

RWANDA / JUDGMENT

UBUSHINJACYAHA v. NTAHONDI

RPAA00398/2023/CA

COURT

Court of Appeal

DECIDED

30 May 2025

CASE / FILE NUMBER

RPAA00398/2023/CA

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

UBUSHINJACYAHA v. NTAHONDI

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2025-05-30
- Case/document no.: RPAA00398/2023/CA
- Collection: Court of Appeal

Text

Page 1

UBUSHINJACYAHA v. NTAHONDI [Rwanda URUKIKO RW'UBUJURIRE – RPAA00398/2023/CA (Kaliwabo, P.J.) 30 Gicurasi 2025] Amategeko agenga imanza nshinjabyaha – Gukora ibikorwa byerekeranye n'ibiyobyabwenge – Itangwa ry'ibihano – Impamvu nyoroshyacyaha – Nta cyabuza kugabanyiriza igihano uregwa iyo hari impamvu nyoroshyacyaha, nko kuba bwari ubwa mbere aguye mu cyaha ku buryo buzwi no kuba yarafatanwe ingano ntoya y'ibiyobyabwenge. Incamake y'ikibazo: Ntahondi yarezwe mu Rukiko Rwisumbuye rwa Nyarugenge ashinjwe kugurirsha ibiyobyabwenge byo mu bwoko bw'urumogi kuko yafashwe aje kugurisha udupfunyika 8, avuga kandi ko afite n'utundi dutanu mu rugo. Ubushinjacyaha bwamusabiye ko ahamwa n'icyaha cyo gucuruza ibiyobyabwenge byo mu bwoko bw'urumogi, agahanishwa igifungo cya burundu n'ihazabu ya 30.000.000 frw, mu gihe we yaburanye ahakana icyo cyaha ashinjwa, ariko akemera icyo kurunywa. Rushingiye kubimenyetso bitandukanye, Urukiko Rwisumbuye rwemuhamije icyo cyaha, maze rumuhanisha igifungo cy'imyaka 25 n'ihazabu y'amafaranga miliyoni makumyabiri n'eshanu. Uregwa yajuririye mu Rukiko Rukuru akomeza guhakana icyaha yahamijwe, ubujurire bwe ntibwahabwa ishingiro, kuko Urukiko rwasanze nta kosa ryakozwe mu rubanza rujuririrwa ryo kuba Uregwa yarahamijwe icyaha cyo gucuruza urumogi, maze

rugumishaho ibihano yahawe. Ibi yabijuririye muri uru Rukiko rw'Ubujurire asaba kuba yagabanyirizwa. Uregwa avuga ko yemera icyaha cyo gucuruza ibiyobyabwenge ku buryo budashidikanywaho, asaba ko yamubera impamvu yo kuba yagabanyirizwa ibihano, agahanishwa igifungo cy'imyaka 10. Ubushinjacyaha bwashubije ubu bujurire buvuga ko uko kwemera icyaha bwa mbere mu bujurire nta nyungu byagombye kugirira Uregwa, ariko ko nta cyabuza Urukiko kumugabanyiriza kugeza ku gifungo cy'imyaka 16 n'ihazabu ya 5.000.000Frw kuko ari ubwa mbere aguye mu cyaha ku buryo buzwi. Incamake y'icyemezo: Kuba Ntahondi ari ubwa mbere aguye mu cyaha cyo gucuruza ibiyobyabwenge ku buryo buzwi no kuba yarafatanywe ingano ntoya y'ibiyobyabwenge yagabanyirizwa igihano, agahanishwa igifungo cy'imyaka cumi n'itandatu (16ans) n'ihazabu y'amafaranga miliyoni eshanu (5.000.000Frw). Ubujurire bufite ishingiro kuri bimwe. Amategeko yashingiweho: Itegeko No 059/2023 ryo ku wa 4/12/2023 rihindura itegeko N° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, ingingo ya 2. Itegeko N° 69/2019 ryo kuwa 08/11/2019 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2028 riteganya ibyaha n'ibihano, ingingo ya 11. Itegeko N° 68/2018 ryo ku wa 30/08/2018 iteganya ibyaha n'ibihano muri rusange, ingingo ya 59. Imanza zifashishijwe: RPAA 00048/2020/CA, Ubushinjacyaha na Bimenyimana Jean Paul rwaciwe n'Urukiko rw'Ubujurire kuwa 26/05/2022. RPAA 00143/2024/CA, Ubushinjacyaha na Bizimungu Géofrey rwaciwe n'Urukiko rw'Ubujurire ku wa 17/04/2025.

