

RWANDA / JUDGMENT

UBUSHINJACYAHA Vs UWOMPORANSANGA

RPAA00769/2024/CA

COURT

Court of Appeal

DECIDED

27 May 2025

CASE / FILE NUMBER

RPAA00769/2024/CA

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

UBUSHINJACYAHA Vs UWOMPORANSANGA

- Source: Amategeko
- Section: Decisions (Judgements)
- Date: 2025-05-27
- Case/document no.: RPAA00769/2024/CA
- Collection: Court of Appeal

Text

Page 1

UBUSHINJACYAHA Vs UWOMPORANSANGA [Rwanda URUKIKO RW'UBUJURIRE – RPAA00769/2024/CA (Rutazana, P.J.) 27 Gicurasi 2025] Amategeko Mpanabyaha – impamvu nyoroshyacyaha – uburemere bw'icyaha – Urukiko ntirutegetswe kwemeza impamvu nyoroshyacyaha igihe cyose zigaragajwe ngo rugabanyirize uregwa igihano, ahubwo ruzemeza mu bushishozi bwarwo, kandi rukaba rushobora no kwanga kuzemeza nk'impamvu ngabanya gihano, rushingiye ku mikorere y'icyaha uregwa akurikiranyweho cyangwa uburyo yagikozemo. Amategeko Mpanabyaha – Ubusembure – Ubusembure bwumvikana nk'impamvu ngabanyagihano igizwe no kuba uwakoze icyaha yarabitewe n'uko yari yabanje gukorerwa igikorwa kimubabaza gikomeye kandi kimurenganya. Bityo, Habaho ubusembure igihe hari ibikorwa ukurikiranyweho icyaha yakorewe n'uwakorewe icyaha (victime), bituma ako kanya amukorera icyaha aregwa. Ni ishingano y'uregwa uburanisha ubusembure kubuzamura no ku butangira ibimenyetso. Incamake y'ikibazo: Uru rubanza rwatangiye Ubushinjacyaha burega Uwomporansanga Na musaza we Niyonsenga mu Rukiko Rwisumbuye rwa Nyamagabe

bubakurikiranyeho ubufatanyacyaha mu cyaha cy' ubwicanyi kuri Sibomana umugabo wa Uwomporansanga no kuzimanganya ibimenyetso. Uwomporansanga yaburanye yemera icyaha, naho Niyonsenga avuga ko yafashije Uwomporansanga gusohora umurambo w'umugabo we mu nzu bakajya kuwujugunya ku gasozi, ariko ko atigeze amufasha kumwica. Urukiko mu rubanza RP00041/2021/TGI/NYGBE, rushingiye ko Uwomporansanga yemera ibyaha ashinjwa, ku mvugo z'abatangabuhamya, kuri raporo yakozwe n' Ubugenzacyaha, amafoto agaragaza ko Sibomana Mvunabandi yishwe atemagujwe umuhoro, ku nyandikomvugo y'ifatira ry'umuhoro; ku cyemezo cya muganga gihamya ko urupfu rwa Sibomana Mvunabandi rukomoka ku bikomere yatewe no gutemeshwa umuhoro, netse no kuri inyandiko y'Umunyamabanga Nshingwabikorwa w'Akagari ka Yonde rwemeje ko Uwomporansanga ahamwa n'icyaha cy'ubwicanyi rumuhanisha igihano cy'igifungo cya burundu, naho kuri Niyonsenga, rushingiye ku kuba yemera uruhare rwe mu kuvana umurambo mu nzu no kuwujugunya, no nyandikomvugo yemeza ko yasanganwe imyambaro ya nyakwigendera, rwemeje ko ahamwa n'icyaha cyo kuzimangatany ibimenyetso rumuhanisha igifungo cy'imyaka 3 n'ihazabu ya 500.000FRW. Uwomporansanga yajuririye Urukiko Rukuru, Urugereko rwa Nyanza asaba kugabanyirizwa igihano kuko ku rwego rubanza yaburanye yemera icyaha anagaragaza ko yishe umugabo we biturutse ku busembure kuko bahoraga mu makimbirane ariko ntibyahabwa agaciro; anasaba guhabwa isubikagihano. Urukiko mu rubanza RPA00657/2021/HC/NYZ, rushingiye ku kuba nta busembure bwabayeho nkuko uregwa abiburanisha no kuba icyaha cyo kwica umugabo we yaragikoranye ubugome, rwemeje ko ubujurire bwe nta shingiro bufite, rutegeka ko igihano cy'igifungo cya burundu yahanishijwe ku rwego rwa mbere kigumaho. Uwomporansanga yongeye kujurira mu Rukiko rw'Ubujurire, Avuga ko yagaragaje ko yakozwe icyaha biturutse ku busembure ariko Urukiko Rukuru ntirwabiha agaciro; ko ataragabanyirijwe igihano kandi yaraburanye yemera icyaha, kandi akaba ari ubwa mbere akoze icyaha. Ubushinjacyaha buvuga ko ubujurire bwa Uwomporansanga nta shingiro bufite kuko mu rubanza rujuririrwa Urukiko rwagaragaje ko nta busembure bwabayeho, kandi ko igihe cyose hari impamvu nyoroshyacyaha Urukiko rudategetswe kugabanyiriza uregwa igihano. Urukiko mu rubanza RPAA00200/2024/CA rwemeje ko Ubujurire bwa Uwomporansanga nta shingiro bufite kuko nta busembure bwabayeho kandi ko adakwiye kugabanyirizwa igihano hashingiwe ku buremere bw'icyaha kimuhama, rwemeza ko urubanza rujurirwa rudahindutse.

