

RWANDA / JUDGMENT

UBUSHINJACYAHA v. NYIRAMUGISHA

RPAA00122/2024/CA

COURT

Court of Appeal

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UBUSHINJACYAHA v. NYIRAMUGISHA

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Text

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UBUSHINJACYAHA v. NYIRAMUGISHA [Rwanda URUKIKO RW'UBUJURIRE – RPAA00122/2024/CA (Mukamurenzi, P.J.) 16 Ukuboza 2024] Amategeko agenga imanza nshinjabyaha – icyaha cyo gutunda ibiyobyabwenge – Gutunda ibiyobyabwenge bivuze gukura ibiyobyabwenge ahantu ukabijyana ahandi, ubikora akaba azi neza ko ari byo atwaye kandi agamije kubikwirakwiza. Incamake y'ikibazo: Nyiramugisha yafatanywe udupfunyika tw'urumogi 1494 ubwo yavaga i Rubengera yerekeza i Muhanga, Ubushinjacyaha bumukoraho iperereza maze bumurega mu Rukiko Rwisumbuye rwa Karongi, busaba ko ahamwa n'icyaha cyo gutunda no gucuruza urumogi, agahanishwa igifungo cya burundu n'ihazabu ya miliyoni mirongo itatu. Urukiko rwaciye urubanza rwemeza ko Uregwa ahamwa n'icyaha cyo gutunda urumogi maze rumuhanisha igifungo cy'imyaka makumyabiri n'itanu n'ihazabu y'amafaranga miliyoni makumyabiri. Icyo gihano Uregwa yakijuririyemo mu Rukiko Rukuru, urugereko rwa Rusizi avuga ko Urukiko Rwisumbuye rwirengagije ko yakoreshejwe icyo cyaha ndetse akagikora kubera ubukene akaba asaba ko yagabanyirizwa igihano ndetse n'icyaha aregwa kigahindurirwa inyito kubera ko mu bushobozi bwe atari kubasha gukwirakwiza ibiyobyabwenge. Ubushinjacyaha bwo buvuga ko icyaha Uregwa yakoze kitaba icyaha cyo gufatanwa urumogi kuko hashingiwe ku

ngano y'urumgi yafatanywe ari cyaha cyo kurutunda, aruvana ahuntu hamwe arujyana ahandi, akaba yari no kubihemberwa. Mu rubanza RPA00012/2022/HC/RSZ, Urukiko Rukuru rwamuhamije icyaha cyo gutunda urumogi ariko rumugabanyiriza igihano, rumuhanisha igifungo cy'imyaka makumyabiri n'ihazabu y'amafaranga miliyoni cumi. Iki cyemezo ni cyo Uregwa yajuririye muri uru Rukiko rw'Ubujurire asaba n'ubundi kugabanyirizwa igihano ndetse ko n'inyito y'icyaha ihinduka. Avuga ko mu nkiko zibanza yaburanye yemera icyaha, agisabira imbabazi ndetse atanga n'amakuru y'uburyo cyakozwe ariko uwarumuhaye n'uwo yararushyirye bakaba batarakurikiranywe. Bityo, akaba asaba guhanirwa icyaha cyo gufatanwa ibiyobyabwenge byo mu bwoko bw'urumogi. Ubushinjacyaha buvuga ko ibyo Uregwa asaba atabihabwa kuko ibikorwa yakoze bigize icyaha cyo gutunda urumogi nkuko na we yemera ko yarufatanywe aruvanye i Rubengera arujyanye i Muhanga. Ibyo avuga ko uwarumuhaye n'uwo yararushyiriye batarafashwe ngo babazwe nta shingiro byahabwa ngo bimukureho icyo cyaha aregwa. Incamake y'icyemezo: Nyiramugisha Angélique yafatanwe udupfunyika 1494 tw'urumogi yari avanye Rubengera arujyanye i Muhanga akaba yari azi neza ko icyo atwaye ari urumogi, icyo gikorwa yakoze cyo kuruvana mu gace kamwe arujyana mu kandi, gihujwe n'ubwinshi bw'urumogi yari atwaye bigaragaza ko rutari urwo gukoresha ku giti cye, ahubwo ko yari mu bikorwa byo gutunda urumogi agamije kurukwirakiza. Ubujurire nta shingiro bufite. Uregwa ahamwa n'icyaha cyo gutunda ibiyobyabwenge byo mu bwoko bw'urumogi. Amategeko yashingiweho: Itegeko No 059/2023 ryo ku wa 4/12/2023 rihindura Itegeko No 68/2018 ryo ku wa 30/8/2018 riteganya ibyaha n'ibihano muri rusange, ingingo ya 2. Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, ingingo ya 263 yahinduwe n'ingingo ya 11 y'Itegeko N° 69/2019 ryo ku wa 08/11/2019.