Page 2

Urubanza I. IMITERERE Y'URUBANZA [1] Kuwa 18/07/2019 Rugwiro Landouard yafatanywe urumogi avuga abantu bakorana mu kugura ibiyobyabwenge barimo na Ntahondi Saidi, bamuhamagaye ko bakeneye urumogi rwo kugura aza abazaniye udupfunyika 8 tw'urumogi ahita afatwa kandi yemera ko mu rugo afite yo utundi 5. [2] Iperereza rirangiye, Ubushinjacyaha bwamuregeye Urukiko Rwisumbuye rwa Nyarugenge bumukurikiranyeho icyaha cyo gucuruza ibiyobyabwenge byo mu bwoko bw'urumogi, busaba ko ahanishwa igifungo cya burundu n'ihazabu ya 30.000.000Frw. Ntahondi Saidi yaburanye ahakana icyaha cyo gucuruza urumogi yemera icyo kurunywa. [3] Mu rubanza RP01079/2019/TGI/NYGE rwaciwe kuwa 31/12/2019, Urukiko Rwisumbuye rwa Nyarugenge rushingiye ku mvugo y'uregwa yemera icyaha imbere y'Ubuzungacyaha, ku mvugo z'abatangabuhamya bamushinja no ku nyandikomvugo y'ifatira Ntahondi yashyizeho umukono yemeza ko urumogi rufatiriwe ari urwe, rwemeje ko Ntahondi ahamwe n'icyaha cyo kugurisha ibiyobyabwenge byo mu bwoko bw'urumogi, rumuhanisha igifungo cy'imyaka makumyabiri n'itanu

(25) n'ihazabu y'amafaranga miliyoni makumyabiri n'eshanu (25.000.000Frw). [4] Ntahondi Saidi yajuririye Urukiko Rukuru avuga ko urukiko rwamuhannye rudashingiye ku bikorwa bigize icyaha yakoze cyo gufatanwa ibiyobyabwenge, ko rutagaragaje uwo yabicurujeho ngo agirane nawe amasezerano y'ubugure, ko kandi yahanishijwe ibihano bihambaye asaba ko bigabanywa. [5] Ubushinjacyaha bwashubije buvuga ko Ntahondi yahamijwe icyaha hashingiwe ku bimenyetso birimo imvugo ye yemera icyaha yakoreye imbere y'Ubuzungacyaha, ko yahamagawe n'abigize abaguzi b'urumogi akarubazanira agamije kurugurisha aribwo yafashwe bityo ko nta kosa ryakozwe n'Urukiko mu kumuhamya icyaha

cyo kugurisha ibiyobyabwenge. [6] Mu rubanza RPA00350/2020/HC/KIG rwaciwe kuwa 27/04/2024, Urukiko Rukuru rwasanze ubujurire bwa Ntahondi Saidi nta shingiro bufite rumugumisha ku gihano cy'igifungo cy'imyaka 25 no gutanga ihazabu ya 25.000.000Frw. [7] Ntahondi Saidi yajuririye Urukiko rw'Ubujujire kuri RPAA 00398/2023/CA ruburanishwa mu ruhame kuwa 15/5/2025 yunganiwe na Me Nkurunziza Straton naho Ubushinjacyaha buhagarariwe na Butera Oscar, Umushinjacyaha ku rwego rw'Igihugu. [8] Mu mwanzuro w'ubujurire, Ntahondi Saidi yajuriye asaba kugabanyirizwa ibihano kugeza ku gifungo cy'imyaka 10 kuko aburana yemera icyaha cyo kugurisha ibiyobyabwenge by'urumogi. [9] Me Nkurunziza Straton umwunganira avuga ko uyu yemera icyaha kuburyo budashidikanywaho, asaba ko byamubera impamvu nyoroshyacyaha akagabanyirizwa ibihano bihagije hakurikijwe ingingo ya 2 (a) na (d) y'Itegeko No 059/2023 ryo ku wa 4/12/2023 rihindura itegeko N° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange. [10] Ubushinjacyaha bwashubije buvuga ko ukwemera icyaha bwa mbere mu bujujire nta nyungu byagombye kugirira Ntahondi ariko ko nta cyabuza Urukiko kumugabanyiriza kugeza ku gifungo cy'imyaka 16 n'ihazabu ya 5.000.000Frw kuko ari ubwa mbere aguye mu cyaha ku buryo buzwi. [11] Urukiko ruhereye kuri izo mpaka, rurasuzuma ubusabe bwa Ntahondi Saidi bwo kugabanyirizwa igihano.