Page 2

Incamake y'icyemezo: 1. Ubusembure n'impamvu ngabanyagihano igizwe no kuba uwakoze icyaha yarabitewe n'uko yari yabanje gukorera igikorwa kimubabaza gikomeye kandi kimurenganya. bityo, Habaho ubusembure igihe hari ibikorwa ukurikiranyeho icyaha yakorewe n'uwakorewe icyaha (victim), bituma ako kanya amukorera icyaha aregwa.

2. Umucamanza atanga igihano akurikije uburemere bw'icyaha, ingaruka icyaha cyateye, impamvu zatumye agikora, uko uwagikoze yari asanzwe yitwara, imibereho ye bwite n'uburyo icyaha cyakozwemo. Bityo, Ntawakwitwaza ingaruka mbi z'icyaha ngo asabe kugabanyirizwa igihano

3. Urukiko ntirutegetswe kwemeza impamvu nyoroshyacyaha igihe cyose zigaragajwe ngo rugabanyirize uregwa igihano, ahubwo ruzemeza mu bushishozi bwarwo, kandi rukaba rushobora no kwanga kuzemeza nk'impamvu ngabanya gihano, rushingiye ku mikorere y'icyaha uregwa akurikiranyweho cyangwa uburyo yagikozemo. Amategeko yashingiweho: Ingingo ya 49, igika cya mbere y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganyira ibyaha n'ibihano muri rusange. Imanza zifashishijwe: Urubanza RPAA 038/15/CS haburana Ubushinjacyaha na Sezikeye Emmanuel rwaciwe n'Urukiko rw'Ikirenga ku wa 15/09/2017, igika cya 21, Urubanza RPAA 00522/2024/CA, haburana Ubushinjacyaha na Nzirore Damien rwaciwe n'Urukiko rw'Ubujurire ku wa 25/02/2025, igika cya 28 Urubanza RPAA 00829/2024/CA, haburana Ubushinjacyaha na Ngiruwonsanga Emmanuel rwaciwe n'Urukiko rw'Ubujurire ku wa 28/03/2025, igika cya 26. Urubanza N° RPAA 0021/14/CS -N° RPAA 0022/14/CS, haburana Ubushinjacyaha na Uzabakiriho Bernard rwaciwe n'Urukiko rw'Ikirenga ku wa 13/10/2017 Urubanza N° RPAA 00833/2024/CA rwaciwe ku wa 29/04/2025 haburana Ubushinjacyaha na NGEREJAHU Télésphère. igika cya 15 Urubanza RPA 0129/10/CS, haburana Ubushinjacyaha na Mpitabakana rwaciwe n'Urukiko rw'Ikirenga ku wa 07/03/2014 Urubanza RPAA 00582/2021/CA haburana Ubushinjacyaha na Nyiraminani Julienne n'abandi rwaciwe n'Urukiko rw'Ubujurire ku wa 25/02/2025, igika cya 25 Urubanza RPAA 00282/2024/CA haburana Ubushinjacyaha na HIRWA Délice rwaciwe n'Urukiko rw'Ubujurire ku wa 14/02/2025, igika cya 18. urubanza RPAA00312/2023/CA, haburana Ubushinjacyaha na Biziyaremye Faustin rwaciwe n'Urukiko rw'Ubujurire ku wa 18/03/2025, igika cya 22. Urubanza. I. IMITERERE Y'URUBANZA [1] Ku wa 23/04/2021, mu Mudugudu wa Nyarusazi, Akagari ka Yonde, Umurenge wa Mugano mu Karere ka Nyamagabe, ahagana saa kumi z'umugoroba habonetse umurambo wa Sibomana Mvunabandi hafi y'urugo rwe nko muri metero mirongo ine, umugore we Uwomporansanga Cécile akavugaga ko yamuhurukaga kuri uwo munsu saa cyenda z'anywe agiye kwa Karemera mu Kagari ka Gitondorero kwishyura amafaranga. [2] Uwomporansanga Cécile na musaza we Niyonsenga Martin barafashwe bashyikirizwa inzego z'ikurikiranacyaha bakekwaho kugira uruhare mu rupfu rwa Sibomana Mvunabandi, iperereza rirangiye