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Imanza zifashishijwe: RPA0249/13/CS, Ubushinjacyaha na Nteziryayo Emmanuel rwaciwe n'Urukiko rw'Ikirenga ku wa 25 Ugushyingo 2016. RPA0129/10/CS, Ubushinjacyaha na Mpitabakana, rwaciwe n'Urukiko rw'Ikirenga ku wa 07/03/2014. RPAA00293/2023/CA, Ubushinjacyaha na Habimana Antoine rwaciwe n'Urukiko rw'Ubujurire ku wa 25/09/2024. RPAA00147/2023/CA, Ubushinjacyaha na Ntuyenabo Asman, rwaciwe n'Urukiko rw'Ubujurire ku wa 26/06/2024. RPAA00105/2023/CA, Ubushinjacyaha na Kayiranga Abubakar, rwaciwe n'Urukiko rw'Ubujurire ku wa 28/05/2024. RPAA00052/2021/CA, Ubushinjacyaha na Uwiringiye Franco rwaciwe n'Urukiko rw'Ubujurire ku wa 29/07/2022. RPAA00156/2012/CA, Ubushinjacyaha na Musabyinana Elysée Sibillin rwaciwe n'Urukiko rw'Ubujurire ku wa 25/07/2022. RPAA00408/2020/CA, Ubushinjacyaha na Niyitegeka Augustin alias Niyirema rwaciwe n'Urukiko rw'Ubujurire ku wa 27/06/2022. Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 03/12/2021, Nyiramugisha Angélique, ubwo yari mu modoka ya Kivu Belt ifite pulaki RAB 201 L yari ivuye i Rubengera yerekeza i Muhanga, yafatanwe udupfunyika 1.494 tw'urumogi, tumwe turi mu gatebo ko guhahiramo yarurengejeho imyenda, utundi dupfunyika yadushyize mu gitambaro cya supernet yari yizengurukijeho, arangije ahekeraho umwana. [2] Iperereza rirangiye, Ubushinjacyaha bwamureze mu Rukiko Rwisumbuye rwa Karongi bumukurikiranyeho icyaha cyo gutunda no gucuruza urumogi, busaba ko cyamuhama agahanishwa igifungo cya burundu n'ihazabu ingana

na miliyoni mirongo itatu (30.000.000Frw). [3] Nyiramugisha Angélique yaburanye avuga ko urumogi yafatanwe yari arukuye kuri Mahoko/Rubavu arushyiriye uwitwa Emile i Nyanza, ko uwarumuhaye yamusezeranyije ko nagerayo, amuhemba amafaranga ibihumbi cumi na bitanu (15.000Frw). [4] Mu rubanza RP00535/2021/TGI/KNG rwaciwe ku wa 23/12/2021, Urukiko Rwisumbuye rwa Karongi rwasanze hari ibimenyetso bigaragaraza ko Nyiramugisha Angélique yakoze icyaha aregwa bikurikira: - kuba Nyiramugisha Angélique agifatwa yaremeye ko yafatanwe udupfunyika 1.494 tw'urumogi atuvanye i Rubavu atujyanye i Nyanza; izo mvungo yavugiye mu rwego rw'iperereza akaba yarongeye kuzisubiramo ari imbere y'Urukiko. - Inyandikomvugo z'abatangabuhamya babajijwe ku rwego rw'iperereza harimo imvugo ya Nizigiyimana Suavis, umugenzi wari mumodoka yafatiwemo atwaye urumogi na Manishimwe Joël, umupolisi wari mu muhanda wafashe uregwa afite urumogi, bose bahamya ko uregwa yafatanwe udupfunyika 1.494 tw'urumogi. Urukiko rushingiye kuri ibyo bimenyetso, rwemeje ko Nyiramugisha Angélique ahamwa n'icyaha cyo gutunda ibiyobyabwenge byo mu bwoko bw'urumongi, rumuhanisha igifungo cy'imyaka makumyabiri n'itanu (25) n'ihazabu ingana n'amafaranga miliyoni makumyabiri (20.000.000Frw).

