

RWANDA / JUDGMENT

UBUSHINJACYAHA v. NYIRANSABIMANA

RPAA00195/2025/CA

COURT

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UBUSHINJACYAHA v. NYIRANSABIMANA

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Text

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UBUSHINJACYAHA v. NYIRANSABIMANA [Rwanda URUKIKO RW'UBUJURIRE – RPAA00195/2025/CA (Umugwaneza, J. P.) 29 Nzeri 2025] Amategeko agenga imanza nshinjabyaha – icyaha cyo gucuruza ibiyobyabwenge – Mu kwemeza ko uregwa yakoze icyaha cyo gucuruza ibiyobyabwenge bishobora gushingira kubimenyetso birimo ibiyobyabwenge n'amafaranga byafatiriwe no kubatangabuhamya bemeza ko uwo muntu asanzwe acuruza ibiyobyabwenge. Amategeko agenga imanza nshinjabyaha – Ukwemera icyaha – Uregwa wemeye icyaha mu nzego z'iperereza yagera imbere y'Urukiko akagihakana – Umucamanza uburanisha urubanza mu mizi niwe ureba agaciro k'imvugo y'uwiyemerera icyaha mu rwego rw'iperereza ifite, n'ubwo yagera imbere y'Urukiko akayihindura. Amategeko agenga imanza nshinjabyaha – Igabanyagihano – icyaha gihanishwa igihano cy'igifungo cya burundu ntigishobora kugabanywa ngo kijye muni y'igihano cy'igifungo cy'imyaka cumi n'itanu (15), kuko aricyo gihano gito giteganywa n'itegeko kuri icyo cyaha. Incamake y'ikibazo: Nyiransabimana yafatanywe udupfunyika 27 tw'urumogi, abajijwe aho adukura avuga ko ari kwa Uwizeyimana, maze bombi barafashwe barafungwa. Ubushinjacyaha bwabareze mu Rukiko Rwisumbuye rwa Rubavu, icyaha cyo gukora ibikorwa byerekeranye n'ibiyobyabwenge cyangwa urusobe rw'imiti ikoresheya nka byo bigizwe n'igikorwa cyo kugurisha

ibiyobyabwenge byo mu bwoko bw'urumogi, busaba ko cyabahama, bagahanishwa buri wese igifungo cya burundu. Muri urwo rubanza, Uwizeyimana ntiyitabye kandi yarahamagajwe mu buryo bukurikije amategeko, maze aburanishwa adahari, agirwa umwere kuko Urukiko rwasanze nta bimenyetso bindi Bihari bimushinja icyaha yarakurikiranweho usibye imvuga ya Nyiransabimana. Uyu Nyiransabimana we yahamijwe icyo cyaha cyo kugurisha ibiyobyabwenge byo mu bwoko bw'urumogi, maze Urukiko rumukatira igifungo cy'imyaka makumyabiri n'itanu (25) n'ihazabu ya 20.100.000Frw. Uregwa yajuririye mu Rukiko Rukuru, urugereko rwa Musanze, asaba kugabanyirizwa ibihano, ngo kuko yahanishijwe ibihano birebire nk'iby'abacuruzi b'urumogi kandi we atari umucuruzi, ahubwo ko yabifatanwe ari byo kunywa. Ubushinjacyaha bwo buvuga ko impamvu ze z'ubujurire zidafite ishingiro, kuko Urukiko rwasobanuye ibimenyetso rwashingiyeho rumuhamya icyaha cyo kubika ibiyobyabwenge agamije kubicuruzza. Ku kijyanye no kugabanyirizwa ibihano, Ubushinjacyaha bwavuze ko yagabanyirizwa hashingiwe ku Itegeko rishya riteganywa ibyaha n'ibihano muri rusange. Urukiko Rukuru rwasanze urumogi Uregwa yafatanwe atari urwo kunywa nk'uko abivuga, ahubwo ari urwo yaragamije kugurisha hashingiwe ku mvugo ye abazwa mu Bugenzacyaha agasobanura aho arugura n'amafaranga arugurisha. Ikindi ni uko ku bijyanye n'ibihano, n'ubwo impamvu ze z'ubujurire zidafite ishingiro, Urukiko rwasanze akwiriye kugabanyirizwa igihano mu rwego rwo guhuza igihano n'uburemere bw'icyaha, maze rumuhanisha igifungo cy'imyaka 15 n'ihazabu ya 5.000.000Frw. Uregwa yongeye ajuririra muri uru Rukiko rw'Ubujurire asaba guhindurirwa inyito y'icyaha agahanirwa kunywa urumogi aho kuba kurucuruza, ndetse akanagabanyirizwa ibihano kubera impamvu nyoroshyacyaha. Asobanura ko udupfunyika 27 yafatanwe ari ducye tukaba twari utwo kwinywera atari utwo gucuruza nk'uko babimuhamije, ndetse no mu Mudugudu atuyemo bakaba bazi ko atarucuruza, kandi ko urwo yafatanywe rwari urwo guha abakobwa basanzwe barunywa, bafatanywa gukora uburaya. Ubushinjacyaha bwasabye ko Uregwa adakwiriye guhindurirwa inyito y'icyaha, kuko ibimenyetso byashingiyeho ahamya icyaha bigaragaza ko igikorwa yakoze ari ugufatanwa urumogi agamije kurukwirakwiza arugurisha nk'uko yari asanzwe abikora, ko rutari urwo gukoresha ku giti cye. Busobanura kandi ko Uregwa abazwa mu Bugenzacyaha yasobanuye neza uko acuruza urumogi, amafaranga aruranguraho n'ayo yunguka amaze kurucuruza, hakaba hari n'abatangabuhamya bamushinja

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kurucuruza. Ibyo bikorwa yakoze bihuye n'igisobanuro ku cyaha cyo gufatanwa, gukora, guhinga, guhindura, gutunda no kubika ibiyobyabwenge. Incamake y'icyemezo: 1. Mu kwemeza ko uregwa yakoze icyaha cyo gucuruza ibiyobyabwenge bishobora gushingira kubimenyetso birimo ibiyobyabwenge n'amafaranga byafatiriwe no kubatangabuhamya bemeza ko uwo muntu asanzwe acuruza ibiyobyabwenge.