Page 3

II. ISESENGURA RY' URUBANZA Kumenya niba Urukiko rwarakoze ikosa ryo guhanisha Ntahondi Saidi ibihano biremereye no kumenya niba yabigabanyirizwa [12] Ntahondi Saidi yajuriye avuga ko mu nkiko zibanza yaburanye ahakana icyaha kubw'inama mbi yagiriwe, ko kuri ubu yamaze kugororwa bihagije akaba yemera icyaha cyo kugurisha ibiyobyabwenge ku buryo budashidikanywaho, ko kuba ari ubwa mbere aguye mu cyaha nabyo byamubera impamvu nyoroshyacyaha, asaba guhanishwa igifungo cy'imyaka 10 kugira ngo abone n'igihe cyo gusubira mu muryango agishobora kugira icyo yimarira. [13] Me Nkurunziza Straton wunganira Ntahondi Saidi avuga ko uyu yemera icyaha kuburyo budashidikanywaho, asaba ko byamubera impamvu nyoroshyacyaha akagabanyirizwa ibihano bihagije hakurikijwe ingingo ya 2 (a) na (d) y'itegeko N° 059/2023 ryo ku wa 4/12/2023 rihindura itegeko N° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange agahanishwa igifungo cy'imyaka 15 n'ihazabu ya miliyoni eshanu (5.000.000Frw). [14] Ubushinjacyaha bwashubije buvuga ko Ubujurire bwa Ntahondi Saidi nta shingiro bufite kuko nta nenge agaragariza urukiko yifuza ko yakosorwa, ko kwemera icyaha yakoreye bwa mbere mu bujujire nta nyungu yagombye kubibonamo kuko yabikoze impitagihe. Ubushinjacyaha bukomeza buvuga ko, nubwo ubujurire bwa Ntahondi nta shingiro bufite, nyamara kandi kuba ari ubwa mbere aguye mu cyaha ku buryo buzwi, no mu rwego rwo kubona ubutabera buhuje n'izindi manza zifitanye isano, ko nta cyabuza Urukiko kumugabanyiriza ibihano kugeza ku gifungo cy'imyaka 16 n'ihazabu y'amafaranga 5.000.000, rushingiye ku ngingo ya 2 (a) na (d) y'Itegeko N° 059/2023 ryo ku wa 4/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange. UKO URUKIKO RUBIBONA A. Ku birebana n'impamvu yo kwemera icyaha mu bujujire [15] Ingingo yo kwemera icyaha bwa mbere mu bujujire yatanzweho umurongo n'Urukiko rw'Ubujujire mu rubanza RPAA00048/2020/CA1, aho

rwasanze uwemera icyaha bwa mbere mu bujuri aba abikoze impitagihe ku buryo bunyuranyije n'ingingo 59 y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 iteganya ibyaha n'ibihano muri rusange, iteganya ko umuntu uburanisha ukwemera icyaha nk'impamvu nyoroshyacyaha agomba kubikora mbere yuko iburanisha ku rwego rwa mbere ripfundikirwa. [16] Urukiko rurasanga ibivuzwe mu gika kibanziriza iki bireba Ntahondi Saidi wafashwe yemera icyaha cyo kugurisha ibiyobyabwenge ariko ageze mu Rukiko agahitamo guhakana icyaha agamije guhanirwa icyaha cyoroheje cyo kubifatanwa; ukwemera icyaha akoreye mu bujuri bikaba bitagize impamvu yashingirwaho agabanyirizwa ibihano. B. Kubirebana n'ubusabe bwa Ntahondi bwo kugabanyirizwa ibihano [17] Icyaha cyo gucuruza ibiyobyabwenge byo mu bwoko bw'urumogi, Ntahondi Saidi yahamijwe, gihanishwa igifungo cya burundu, hashingiwe ku biteganywa mu ngingo ya 11 y'Itegeko N° 69/2019 ryo kuwa 08/11/2019 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2028 riteganya ibyaha n'ibihano muri rusange, iteganya ko umuntu uhamwe n'icyaha cyo gucuruza ibiyobyabwenge bihambaye,

1Reba igika cya 24 cy'urubanza RPAA00048/2020/CA rwaciwe n'Urukiko rw'Ubujuje kuwa 26/05/2022 haburana Ubushinjacyaha na Bimenyimana Jean Paul.