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[5] Nyiramugisha Angélique ntiyishimiye imikirize y'urubanza, ajuririra Urukiko Rukuru, Urugereko rwa Rusizi avuga ko Urukiko rwirengagije ko yakoreshejwe akemera akazi ko gutunda ibiyobyabwenge abitewe n'ubukene, atazi ko ibyo yemeye gukora bigize icyaha. Yanasabye kugabanyirizwa igihano no guhindura inyito y'icyaha kubera ko mu bushobozi bwe atari kubasha gukwirakwiza ibiyobyabwenge. [6] Uhagarariye Ubushinjacyaha yavuze ko icyaha Nyiramugisha Angélique yakoze ari icyo gutunda ibiyobyabwenge, kuko yavanye urumogi ahantu hamwe arujyana ahandi, kandi ko yari kubihemberwa amafaranga ibihumbi cumi na bitanu (15.000Frw), bityo ko hagendewe ku ngano y'ikiyobyabwenge yasanganwe, bitakwitwa gufatanwa ahubwo ari ugutunda ibiyobyabwenge. [7] Mu rubanza RPAA00012/2022/HC/RSZ rwaciwe ku wa 15/02/2024, Urukiko Rukuru, Urugereko rwa Rusizi rwemeje ko ubujurire bwa Nyiramugisha Angélique nta shingiro bufite, ariko rumugabanyiriza igihano hashingiwe ku biteganywa n'ingingo ya 2, (a), (b) y'Itegeko No 059/2023 ryo ku wa 4/12/2023 rihindura Itegeko No 68/2018 ryo ku wa 30/8/2018 riteganyaye ibyaha n'ibihano muri rusange, rumuhanisha igifungo cy'imyaka makumyabiri (20) n'ihazabu y'amafaranga miliyoni icumi (10.000.000Frw). [8] Nyiramugisha Angélique yajuririye imikirize y'urwo rubanza mu Rukiko rw'Ubujurire, urubanza ruhabwa RPAA00122/2024/CA, ruburanishwa mu ruhame ku itariki ya 02/12/2024, Nyiramugisha Angélique yunganiwe na Me Uwimana Céline, naho Ubushinjacyaha buhagarariye na Bunyoye Grâce, Umushinjacyaha ku rwego rw'Igihugu. [9] Mu mwanzuro w'ubujurire no mu miburanire ye, Nyiramugisha Angélique n'umwunganira banenga ko yahanishijwe ibihano bihanitse cyane kandi yemera icyaha akagisabira imbabazi, atanga amakuru ku buryo icyaha cyakozwemo, agaragaza uwari wurumuhaye ariko ntiyakurikiranwa, ko n'Urukiko rwitiranyije ibintu rwirengagije ko atari we nyiri urwo rumogi, atanazi gusoma no kwandika. Banasabye ko hasuzumwa icyaha yakoze kugira ngo abe ari cyo akurikiranwaho

ngo kuko igikorwa yakoze rimwe kitakwitwa gutunda urumogi hagenda gusa ku ngano yarwo n'uburyo yari arutwaye mu gihe uwarumuhaye n'uwo yari arushyiriye batabajijwe ngo bemeze ko rwari urwo gucuruza, ko icyaha akwiye guhanirwa ari ugufatanwa ibiyobyabwenge byo mu bwoko bw'urumogi. [10] Uhagarariye Ubushinjacyaha avuga ko asanga Nyiramugisha Angélique yaragabanyirijwe ahabwa igihano kinganya uburemere n'icyaha yakoze ndetse n'uburyo yagikozemo, kuko yafatanwe urumogi rwinshi cyane rungana n'udupfunyika 1.494 yari atunze arujyanye i Nyanza. Anavuga ko icyaha yahamijwe ari icyo gutunda urumogi nk'uko urukiko rwabisobanuye rugaragaza itandukaniro riri hagati yo gutunda no gufatanwa urumogi, kandi kuba uwarumuhaye n'uwo yari arushyiriye batarafashwe bitamukuraho uburyozwacyaha. [11] Ibibazo bisuzumwa mu rubanza ni ukumenya niba hari ikosa ryakozwe n'Urukiko Rukuru, urugereko rwa Rusizi mu kwemeza ko Nyiramugisha Angélique ahamwa n'icyaha cyo gutunda ibiyobyabwenge by'urumogi no kumenya niba yakongera kugabanyirizwa ibihano. II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

1. Kumenya niba hari ikosa ryakozwe n'Urukiko Rukuru, urugereko rwa Rusizi mu kwemeza ko Nyiramugisha Angélique ahamwa n'icyaha cyo gutunda ibiyobyabwenge by'urumogi [12] Nyiramugisha Angélique n'umwunganira bavuga ko yemera ko yafashwe atwaye urumogi, ariko kubera ko rutari urwe ari yo mpamvu bavuga ko ibikorwa yakoze bitagize icyaha cyo gutunda ibiyobyabwenge ahubwo akwiye guhanirwa icyaha cyo gufatanwa ibiyobyabwenge. Basobanura ko amaze gufatwa yasabye ko urumogi yari afite arushyirizwa aho yari arukuye kuri Mahoko barabyanga, kandi yarababwiraga ko aho arujyanye atahazi, kuko yagenderaga kuri telefone ariko bakavugaga ko yari agiye kurugurisha kandi nta muntu basanze arimo kuruha.