2. Umucamanza uburanisha urubanza mu mizi niwe ureba agaciro k'imvugo y'uwiyemerera icyaha mu rwego rw'iperereza ifite, n'ubwo yagera imbere y'Urukiko akayihindura.

3. icyaha gihanishwa igihano cy'igifungo cya burundu ntigishobora kugabanywa ngo kijye muni y'igihano cy'igifungo cy'inyaka cumi n'itanu (15), kuko aricyo gihano gito giteganywa n'itegeko kuri icyo cyaha. Ubujurire nta shingiro bufite. Urubanza rujuririrwa n'ituhindutse mu ngingo zarwo zose. Amategeko yashingiweho: Itegeko No 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko No 68/2018 ryo ku wa 30/08/2018, ingingo ya 2. riteganywa ibyaha n'ibihano muri rusange, Itegeko N° 69/2019 ryo ku wa 08/11/2019, riteganywa ibyaha n'ibihano muri rusange, ingingo ya 11. Itegeko No 68/2018 ryo ku wa 30/08/2018, riteganywa ibyaha n'ibihano muri rusange, ingingo ya 60. Imanza zifashishijwe: RPAA0010/06/CS - RPAA0011/06/CS - RPAA0012/06/CS, Ubushinjacyaha v. Sgt Ntaganira na bagenzi be rwaciwe n'Urukiko rw'Ikirenga ku wa 18/07/2008. RPAA00043/2024/CA, Ubushinjacyaha v. Rukundo, rwaciwe n'Urukiko rw'Ubujurire ku wa 29/04/2025. RPAA00159/2023/CA, Ubushinjacyaha v. Mporanyurukundo Jean Clément rwaciwe n'Urukiko rw'Ubujurire ku wa 26/04/2024. RPAA00170/2023/CA, Ubushinjacyaha v. Nyiraguhirwa Consolée rwaciwe n'Urukiko rw'Ubujurire ku wa 26/04/2024. RPAA00189/2024/CA, Ubushinjacyaha na Nyandwi Shabani, rwaciwe n'Urukiko rw'Ubujurire ku wa 25/04/2025. RPAA00198/2024/CA, Ubushinjacyaha v. Gatesi Hasina, rwaciwe n'Urukiko rw'Ubujurire ku wa 17/04/2025. RPAA00113/2020/CA, Ubushinjacyaha na Ndengeyabagabo Jean Pierre rwaciwe n'Urukiko rw'Ubujurire ku wa 28/12/2023. RPAA00367/2020/CA, Ubushinjacyaha v. Twagirumukiza Innocent Réponse rwaciwe n'Urukiko rw'Ubujurire ku wa 22/12/2023. RPAA00590/2021/CA, Ubushinjacyaha v. Nyirazuba rwaciwe n'Urukiko rw'Ubujurire ku wa 08/03/2023. RPAA00408/2020/CA, Ubushinjacyaha v. Niyitegeka Augustin alias Niyirema rwaciwe n'Urukiko rw'Ubujurire ku wa 27/06/2022. RPAA00048/2020/CA, Ubushinjacyaha na Bimenyimana Jean Paul, rwaciwe n'Urukiko rw'Ubujurire ku wa 26/05/2022. RPAA00039/2021/CA, Ubushinjacyaha v. Shakabatenda Jean de Dieu rwaciwe n'Urukiko rw'Ubujurire ku wa 02/07/2021. RPAA00418/2022/HC/MUS, Ubushinjacyaha v. Muhawenimana, rwaciwe n'Urukiko Rukuru, ku wa 13/06/2023.

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Urubanza I. IMITERERE Y'URUBANZA [1] Ku wa 22/10/2020, abashinzwe umutekano bari mu Mudugudu w'Umunezero, mu Kagari k'Amahoro, mu Murenge wa Gisenyi, bafatanye Nyiransabimana Zawadi udupfunyika 27 tw'urumogi yari yahishe mu nzu ye muri salon, bamubajije aho arukura, avuga ko arugura kwa Uwizeyimana Isaac. Bombi, bashyikirizwa Ubugenzacyaha. [2] Iperereza rirangiye, Ubushinjacyaha bwabareze mu Rukiko Rwisumbuye rwa Rubavu, icyaha cyo gukora ibikorwa byerekeranye n'ibiyobyabwenge cyangwa urusobe rw'imiti ikoreshe nka byo bigizwe n'igikorwa cyo kugurisha ibiyobyabwenge byo mu bwoko bw'urumogi, busaba ko cyabahama, bagahanishwa buri wese igifungo cya burundu. [3] Uwizeyimana Isaac, ntiyitabye Urukiko kandi yarahamagawe mu buryo bukurikije amategeko, aburanishwa adahari. Nyiransabimana Zawadi, yireguye avuga ko icyo yemera ari uko urumogi yafatanwe rwari urwo kunywa kubera kubura appétit. [4] Mu rubanza RP00642/2020/TGI/RBV, rwaciwe ku wa 20/04/2022, Urukiko Rwisumbuye rwa Rubavu, rwasanze nta bimenyetso bihamya Uwizeyimana Isaac kugurisha ibiyobyabwenge byo mu bwoko bw'urumogi uretse imvugo ya

