204/2025/HC/KIG rwaciwe n'Urukiko Rukuru kuwa 07/08/2025, ruvanweho; [21] Rutegetse ko uru rubanza rusubizwa mu Rukiko Rukuru kugira ngo ruburanishe ubujurire bwa Iradukunda Emmanuel na Kwizera David bari batanze bajuririra urubanza RP 00438/2024/TGI/NYGE, rwaciwe n'Urukiko rwisumbuye rwa Nyarugenge ku wa 17/01/2025.

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