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- [13] Bakomeza basobanura ko kuba yarafatanwe urumogi agomba gushyira undi muntu witwa Emile i Nyanza, ariko uwarumuhaye n'uwo yari arushyiriye bakaba batarabajijwe ngo hagaragazwe icyo rwari gukoreshwa kuko yabagaragaje ariko ntibikorwe, icyaha yagombye gukurikiranwaho ari icyo gufatanwa urumogi, kuko we yakoreshejwe kubera ubukene. Basaba ko hashingirwa ku murongo watanze mu rubanza RPAA00156/2012/CA rwaciye n'Urukiko rw'Ubujurire ku wa 25/07/2022, haburana Ubushinjacyaha na Musabyinana Elysée Sibillin, aho Urukiko rwavuze ko bidahagije kwemeza ko igikorwa cyakozwe ari ugutunda hagenda gusa ku ngano y'urumogi uregwa yafatanwe n'uko yabitwaye, maze inyito y'icyaha yahamijwe igahinduka, agahanirwa icyaha cyo gufatanwa urumogi kuko adahakana ko yarufatanwe. [14] Bavuga kandi ko icyo banenga umurongo Urukiko Rukuru, urugereko rwa Rusizi rwashingiyeho rwemeza ko urumogi rwari urwo kugurisha, ari uko utagaragaza uko ingano ntoya cyangwa ingano nini zigomba kuba zingana, ndetse n'itegeko rikaba ntacyo rivugaga ku byerekeye ingano nini y'ibiyobyabwenge bifatwa nk'ibyo kugurisha, ko bo basanga urumogi yafatanwe rwari ruke, kuko akabule ari akantu gato cyane, ndetse n'abarukoresha bashobora kugura twinshi bakatubika mu nzu. [15] Uhagarariye Ubushinjacyaha avuga ko ibyo Nyiramugisha Angélique n'umwunganira basaba ko

yahanirwa icyaha cyo gufatanwa urumogi nta shingiro bikwiye guhabwa, kuko uregwa yafatanwe udupfunyika 1.494 tw'urumogi ubwo yari mu modoka ya Kivu Belt RAB 201 L yari ivuye Rubengera yerekeza Muhanga, ibi bikorwa bikaba bigize icyaha cyo gutunda urumogi. [16] Anavuga ko ibijyanye no gufatanwa no gutunda ibiyobyabwenge byatanzweho umurongo n'Urukiko rw'Ubujurire, ndetse n'Urukiko Rukuru mu gika cya 18 cy'urubanza rujuririrwa, rukaba rwaragarutse kuri uwo murongo rusobanura itandukaniro riri hagati y'icyaha cyo gutunda urumogi n'icyo gufatanwa urumogi, rusubiza ku byo Nyiramugisha Angélique yasabaga ko yahamwa n'icyaha cyo gufatanwa urumogi. Yongeraho ko kuba uwarumuhaye ndetse n'uwo yari arushyiriye batarafashwe ngo babazwe bitamukuraho uburyozwacyaha ku cyaha cyo gutunda urumogi yarezwe. UKO URUKIKO RUBIBONA [17] Impaka kuri iyi ngingo zishingiye ku kumenya niba Nyiramugisha Angélique yahanirwa icyaha cyo gufatanwa ibiyobyabwenge, ngo kuko igikorwa yakoze rimwe kitagize icyaha cyo gutunda ibiyobyabwenge byo mu bwoko bw'urumogi kubera ko urumogi yari atwaye rutari urwe, uwarumuhaye n'uwo yari arushyiriye batabajijwe ngo bagaragaze icyo rwari rugiye gukoreshwa, no kuba haba itegeko cyangwa imirongo yatanzwe bitavugaga ingano y'ibiyobyabwenge ifatwa ko ari nini ku buryo ufashwe abitwaye yafatwa nk'utunda ibiyobyabwenge. [18] Ibirebana n'ibikorwa byerekeranye n'ibiyobyabwenge cyangwa urusobe rw'imiti ikoreshwa nka byo byasobanuwe mu rubanza RPAA00408/2020/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 27/06/2022 haburana Ubushinjacyaha na Niyitegeka Augustin alias Niyirema¹. Muri urwo rubanza, Urukiko rw'Ubujurire rwasobanuye ko amagambo arebana no gufatanwa avugwa mu gika cya mbere cy'ingingo ya 263 y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange yahinduwe n'ingingo ya 11 y'Itegeko N° 69/2019 ryo ku wa 08/11/2019, no gukora, guhinga, guhindura, gutunda,