Nyiransabimana Zawadi itagize ikindi kimenyetso kiyishyigikiye bityo rukaba rumugize umwere. Rusanga hari ibimenyetso bihamya Nyiransabimana Zawadi, icyaha cyo gukora ibikorwa byerekeranye n'ibiyobyabwenge cyangwa urusobe rw'imiti ikoreshwa nka byo bigizwe n'igikorwa cyo kugurisha ibiyobyabwenge byo mu bwoko bw'urumogi, aribyo:

- a) Imvugo ye yemera icyaha abazwa mu Bugenzacyaha, agasobanura uko yagikoze ndetse n'aho arurangurira;
- b) Imvugo z'abatangabuhamya bamushinja gucuruza urumogi;
- c) Inyandiko mvugo y'ifatira yashyizeho umukono yemera urumogi yafatanwe ko ari urwe. Urukiko rushingiye kuri ibyo bimenyetso, rwahamije Nyiransabimana Zawadi, icyaha cyo gukora ibikorwa byerekeranye n'ibiyobyabwenge cyangwa urusobe rw'imiti ikoreshwa nka byo bigizwe n'igikorwa cyo kugurisha mu gihugu ikiyobyabwenge cy'urumogi. Rumuhanisha igifungo cy'imyaka makumyabiri n'itanu (25) n'ihazabu ya 20.100.000Frw. [5] Nyiransabimana Zawadi yajuririye urwo rubanza mu Rukiko Rukuru, Urugereko rwa Musanze, asaba kugabanyirizwa ibihano, avuga ko yahawe birebire nk'iby'abacuruzi bw'urumogi kandi we atari umucuruzi no mu Mudugudu atuyemo babizi, ahubwo ko yabifatanwe ari byo kunywa. [6] Ubushinjacyaha buvuga ko impamvu ze z'ubujurire zidafite ishingiro kuko Urukiko rwasobanuye ibimenyetso rwashingiyeho rumuhamya icyaha cyo kubika ibiyobyabwenge agamije kubicuruza aho kuba kubikoresha ku giti cye nk'uko abivuga. Naho ku bijyanye no kugabanyirizwa ibihano, busanga akwiriye kubigabanyirizwa atari uko hari inenge kubihano Urukiko rubanza rwamugeneye ahubwo ari uko hari Itegeko rishya No 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko No 68/2018 ryo ku wa 30/08/2018, riteganyaga ibyaha n'ibihano muri rusange Urukiko rwashingiraho rumugabanyiriza ibihano. [7] Mu rubanza RPA00601/2022/HC/MUS, rwaciwe ku wa 27/01/2025, Urukiko Rukuru, Urugereko rwa Musanze, nyuma yo gusuzuma impamvu z'ubujurire za Nyiransabimana Zawadi, rwasanze, imiburanire ye yuzuyemo ukwivuguruza, rusanga urumogi yafatanwe atari urwo kunywa nk'uko abivuga ahubwo ari urwo yaragamije kugurisha hashingiwe ku mvugo ye abazwa mu Bugenzacyaha agasobanura aho arugura n'amafaranga arugurisha. Rusanga ku bijyanye n'ibihano, n'ubwo impamvu ze z'ubujurire

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zidafite ishingiro, akwiriye kugabanyirizwa igihano mu rwego rwo guhuza igihano n'uburemere bw'icyaha nk'uko byatanzweho umurongo mu rubanza RPAA00039/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 02/07/2021, haburana Ubushinjacyaha na Shakabatenda Jean de Dieu. Rwemeza ko imikirize y'urubanza rwajuririwe ihindutse gusa ku bijyanye n'ibihano. Rumuhanisha igifungo cy'imyaka 15 n'ihazabu ya 5.000.000Frw. [8] Nyiransabimana Zawadi yajuririye Urukiko rw'Ubujurire, urubanza ruhabwa RPAA00195/2025/CA, ruburanishwa mu ruhame ku wa 11/09/2025, Nyiransabimana Zawadi yunganiwe na Me Uzabakiraho Iréné, Ubushinjacyaha buhagarariye na Ndagijimana Charles, Umushinjacyaha ku rwego rw'igihugu. [9] Mu mwanzuro we w'ubujurire Nyiransabimana Zawadi asaba guhindurirwa inyito y'icyaha agahanirwa kunywa urumogi aho kuba kurucuruza ndetse akanagabanyirizwa ibihano kubera