Page 4

ahanishwa igifungo cya burundu n'ihazabu itari muni y'amafaranga 20.000.000 ariko itarenze amafaranga 30.000.000. [18] Ingingo ya 2 (a) y'Itegeko N° 059/2023 ryo ku wa 4/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko iyo umucamanza yemeje impamvu nyoroshyacyaha, ashobora kugabanya igihano ku buryo bukurikira: ... (a) igifungo cya burundu gishobora kugabanywa ariko ntikijye muni y'igihano cy'igifungo cy'imyaka 15; naho mu gace ka (d) ikavuga ko ihazabu ishobora kugabanywa kugeza kuri ¼ cy'igihano cy'ihazabu ntoya yateganyirijwe icyaha cyakozwe. [19] Ubujuje bwa Ntahondi Saidi bugamije guhanishwa igihano gito gishoboka kugeza ku myaka icumi (10ans) kuko yemera icyaha kandi ari ubwa mbere akoze icyaha, kugira ngo asubire mu muryango kwiteza imbere no gufatanya n'abandi kubaka igihugu cye. [20] Urukiko rurasanga, nubwo mu nkiko zibanza Ntahondi Saidi yarahisemo kuburana ahakana icyaha ashinjwa, nyuma yo kukimuhamya, Urukiko Rwisumbuye, rubyibwirije, rwarahaye agaciro izindi mpamvu nyoroshyacyaha zirimo kuba ari ubwa mbere aguye mu cyaha, rumugabanyiriza igihano kugeza ku gifungo cy'imyaka 25 n'ihazabu y'amafaranga 25.000.000. Rurasanga, Urukiko Rukuru rwaremeje ibihano byatanzwe ku rwego rwa mbere rutabanje gusuzuma niba koko ibihano byatanzwe bijyanye n'uburemere bw'icyaha Ntahondi Saidi ashinjwa, by'umwihariko rukaba rutarashyize mu gaciro ingano ntoya y'ibiyobyabwenge yafatanwe (udupfunyika 13) ngo rubihereho rumugabanyiriza ibihano ku buryo buruseho. [21] Urukiko rurasanga ubusabe bwa Ntahondi Saidi bwo guhanishwa igifungo cy'imyaka 10 bunyuranyije n'ibiteganywa mu ngingo ya 2 (a) y'Itegeko N° 059/2023 ryo ku wa 4/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, iteganya ko mu gihe hari impamvu nyoroshyacyaha, uwahamwe n'icyaha giteganyirizwa igifungo cya burundu ashobora kugabanyirizwa igihano ariko ntikijye muni y'igihano cy'igifungo cy'imyaka 15. Rurasanga ibi bireba na Ntahondi Saidi uhamwe n'icyaha cyo kugurisha ibiyobyabwenge bihambaye giteganyirizwa igifungo cya burundu n'ihazabu itari muni

y'amafaranga 20.000.000 ariko itarenga amafaranga 30.000.000 nk'uko biteganywa n'ingingo 11 y'Itegeko N° 69/2019 ryo kuwa 08/11/2019 rihindura Itegeko N° 68/2018 ryo kuwa 30/08/2028 ryavuzwe. [22] Urukiko rurasanga Ntahondi wahamwe no kugurisha ibiyobyabwenge bihambaye byo mu bwoko bw'urumogi (udupfunyika 13) akwiye kugabanyirizwa ibihano hashingiwe ku kuba bwari ubwa mbere aguye mu cyaha ku buryo buzwi no kuba yarafatanwe ingano ntoya y'ibiyobyabwenge nyamara kandi mu kumugabanyiriza, Urukiko rukaba ruzirikana ko yahisemo kuburana ahakana icyaha gifitiwe ibimenyetso, bityo uyu akaba agomba guhanishwa igifungo cy'imyaka cumi n'itandatu (16ans) n'ihazabu y'amafaranga miliyoni eshanu (5.000.000Frw) mu mwanya w'igifungo cy'imyaka 25 n'ihazabu ya 25.000.000Frw yahanishijwe mu rubanza rujuririrwa. Rurasanga kandi ibi bihano biri mu rwego rumwe n'ibyatanzwe mu manza zifitanye isano n'uru, rumwe mu ziheruka gucibwa rukaba ari urubanza RPAA00143/2024/CA rwaciwe kuwa 17/04/2025 haburana Ubushinjacyaha na Bizimungu Géofrey wahamwe n'icyaha cyo gucuruza ibiyobyabwenge by'urumogi bingana n'udupfunyika 25, uyu akaba yarahanishijwe igifungo cy'imyaka 16 n'ihazabu y'amafaranga 5.250.000. III. ICYEMEZO CY'URUKIKO [23] Rwemeje ko imikirize y'urubanza RPA00350/2020/HC/KIG, rwaciwe n'Urukiko Rukuru, kuwa 27/04/2023 ihindutse gusa ku birebana n'ibihano Ntahondi Saidi yari yahanishijwe.

Page 5

[24] Ruhanishije Ntahondi Saidi igihano cy'igifungo cy'imyaka cumi n'itandatu (16ans) n'ihazabu ingana n'amafaranga miliyoni eshanu (5.000.000Frw). [25] Rutegetse ko Ntahondi Saidi asonerwa amagarama y'urubanza kuko aburana afunzwe.

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/10037/10559>

CASE PAGE <https://chat.esheria.ai/case-law/rwanda/ubushinjacyaha-v-ntahondi-2025>

Prepared on 9 October 2026 · Esheria