1Reba urubanza RPAA00408/2020/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 27/06/2022 haburana Ubushinjacyaha na Niyitegeka Augustin alias Niyirema, igika cya 14-18. 2Ingingo ya 263, igika cya mbere n'icya kabiri, y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange yahinduwe n'ingingo ya 11 y'itegeko N° 69/2019 ryo ku wa 08/11/2019 iteganya ko "Umuntu wese ufatanwa, urya, unywa, witera, uhumeka cyangwa wisiga mu buryo ubwo aribwo bwose ibiyobyabwenge cyangwa urusobe rw'imiti ikoreshwa nka byo, aba akoze icyaha". Igika cyayo cya kabiri giteganya ko umuntu wese uhamijwe n'urukiko gukora ibikorwa bivugwa mu gika cya mbere cy'iyi ngingo, ahanishwa igifungo kitari muni y'umwaka umwe (1) ariko kitarenze imyaka ibiri (2) cyangwa imirimo y'inyungu rusange.

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kubika avugwa mu gika cya 3 cy'iyi ngingo³ agomba kumvikana hakurikijwe ingano y'ibiyobyabwenge n'ikigiye gukoreshwa ibiyobyabwenge uregwa yafatanywe, yakoze, yahinze, yahinduye, yatanze, yabitse, maze byagaragara ko kuri buri gikorwa muri ibyo ikigamijwe ari ukubikoresha ku giti cye, uregwa agahabwa ibihano bito bivugwa mu gika cya kabiri cy'iyi ngingo, ariko byagaragara ko ingano y'ibiyobyabwenge yafatanwe ari nini bikaba byashingirwaho hemezwa ko atari ibyo gukoresha ku giti cye⁴, ahubwo ikigamijwe ari ugucuruza cyangwa gukwirakwiza ibiyobyabwenge, uregwa agahabwa igihano kiremereye kivugwa mu gika cya

gatatu cy'iyi ngingo yavuzwe. [19] Nk'uko dosiye y'urubanza ibigaragaza, ku wa 03/12/2021, Nyiramugisha Angélique, ubwo yari mu modoka ya Kivu Belt ifite pulaki RAB 201 L yari ivuye i Rubengera yerekeza i Muhanga, yafatanwe urumogi udupfunyika 1.494 (boules 1.494), rumwe arufite mu gatebo bahahiramo yarengejeho imyenda, urundi yarushyize mu gitambaro cya supernet yari yizengurukijeho arenzaho imyenda ahekeraho umwana. Abazwa mu Bugenzacyaha no mu Bushinjacyaha yemeye ko yafatanwe urwo rumogi avuga aho arukuye n'aho yaruje. [20] Nyiramugisha Angélique aburana mu Rukiko Rwisumbuye rwa Karongi yemeye ko yafatanwe urumogi udupfunyika 1.494, agasobanura ko urwo rumogi yarakuye i Rubavu kuri Mahoko arujyanye i Gatagara muri Nyanza, aho yari arushyiriyemo uwitwaga Emile, anavugaga ko yari guhembwa ibihumbi cumi na bitanu (15.000Frw). Urukiko Rwisumbuye rwa Karongi rwamuhamije icyaha cyo gutunda ibiyobyabwenge byo mu bwoko bw'urumogi, rumuhanisha igifungo cy'inyuma makumyabiri n'itanu (25) n'ihazabu ingana n'amafaranga miliyoni makumyabiri (20.000.000Frw). [21] Nyiramugisha Angélique yajuririyemo Urukiko Rukuru, urugereko rwa Rusizi asaba guhanirwa icyaha cyo gufatanwa ibiyobyabwenge. Mu isesengura ry'urubanza, Urukiko Rukuru rwasanze ingano y'urumogi yafatanwe yerekana ko icyaha cyakozwe ari icyo gucukura urumogi kuko adashobora kwerekana ikindi urumogi rungana n'udupfunyika 1.494 yari agiye kurukoresha, kandi nawe ubwe akaba yiyemerera ko yari arushyiriyemo umuntu wari warumutumye, ko byumvikana ko nta kindi rwari kumara usibye kurugurisha. Nyiramugisha Angélique akaba yajuririyemo iyo mikirize y'urubanza muri uru Rukiko rw'Ubujurire avugaga ko yahamijwe igihano kiremere kandi icyaha yakoze kandi yemera ari icyo gufatanwa urumogi, kuko urwo rumogi rutari urwe, hakaba hatagaragajwe icyo yari agiye kurukoresha, ndetse n'ingano yarwo ari nta. [22] Urukiko rw'Ubujurire rusanga nk'uko umurongo wibukijwe mu gika cya 18 cy'uru rubanza ubigaragaza, ubwinshi bw'ibiyobyabwenge uregwa yafatanwe, ni ikimenyetso kigaragaza ko atari ibyo akoresha ku giti cye, ahubwo icyo agamije kubikoresha ari ukubikurura cyangwa kubikwirakwiza. Naho ku byerekeye igikorwa cyo gutunda ibiyobyabwenge ubwacyo, byo byasobanuye mu rubanza RPAA00052/2021/CA, rwaciye ku wa 29/07/2022 haburana Ubushinjacyaha na Uwiringiye Franco. Muri urwo rubanza Urukiko rw'Ubujurire rwahamije Uwiringiye Franco icyaha cyo gutunda ibiyobyabwenge, kubera gufatanwa udupfunyika 100 tw'urumogi yari avanye mu Gatsata arujyana i Nyamirambo, runavugaga ko gutunda bivuze gukura ikintu ahantu ukijyana ahandi. Iki gisobanuro cy'igikorwa cyo gutunda ibiyobyabwenge kikaba cyarongeye kugarukwaho mu manza zihurika gucibwa n'uru Rukiko nk'urubanza RPAA00293/2023/CA rwaciye ku wa 25/09/2024 haburana Ubushinjacyaha na Habimana