impamvu nyoroshyacyaha ndetse n'izindi manza zirimo abaregwa kimwe nawe ariko bakaba baragabanyirijwe ibihano. [10] Ubushinjacyaha buvuga ko Nyiransabimana Zawadi adasobanura impamvu asaba guhindurirwa inyito y'icyaha ndetse n'umwunganizi we ntacyo yabivuzeho ariko busanga iyo mpamvu idafite ishingiro kuko ibimenyetso byashingiweho Urukiko rumuhamya icyaha bigaragaza ko igikorwa yakoze ari ugufatanwa urumogi agamije kurukwirakwiza arugurisha nk'uko yari asanzwe abikora, ko rutari urwo gukoresha ku giti cye. [11] Naho ku bijyanye n'ibyo Nyiransabimana Zawadi n'umwunganizi we basaba bijyanye no kugabanyirizwa ibihano, busanga icyaha cyo gucuruza ibiyobyabwenge bihambaye gihanishwa igifungo cya burundu n'ihazabu y'amafaranga 20.000.000Frw atarenga 30.000.000Frw ariko Urukiko rukaba rwaramugabanyirije igihano kugeza ku gifungo cy'inyaka 15 n'ihazabu ya 5.000.000Frw bityo ko atakongera kukigabanyirizwa kuko igihano yahawe gikurikije amategeko. [12] Hakurikijwe izo mpaka, muri uru rubanza harasuzumwa ikibazo cyo kumenya niba inyito y'icyaha Nyiransabimana Zawadi yahamijwe ikwiriye guhinduka, agahanirwa kunywa ibiyobyabwenge byo mu bwoko bw'urumogi aho kuba kubicuruzwa ndetse no kumenya niba akwiriye kugabanyirizwa ibihano. II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

- a. Kumenya niba inyito y'icyaha Nyiransabimana Zawadi yahamijwe ikwiriye guhinduka, agahanirwa kunywa ibiyobyabwenge byo mu bwoko bw'urumogi aho kuba kubicuruzwa [13] Nyiransabimana Zawadi, yunganiwe na Me Uzabakiriho Iréné, mu miburanire yabo, basaba ko Nyiransabimana Zawadi yahindurirwa inyito y'icyaha yahaniwe mu rwego rubanza, bavuga ko udupfunyika 27 yafatanwe ari ducye tukaba twari utwo kwinywera atari utwo gucuruza nk'uko babimuhamije ndetse no mu Mudugudu atuyemo bakaba bazi ko atarucuruza. Nyiransabimana Zawadi mu miburanire ye, yanasobanuye ko urumogi yafatanwe rwari urwo guha abakobwa bafatanyaga gukora uburaya, avuga ko bari barumutumye bakaba bari basanzwe barusangira. Anasobanura ko imvugo ze mu Bugenzacyaha yemera ko acuruza urumogi, yabitewe no kuba yarakubiswe ndetse akaba atazi no kwandika no gusoma. [14] Ubushinjacyaha buvuga ko Nyiransabimana Zawadi adakwiriye guhindurirwa inyito y'icyaha kuko ibimenyetso Urukiko rwashingiyeho rumuhamya icyaha bigaragaza ko igikorwa yakoze ari ugufatanwa urumogi agamije kurukwirakwiza arugurisha nk'uko yari asanzwe abikora, ko rutari urwo gukoresha ku giti cye. Bukomeza busobanura ko Nyiransabimana abazwa mu Bugenzacyaha yasobanuye neza uko acuruza urumogi, amafaranga aruranguraho n'ayo yunguka amaze kurucuruza, hakaba hari n'abatangabuhamya bamushinja kurucuruza, bukaba busanga ibyo bikorwa Nyiransabimana yakoze

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bihuye n'umurongo watanze mu rubanza RPAA00170/2023/CA, rwaciwe n'Urukiko rw'Ubujuje ku wa 26/04/2024, Ubushinjacyaha buburana na Nyiraguhirwa Consolée aho Urukiko mu gika cya 23 rwatanze umurongo ujyanye n'igisobanuro ku cyaha cyo gufatanwa, gukora, guhinga, guhindura, gutunda no kubika ibiyobyabwenge. UKO URUKIKO RUBIBONA Impaka kuri iyi ngingo, zishingiye kukumenya niba Nyiransabimana Zawadi yahindurirwa inyito y'icyaha, agahanirwa icyaha cyo kunywa ibiyobyabwenge byo mu bwoko bw'urumogi aho guhanirwa

icyaha cyo kubigurisha yahanishijwe n'inkiko zibanza hakurikijwe ibikorwa yakoze. [15] Ibyerekeranye no kwemeza ko uregwa yakoze icyaha cyo kugurisha ibiyobyabwenge, byasobanuye mu rubanza RPAA00408/2020/CA, rwaciwe ku wa 27/06/2022, haburana Ubushinjacyaha na Niyitegeka Augustin alias Niyirema. Muri urwo rubanza, Urukiko rw'Ubujurire rwasobanuye ko mu kwemeza ko uregwa yakoze icyaha cyo gucuruza ibiyobyabwenge bishobora gushingira kubimenyetso birimo ibiyobyabwenge n'amafaranga byafatiriwe no kubatangabuhamya bemeza ko uwo muntu asanzwe acuruza ibiyobyabwenge¹. Uyu murongo wagendeweho mu manza zitandukanye zaciwe n'uru Rukiko, harimo n'urubanza RPAA00198/2024/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 17/04/2025, haburana Ubushinjacyaha na Gatesi Hasina². [16] N'aho ibijyanye n'agaciro gahabwa imvugo z'uregwa wemeye icyaha mu nzego z'iperereza yagera imbere y'Urukiko akagihakana, Urukiko rw'Ikirenga rwabitanzeho umurongo mu rubanza RPA0010/06/CS - RPA0011/06/CS - RPA0012/06/CS, rwaciwe ku wa 18/07/2008, haburana Ubushinjacyaha na Sgt Ntaganira na bagenzi be. Muri urwo rubanza, Urukiko rw'Ikirenga rwasobanuye ko umucamanza uburanisha urubanza mu mizi ari we ureba agaciro imvugo y'uwiyeremera icyaha mu rwego rw'iperereza ifite, n'ubwo yagera imbere y'Urukiko akayihindura³. Uyu murongo wagendeweho kandi no muzindi manza zaciwe n'uru Rukiko harimo n'urubanza RPAA00189/2024/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 25/04/2025, haburana Ubushinjacyaha na Nyandwi Shabani⁴. [17] Dosiye y'urubanza igaragaza ko abashinzwe umutekano bahawe amakuru ko Nyiransabimana Zawadi acuruza ibiyobyabwenge byo mu bwoko bw'urumogi, bajya iwe, bamufatana udupfunyika makumyabiri na turindwi (27) tw'urumogi. Dosiye inagaragaza ko Nyiransabimana Zawadi yemera ko yafatanwe utwo dupfunyika 27. [18] Dosiye igaragaza kandi ko Nyiransabimana Zawadi abazwa mu Bugenzacyaha, yasobanuriwe ko akekwa icyaha cyo gucuruza ibiyobyabwenge byo mu bwoko bw'urumogi kandi ko hafatiwe mu rugo iwe udupfunyika 27 tw'urumogi, abazwa niba yemera icyo cyaha, asubiza ko acyemera, asobanura uko yagikoze, abazwa igihe amaze atangiye ibikorwa byo gucuruza ibiyobyabwenge, asubiza ko amaze igihe kingana n'ukwezi kumwe agurisha ibiyobyabwenge, abazwa niba agapfunyika kamwe akarangura kuri angahe ndetse niba akagurisha kuri angahe, asubiza ko akarangura kumafaranga magana abiri(200Frw) akagurisha kuri magana atatu(300Frw), akunguka ijana(100Frw); abazwa aho arukura, asubiza ko arurangura k'uwitwa Uwizeyimana Isaac⁵. Dosiye inagaragaza inyandiko mvugo y'ifatira y'urumogi udupfunyika 27, Nyiransabimana Zawadi yashyizeho umukono, yemera ko yadufatanwe⁶.

1 Reba igika cya 18 cy'urwo rubanza. 2 Reba igika cya 21 3 Reba igika cya 46 cy'urwo rubanza. 4 Reba igika cya 17 cy'urwo rubanza. 5 Reba inyandikomvugo yo ku wa 21/10/2020, y'ibazwa rya Nyiransabimana Zawadi mu Bugenzacyaha. 6 Reba inyandiko mvugo y'ifatira yo ku wa 21/10/2020.

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[19] Dosiye iragaragaza kandi ubuhamya bwa Nizeyemariya Celine, wagaragaje mu buhamya bwe ko Nyiransabimana Zawadi ari umuturanyi we kandi ko basanzwe bamuziho gucuruza urumogi, anasobanura uburyo bamufatanye udupfunyika 27 tw'urumogi yari yashyize mu gashashi k'umweru muri tiroir iwe mu nzu⁷. Dosiye inagaragaza ubuhamya bwa Iradukunda