3 Igika cya gatatu, agace 1o cy'iyi ngingo, kigateganya ko umuntu wese ukora, ukinga, uhindura, utunda, ubika, uha undi, ugurisha mu gihugu ibiyobyabwenge cyangwa urusobe rw'imiti ikoreshe nka byo mu buryo bunyuranyije n'amategeko, aba akoze icyaha, naho agace ka 1° kacyo kagateganya ko "iyi abihamijwe n'urukiko ahanishwa igifungo cya burundu n'ihazabu y'amafaranga y'u Rwanda arenze miliyoni makumyabiri (20.000.000 Frw) ariko atarenze miliyoni mirongo itatu (30.000.000Frw) ku byerekeye ibiyobyabwenge bihambaye. 4Ibyo byasobanuye mu rubanza RPAA00132/2021/CA rwaciye n'Urukiko rw'Ubujurire ku wa 15/07/2022 haburana Ubushinjacyaha na Uwisenga Théogène alias Rasta, aho mu gika cya 18, rwasobanuye ko ingano

y'urumogi uregwa yafatanwe iri mu bishobora kugaragaza ko atari urwo kunywa ahubwo yari agamije kurucuruza cyangwa kurukwirakwiza. 5Reba igika cya 24 cy'urubanza RPA00012/2022/HC/RSZ rujuririrwa. 6Reba igika cya 28 cy'urwo rubanza.