Lambert, wasobanuye ko ari umupolisi, ko we nabagenzi be bahawe amakuru n'abaturage ko Nyiransabimana Zawadi acuruza urumogi, asobanura uburyo bagiye iwe, n'uburyo bamufatanye udupfunyika 27 tw'urumogi, ababwira ko arurangura k'uwitwa Uwizeyimana Isaac bakunda kwita Kazungu⁸. [20] Muri dosiye y'urubanza, hagaragaramo n'imvugo za Nyiransabimana Zawadi, abazwa mu Bushinjacyaha niba yemera icyaha cyo gucuruza ibiyobyabwenge(urumogi) akekwa agasubiza ko acyemera akanagisabira imbabazi ndetse anasobanura uburyo asanzwe akorana na Uwizeyimana Isaac mubucuruzi bw'urumogi⁹. [21] Mu rubanza rujuririrwa, Urukiko Rukuru, Urugereko rwa Musanze, rwahamije Nyiransabimana Zawadi icyaha cyo kugurisha ibiyobyabwenge byo mu bwoko bw'urumogi rushingiye ku mvugo ze yemera icyaha abazwa mu nzego z'Iperereza, agasobanura uko acuruza urumogi, amafaranga arurangura, ayo agurisha n'ayo yunguka n'uwo aruranguriraho. Urukiko Rukuru rwasanze kandi mu mvugo za Nyiransabimana Zawadi hari ukwivuguruzwa gukabije bitewe n'uburyo yasobanuye icyaha yakoze mu nzego z'Iperereza bitandukanye n'uburyo yisobanuye mu Rukiko bigaragaza ko ashaka guhunga icyaha cyo gucuruza ibiyobyabwenge kugira ngo ahabwe igihano gito ashingiye kukuba ufatanwa n'unywa ibiyobyabwenge ahanwa byoroheje, rusanga imyiregurire ye nta shingiro ifite¹⁰. [22] Urukiko rw'Ubujurire, rurasanga, kuba Nyiransabimana Zawadi yemera ko yafatanwe udupfunyika 27 tw'urumogi, bikanagaragazwa n'inyandiko mvugo y'ifatira yashyizeho umukono, akaba nawe ubwe abazwa mu Bugenzacyaha yemeye icyaha cy'uko acuruza ibiyobyabwenge byo mu bwoko bw'urumogi, agasobanura n'uburyo arugurisha n'amafaranga arurangura ndetse n'uwurumuranguza, akanagaragaza n'amafaranga yunguka nta gahato ashyizweho, bigahuzwa n'imvugo z'abatangabuhamya bagaragajwe mu gika cya 19 cy'uru rubanza, bamushinja gucuruza ibiyobyabwenge byo mu bwoko bw'urumogi, ibyo, ari ibimenyetso bihagije byashingirwaho ahamwa n'icyaha aregwa cyo kugurisha ibiyobyabwenge byo mu bwoko bw'urumogi aho kuba kurunywa nk'uko abivuga hakurikijwe umurongo watanze mu rubanza RPAA00408/2020/CA wagarutsweho mu gika cya 15 cy'uru rubanza. [23] N'aho ku bijyanye n'imiburanire ya Nyiransabimana Zawadi n'umwunganira, ko ibiyobyabwenge yafatanwe (udupfunyika 27) ari bicye kuburyo bitakwitwa ko ari ibyo gucuruza, Urukiko rurasanga nta shingiro bifite, kuko n'ubwo ibiyobyabwenge yafatanwe ari bicye, bishyigikiwe n'ibindi bimenyetso byasobanuwe mu gika kibanziriza iki, bituma ahamwa n'icyaha cyo kugurisha ibiyobyabwenge aho kuba kubinywa nk'uko bashaka kubyumvikanisha. [24] Urukiko rw'Ubujurire rurasanga kandi imiburanire ya Nyiransabimana Zawadi ko yemeye icyaha cyo gucuruza ibiyobyabwenge (urumogi) mu Bugenzacyaha kuko yakubiswe, ko atazi kwandika no gusoma, nta shingiro bifite kuko nta bimenyetso yabigaragarije ndetse akaba yaranacyemeye abazwa mu Bushinjacyaha kandi ho ntaho yavuze ko yakubiswe, byongeye kandi akaba ntaho yabigaragarije Urukiko Rukuru aburana ahubwo yarahinduye imiburanire bituma Urukiko Rukuru, Urugereko rwa Musanze rutaha ishingiro imiburanire ye nk'uko byasobanuwe mu gika cya 21 cy'uru rubanza. Rurasanga rero iyo miburanire ye yo guhakana icyaha mu Rukiko yaracyemeye mu nzego z'Iperereza, atabigaragarije ibimenyetso bifatika bisobanura impamvu yarabanje kucyemera, itahabwa ishingiro, hashingiwe

7 Reba inyandiko mvugo y'ibazwa ry'umutangabuhamya Nizeyemariya Celine, yo ku wa 24/10/2020. 8 Reba inyandiko mvugo y'ibazwa ry'umutangabuhamya Iradukunda Lambert, yo ku wa 24/10/2020. 9 Reba inyandiko mvugo yo ku wa 26/10/2020, y'ibazwa rya Nyiransabimana Zawadi mu Bushinjacyaha 10 Reba ibika bya 10-11 by'urubanza RPA00601/2022/HC/MUS, rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze, ku wa 27/01/2025.

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kumurongo watanzwe mu rubanza RPA0010/06/CS - RPA0011/06/CS - RPA 0012/06/CS, rwagarutseho mu gika cya 16 cy'uru rubanza. [25] Hakurikijwe ibikorwa bigize icyaha Nyiransabimana Zawadi yarezwe ndetse n'ibimenyetso Urukiko Rukuru, Urugereko rwa Musanze rwashingiyeho rukimuhamya hamwe n'ibimenyetso byasobanuwe mu gika cya 22 cy'uru rubanza ndetse n'imirongo yafashwe mu manza zagaragajwe mu bika bya 15, 16 by'uru rubanza; Urukiko rw'Ubujurire rurasanga ibyo bikorwa bihuye n'icyaha cyo kugurisha ibiyobyawenge byo mu bwoko bw'urumogi yahamijwe n'Inkiko zibanza aho kuba icyaha cyo kubinywa nk'uko Nyiransabimana Zawadi n'umwunganizi we babiburanisha, bityo ubujurire bwe kuri iyi ngingo bukaba nta shingiro bufite. Kumenya niba Nyiransabimana Zawadi akwiriye kugabanyirizwa ibihano [26] Nyiransabimana Zawadi yunganiwe na Me Uzabakiriho Iréné, asaba Urukiko kumugabanyiriza ibihano kubera impamvu nyoroshyacyaha z'uko bwari ubwa mbere aguye mu cyaha, ko nta mugambi mubisha yateguye wo gukora icyaha, ko atigeze agora Ubutabera, ko abana n'indwara nyinshi zidakira ku buryo kwiyitaho mu igororero bitamworohera. [27] Akomeza asobanura ko Urukiko Rukuru, rwaramuhannye rwirengagije ibisobanuro yaruhaye, rukamuhanisha ibihano biremereye nyamara yarugaragarije imanza z'abakoze icyaha kimwe nawe ariko bakagabanyirizwa ibihano harimo urubanza RPAA00590/2021/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 08/03/2023, Ubushinjacyaha buburana na Nyirazuba wari wahawe igifungo cy'imyaka 25, akagabanyirizwa igihano kugeza ku myaka 5 ndetse n'urubanza RPAA00418/2022/HC/MUS, rwaciwe n'Urukiko Rukuru ku wa 13/06/2023, Ubushinjacyaha buburana na Muhawenimana wari wahanishijwe igifungo cy'imyaka 8, akagabanyirizwa kugeza ku gifungo cy'imyaka 2. Akaba asaba ko nawe yahabwa igifungo cy'imyaka ibiri (2) ku cyaha cyo kunywa ibiyobyabwenge(urumogi). [28] Ubushinjacyaha buvuga ko Urukiko mu rubanza rujuririrwa rwaragabanyirije Nyiransabimana Zawadi ibihano rushingiye kubiteganywa mu ngingo ya 2 agace ka a na d y'Itegeko No 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko No 68/2018 ryo ku wa 30/08/2018, riteganya ibyaha n'ibihano muri rusange, rumuhanisha igihano gito giteganywa n'Itegeko, kingana n'igifungo cy'imyaka 15 n'ihazabu ingana na milioni eshanu(5.000.000Frw), bityo ko kitakongera kugabanywa. [29] Bukomeza buvuga ko ibyo bihuzwa n'umurongo watanzwe mu rubanza RPAA00159/2023/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 26/04/2024, Ubushinjacyaha buburana na Mporanyurukundo Jean Clément, aho Urukiko rw'Ubujurire rwasanze adakwiye kugabanyirizwa igihano kuko igihano yahawe n'Urukiko gikwiranye n'uburemere bw'icyaha yahamijwe. [30] Naho ku bijyanye n'imanza Nyiransabimana Zawadi yasabye gushingiraho mu kumugabanyiriza ibihano, busanga igabanya ryakozwe murizo manza ryarashingiye ku ngingo ya 60 y'Itegeko No 68/2018 ryo ku wa 30/08/2018, riteganya ibyaha n'ibihano muri rusange, nyamara ubu iyo ngingo ikaba yarahinduwe, kandi umurongo wariho

hakoreshwa iyo ngingo mu kugabanya ibihano ntiwakomeza gukurikizwa kandi itagikoreshwa nk'uko bigaragara mu murongo watanze mu rubanza RPAA00113/2020/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 28/12/2023, haburana Ubushinjacyaha na Ndengeyabagabo Jean Pierre, aho mu gika cya 21, Urukiko rwasobanuye ko Umurongo wari uriho ntushobora gukurikizwa mu gihe Itegeko wari ushingiyeho ryavuyeho cyangwa ryahinduwe. [31] Busoba bugaragaza ko igihano Nyiransabimana Zawadi yahanishijwe kitagabanywa ngo kijye muni y'inyaka 15 n'ihazabu y'amafaranga 5.000.000Frw kuko aricyo gito giteganywa n'Itegeko rishya. Busaba ko hagumishwaho imikirize y'urubanza rwajuririwe. UKO URUKIKO RUBIBONA

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Impaka kuri iyi ngingo, zishingiye kukumenya niba Nyiransabimana Zawadi akwiriye kugabanyirizwa igihano kuri uru rwego, kuburyo yahanishwa igifungo kiri muni y'inyaka cumi n'itanu n'ihazabu ya milioni eshanu(5.000.000Frw) yahanishijwe n'Urukiko Rukuru, Urugereko rwa Musanze, kubera impamvu nyoroshyacyaha, hanashingiwe no ku manza yagaragaje. [32] Ku birebana no kugabanya igihano mu gihe hari impamvu nyoroshyacyaha, 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 riteganyaye ibyaha n'ibihano muri rusange, iteganyaye 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'inyaka 15, (d) igihano cy'ihazabu gishobora kugabanywa kugeza kuri kimwe cya kane cy'igihano cy'ihazabu gito giteganyirijwe icyaha cyakozwe. [33] Ku kibazo kijyanye no kumenya niba umuntu wahamijwe icyaha cyo kugurisha ibiyobyabwenge ashobora kugabanyirizwa igihano ku buryo kijya muni y'igifungo cy'inyaka cumi n'itanu (15) hashingiwe ku mpamvu nyoroshyacyaha, cyakemuwe mu manza zitandukanye zaciwe n'uru Rukiko, kuva aho Itegeko N° 059/2023 ryo ku wa 04/12/2023 rihindura Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyaye ibyaha n'ibihano muri rusange risohokeye; muri izo manza harimo n'urubanza RPAA00043/2024/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 29/04/2025, Ubushinjacyaha buburana na Rukundo11. Muri izo manza, Urukiko rw'Ubujurire rwemeje ko icyo gihano kidashobora kugabanywa kuko aricyo gito giteganywa n'itegeko kuri icyo cyaha ndetse no ku kindi cyaha cyose gihanishwa igifungo cya burundu. [34] Naho kuberekeranye no kumenya niba mu kugabanya igihano, Urukiko rushobora gushingira ku manza zaciwe hashingiwe ku ngingo ya 6012 y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyaye ibyaha n'ibihano muri rusange, byatanzweho umurongo mu rubanza RPAA00367/2020/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 22/12/2023, haburana ubushinjacyaha na Twagirumukiza Innocent Réponse. Muri urwo rubanza, Urukiko rw'Ubujurire rwifashishije ibyemejwe mu rubanza RPAA00048/2020/CA13 rwaciye ku wa 26/05/2022, haburana Ubushinjacyaha na Bimenyimana Jean Paul, rwemeza ko imanza zose zaciwe mbere y'uko Itegeko N° 59/2023 ryo ku wa 04/12/2023 rihindura ingingo ya 60 y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyaye ibyaha n'ibihano muri rusange yateganyaga uburyo bwo kugabanya ibihano risohoka, zitagikoreshwa, harimo urubanza RS/INCONST/SPEC00003/2019/SC kimwe n'izindi manza zose zagendeye muri uwo murongo wo kugabanya igihano kugeza muni y'igihano gito giteganyijwe n'itegeko14. [35] Nk'uko bigaragara, mu gika cya 1515, Urukiko Rukuru, Urugereko rwa Musanze, mu rwego rwo