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Antoine⁷, aho uyu nawe yahamijwe icyaha cyo gutunda ibiyobyabwenge kubera gufatwa atwaye igikapu kirimo udupfunyika 3.000 tw'urumogi yari akuye i Nyabihu aruzanye i Kigali. [23] Urukiko rw'Ubujurire rurasanga rero kuba Nyiramugisha Angélique nawe yarafashwe atwaye urumogi rungana n'udupfunyika 1.494 yari avanye kuri Mahoko i Rubavu, arujyanye i Gatagara muri Nyanza aho yari abishyiriye uwitwa Emile, ndetse icyo gikorwa akaba yari kugihemberwa amafaranga ibihumbi cumi na bitanu (15.000Frw) nk'uko abivuga, bigaragaza ko yakoze icyaha cyo gutunda ibiyobyabwenge byo mu bwoko bw'urumogi. [24] Urukiko rw'Ubujurire rusanga mu gika cya 24 cy'urubanza rujuririrwa, Urukiko Rukuru rwarakoze ikosa mu isesengura ry'urubanza aho rwemeje ko icyaha Nyiramugisha Angélique yakoze ari icyo gucuruza urumogi, ariko rukarangiza rwemeranywa n'ibyemejwe n'Urukiko Rwisumbuye rwa Karongi rwemeje ko icyaha yakoze ari icyo gutunda urumogi. Iryo kosa rikaba rikosowe muri uru rubanza, kuko uru Rukiko narwo rusanga icyaha yakoze kandi gifitiwe ibimenyetso ari icyo gutunda ibiyobyabwenge byo mu bwoko bw'urumogi. [25] Urukiko rw'ubujurire rusanga ibyo Nyiramugisha Angélique n'umwunganira bavuga ko hakwiye gushingirwa ku murongo watanze mu rubanza RPAA00156/2012/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 27/05/2022, haburana Ubushinjacyaha na Musabyinana Elysée Sibillin inyito y'icyaha yahamijwe igahinduka agahanirwa icyaha cyo gufatanwa urumogi kuko rutari urwe, kandi hakaba hatagazwa icyo yari agiye kurukoresha n'uko ingano y'urumogi yari atwaye ari nto nta shingiro bifite, kuko kuva aho urwo rubanza ruciriwe, hatanzwe umurongo mu rubanza RPAA00408/2020/CA rwibukijwe mu gika cya 18, usobanura neza uko ibikorwa bivugwa mu ngingo ya 263 y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 ryavuzwe bigomba kumvikana, hakurikijwe ingano y'ibiyobyabwenge n'ikigiyeko gukoreshwa ibiyobyabwenge uregwa yafatanwe, uyu murongo akaba ari wo ukurikizwa mu manza zicibwa n'uru Rukiko ku byerekeranye no gukemura impaka zishingiye ku bikorwa byerekeranye n'ibiyobyabwenge cyangwa urusobe rw'imiti ikoresheka nka byo⁸. [26] Uru Rukiko runasanga kuba Nyiramugisha Angélique yarafatanwe urumogi yari avanye kuri Mahoko/Rubavu arujyanye i Gatagara/Nyanza kandi akaba yari azi neza ko icyo atwaye ari urumogi, icyo gikorwa yakoze gihujwe n'ubwinshi bw'urumogi rungana n'udupfunyika 1.494 yari atwaye bigaragaza ko rutari urwo gukoresha ku giti cye ku buryo yahanirwa gufatanwa ibiyobyabwenge by'urumogi, ahubwo ubwinshi bwarwo n'uko yaruvanaga mu gace kamwe arujyana mu kandi bigaragaza ko yari mu bikorwa byo gutunda urumogi ikigamijwe ari ukurukwirakiza. [27] Hashingiwe kuri ibyo bisobanuro bitanzwe, Urukiko rw'Ubujurire rurasanga ibisabwa na Nyiramugisha Angélique ko akwiye guhamwa n'icyaha cyo gufatanwa urumogi giteganywa n'ingingo ya 263, igika cya mbere y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyaga ibyaha n'ibihano muri rusange nk'uko ryahinduwe kugeza ubu, aho kuba icyaha cyo gutunda urumogi giteganywa n'igika cya gatatu cy'iyi ngingo, nta shingiro bifite.

2. Kumenya niba Nyiramugisha Angélique yakongera kugabanyirizwa igihano [28] Nyiramugisha Angélique n'umwunganira bavuga ko mu gihe Urukiko rwasanga yakongera guhanirwa icyaha cyo gutunda urumogi yagabanyirizwa igihano kugera muni y'igihano gito giteganyijwe n'itegeko, hashingiwe ku manza zaciwe n'Urukiko rw'Ubujurire zivuga ko ntacyabuza urukiko kongera kugabanya igihano harebwa uburemere bw'icyaha n'ingaruka cyaba cyarateye, maze agahanishwa igifungo cy'imyaka itatu (3), kugira ngo abashe gusanga abana kuko yaburanye yemera icyaha

7Reba igika cya 37 cy'urwo rubanza. 8Reba igika cya 21 cy'urubanza RPAA00147/2023/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 26/06/2024 haburana Ubushinjacyaha na Ntuyenabo Asman.

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anagisabira imbabazi, agaragaza uko cyakozwe atanga n'amakuru y'uwigikoze na numero ze za telefone ariko ntayakurikiranwa. [29] Uhagarariye Ubushinjacyaha avuga ko Nyiramugisha Angélique atakongera kugabanyirizwa igihano, kuko yagabanyirijwe ku buryo buhagije ahabwa igihano gikwiranye n'uburemere bw'icyaha yakoze hitawe ku ngano nini y'urumogi yafatanwe rungana n'udupfunyika 1.494, yahishe ahantu hatandukanye, bimwe yabihekeyeho umwana. Anavuga ko kuba uwagabanyirijwe igihano atongera kuganyirizwa byatanzweho umurongo mu rubanza RPA0129/10/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 07/03/2014, haburana Ubushinjacyaha na Mpitabakana, aho Urukiko rw'Ikirenga rwemeje ko uregwa atakongera kugabanyirizwa ibihano, iyo mu bujurire Urukiko rusanga yarabigabanyirijwe bihagije, harebwe uburemere bw'icyaha n'uburyo icyaha cyakozwemo. UKO URUKIKO RUBIBONA [30] Ikibazo cyo kutongera kugabanya igihano mu bujurire iyo Urukiko rusanze uregwa yaragabanyijwe ku buryo buhagije, cyatanzweho umurongo n'Urukiko rw'Ikirenga mu rubanza RPA 0249/13/CS rwaciwe ku wa 25 Ugushyingo 2016 haburana Ubushinjacyaha na Nteziryayo Emmanuel9. Muri urwo rubanza Urukiko rw'Ikirenga rwasobanuye ko uregwa adakwiye kwemererwa kugabanyirizwa igihano mu gihe yagabanyirijwe igihano bihagije ku rwego rwa mbere agahabwa igihano gikwiranye n'uburemere bw'icyaha yakoze10. [31] Ingingo ya 2 y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 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; (d) igihano cy'ihazabu gishobora kugabanywa kugeza kuri kimwe cya kane cy'igihano cy'ihazabu gito giteganyirijwe icyaha cyakozwe. [32] Nk'uko bigaragara mu gika cya 25 n'icya 26, Urukiko Rukuru, urugereko rwa Rusizi, rushingiye ku biteganywa n'iyi ngingo, rwagabanyirije Nyiramugisha Angélique igihano, rumuhanisha igifungo cy'imyaka makumyabiri (20) n'ihazabu y'amafaranga miliyoni icumi (10.000.000Frw). [33] Mu manza zaciwe n'Urukiko rw'Ubujurire abaregwa bakurikiranyweho ibyaha bisa n'icyo Nyiramugisha Angélique akurikiranyweho, nk'urubanza RPAA00293/2023/CA rwaciwe ku wa 25/09/2024 haburana Ubushinjacyaha na Habimana Antoine. Muri uru rubanza Habimana Antoine yahamijwe icyaha cyo gutunda ibiyobyabwenge, rugumisha igihano cy'imyaka 20 n'ihazabu ya 15.000.000Frw yahanishijwe n'inkiko zibanza kubera gufatwa atunze ibiyobyabwenge bingana n'udupfunyika 3.000 tw'urumogi. Mu rubanza RPAA00105/2023/CA

rwaciwe ku wa 28/05/2024 haburana Ubushinjacyaha na Kayiranga Abubakar yagabanyirijwe igihabo hashingiwe ku mpamvu nyoroshyacyaha z'uko bwari ubwa mbere akurikiranyweho icyaha mu buryo buzwi kandi akaba yarakoze icyaha aribwo akiva mu bwana afite imyaka 24, ahanishwa igifungo cy'imyaka 19 n'ihazabu ya 10.000.000Frw ku cyaha cyo gufatwa atunze ibiyobyabwenge byo mu bwoko bw'urumogi udupfunyika 1.029. [34] Kubera izo mpamvu, Urukiko rw'Ubujurire rusanga igifungo cy'imyaka 20 n'ihazabu ya miliyoni 10.000.000 Nyiramugisha Angélique yahanishijwe ku cyaha cyo gutunda urumogi rungana n'udupfunyika 1.494 tw'urumogi, kitagomba guhinduka kuko, yagabanyirijwe ahanishwa igihano gikwiranye n'uburemere bw'icyaha yakoze, kubera ko igihano yahawe kiri mu kigero kimwe n'igihabwa abahamijwe icyaha nk'icyo yakoze, bagafatanwa ingano ikabije kuba nini y'urumogi. Kuba adahanishijwe igihano

9Reba igika cya 14 cy' urwo rubanza. 10Kutongera kugabanyiriza uregwa igihano mu gihe yagabanyirijwe ku buryo buhagije, byanemejwe mu rubanza RPA0129/10/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 07/03/2014 haburana Ubushinjacyaha na Mpitabakana.

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nk'icyahawe Kayiranga Abubakar biterwa n'uko uyu yakoze icyaha afite imyaka 24, anafatanwa udupfunyika 1.029 tw'urumogi naho Nyiramugisha Angélique we akaba yaragikoze afite imyaka 30, akaba yaranafatanywe udupfunyika 1.494 tw'urumogi. III. ICYEMEZO CY'URUKIKO [35] Rwemeje ko ubujurire bwa Nyiramugisha Angélique nta shingiro bufite. [36] Rwemeje ko ahamwa n'icyaha cyo gutunda ibiyobyabwenge byo mu bwoko bw'urumogi. [37] Rwemeje ko igihano cy'igifungo cy'imyaka makumyabiri (20) n'ihazabu ya miliyoni icumi (10.000.000Frw) yahanishijwe mu rubanza rujuririrwa kidahindutse. [38] Ruvuze ko amafaranga y'amagarama y'urubanza aherera ku Isanduku ya Leta, kubera ko Nyiramugisha Angélique afunze akaba asonewe kuyatanga.

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