guhuza igihano n'uburemere bw'icyaha ndetse hitawe no kungano nto y'ibiyobyabwenge Nyiransabimana Zawadi yafatanwe no kuba yahabwa amahirwe yo gusubira muri sosiyete akaba yagira akamaro mu buzima busanzwe, rwaramugabanyirije igihano, rumuhanisha igifungo cy'imyaka cumi n'itanu (15) n'ihazabu y'amafaranga y'u Rwanda miliyoni eshanu (5.000.000Frw) aho kuba igifungo cy'imyaka makumyabiri n'itanu (25) n'ihazabu y'amafaranga milioni makumyabiri n'ibihumbi ijana (20.100.000Frw) yahanishijwe n'Urukiko Rwisumbuye.

11 Reba igika cyarwo cya 17. 12 Iyo ngingo yateganyaga uburyo bwo kugabanya igihano ariko Urukiko rw'Ikirenga n'urw'Ubujurire zisobanura mu manza zitandukanye ko ubwo buryo bwo kugabanya ibihano bunyuranye n'amahame y'ubutabera buboneye n'ubwigenge bw'umucamanza kuko budatanga ubwinyagamburiro buhagije bufasha umucamanza guhuza uburemere bw'icyaha, ingaruka zacyo n'igihano. 13 Reba igika cyarwo cya 26 aho Urukiko rwasobanuye ibijyanye n'uko umurongo wari uriho udashobora gukurikizwa mugihe itegeko wari ushingiyeho ryavuyeho cyangwa ryahinduwe. 14 Reba igika cya 17-18 cy'urubanza RPAA00367/2020/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 22/12/2023, haburana Ubushinjacyaha na Twagirumukiza Innocent Réponse. 15 Reba urubanza RPA00601/2022/HC/MUS rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze, ku wa 27/01/2025.

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[36] Urukiko rw'Ubujurire, rushingiye ku ngingo ya 2 agace ka (a) n'aka (d), y'Itegeko N° 059/2023 ryo ku wa 04/12/2023 ndetse no ku murongo wafashwe n'Urukiko rw'Ubujurire rugendeye kuri iyo ngingo nk'uko byasobanuwe haruguru mugika cya 33, rurasanga igihano Nyiransabimana Zawadi yahanishijwe n'Urukiko Rukuru, Urugereko rwa Musanze, cy'igifungo cy'imyaka 15 n'ihazabu y'amafaranga milioni eshanu (5.000.000Frw), aricyo gito gishoboka ku cyaha yahamijwe cyo kugurisha ibiyobyabwenge byo mu bwoko bw'urumogi mu gihe hari impamvu nyoroshyacyaha, bityo kikaba kidakwiye kugabanywa. [37] Hashingiwe kubimaze kuvugwa byose, Urukiko rw'Ubujurire rurasanga ibyasabwe na Nyiransabimana Zawadi n'umwunganira, ko yagabanyirizwa igihano, agahanirwa icyaha cyo kunywa ibiyobyabwenge byo mu bwoko bw'urumogi, agahabwa igifungo kiri muni y'imyaka 15 hashingiwe ku mpamvu nyoroshyacyaha bagaragaje, nta shingiro bifite, kuko icyaha yahamijwe ari icyo kugurisha ibiyobyabwenge byo mu bwoko bw'urumogi kandi ibihano bijyanye nicyo cyaha bitandukanye n'ibihano bijyanye n'icyaha cyo kubinywa. [38] Urukiko rw'Ubujurire, rurasanga kandi imanza Nyiransabimana Zawadi yasabye ko zashingirwaho mukumugabanyiriza ibihano, nta shingiro bifite hashingiwe ku murongo wagarutsweho mu gika cya 34 cy'uru rubanza, watanze mu rubanza RPAA00367/2020/CA, rwaciwe n'Urukiko rw'Ubujurire ku wa 22/12/2023, kuko ingingo ya 60 izo manza zashingirwagaho mukugabanya igihano, yahinduwe n'ingingo ya 2 y'Itegeko No 059/2023 ryo ku wa 04/12/2023, riteganyaga ibyaha n'ibihano muri rusange. III. ICYEMEZO CY'URUKIKO [39] Rwemeje ko ubujurire bwatanze na Nyiransabimana Zawadi nta shingiro bufite. [40] Rwemeje ko urubanza RPA00601/2022/HC/RWG, rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze, ku wa 27/01/2025, rudahindutse mu ngingo zarwo zose. [41] Rwemeje ko Nyiransabimana Zawadi ahamwe n'icyaha cyo kugurisha ibiyobyabwenge byo mu bwoko

bw'urumogi. [42] Rutegetse ko Nyiransabimana Zawadi akomeza guhanishwa igifungo cy'imyaka cumi n'itanu (15) n'ihazabu y'amafaranga y'u Rwanda miliyoni eshanu (5.000.000Frw). [43] Rutegetse ko Nyiransabimana Zawadi, asonewe gutanga amagarama y'urubanza kuko aburana afunze.

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