Page 3

Ubushinjacyaha bubarega mu Rukiko Rwisumbuye rwa Nyamagabe bubakurikiranyeho ubufatanyacyaha mu cyaha cy' ubwicanyi no kuzimanganya ibimenyetso. [3] Uwomporansanga Cécile yaburanye yemera icyaha, avugaga ko ku wa 22/04/2021 umugabo we yatashye yasinze ahita aryama, amaze gusinzira nawe afata umuhoro atangira kumutema inshuro nyinshi kugeza apfuye, amaze kumwica ajya guhamagara musaza we Niyonsenga Martin araza amufasha guterura umurambo bawujugunya munsu y'urugo rwabo nko muri metero 30 mu rwego rwo kumuhisha; Niyonsenga Martin nawe yemera ko koko yamufashije gusohora umurambo w'umugabo we mu nzu bakajya kuwujugunya ku gasozi, kandi ko yafatanywe imwe mu myenda ya nyakwigendera yari yahawe na Uwomporansanga Cécile, ariko avugaga ko atigeze amufasha kumwica. [4] Mu rubanza RP00041/2021/TGI/NYGBE rwaciwe n'Urukiko Rwisumbuye rwa Nyamagabe ku wa 09/06/2021 rwemeje ko Uwomporansanga Cécile ahamwe n'icyaha

cy'ubwicanyi rumuhanisha igihano cy'igifungo cya burundu, naho Niyonsenga Martin rwemeza ko ahamwa n'icyaha cyo kuzimangatanya ibimenyetso rumuhanisha igifungo cy'imyaka 3 n'ihazabu ingana na 500.000FRW. Ibyo rwabyemeje rushingiye ku mpamvu zikurikira : Ku bireba Uwomporansanga Cécile: kuba yemera ibyaha ashinjwa, imvugo z'abatangabuhamya bamushinja, raporo yakozwe n'Ubugenzacyaha igaragaza ibyasanzwe mu nzu ya nyakwigendera biriho amaraso byerekana ko ariho yiciwe, amafoto agaragaza ko Sibomana Mvunabandi yishwe atemagujwe umuhoro ku mubiri wose, inyandikomvugo y'ifatira ry'umuhoro uriho amaraso; icyemezo cya muganga gihamya ko urupfu rwa Sibomana Mvunabandi rukomoka ku bikomere yatewe no gutemeshwa umuhoro umubiri wose; n'inyandiko y'Umunyamabanga Nshingwabikorwa w'Akagari ka Yonde yemeza ko Uwomporansanga Cecile akimara kugera ku murambo w'umugabo we yahise aworosa nta kugaragaza gutungurwa nk'aho hari icyo azi ku rupfu rwe; Ku bireba Niyonsenga Martin : kuba yemera uruhare rwe mu kuvana umurambo mu nzu no kuwujugunya, inyandikomvugo yemeza ko yasanze inkweto, ikote n'umukandara bya nyakwigendera. [5] Uwomporansanga Cécile yajurirye Urukiko Rukuru, Urugereko rwa Nyanza asaba kugabanyirizwa igihano kuko ku rwego rubanza yaburanye yemera icyaha anagaragaza ko yishe umugabo we biturutse ku busembure kuko bahoraga mu makimbirane ariko ntibyahabwa agaciro ; anasaba guhabwa isubikagihano kugira ngo ajye kurera abana yasize mu rugo. [6] Mu rubanza RPA 00657/2021/HC/NYZ rwaciwe n'Urukiko Rukuru/Urugereko rwa Nyanza kuwa 28/02/2024, rwemeje ko ubujurire bwe nta shingiro bufite, rutegeka ko igihano cy'igifungo cya burundu yahanishijwe ku rwego rwa mbere kigumaho. Ibi Urukiko rwabyemeje rushingiye ku mpamvu zikurikira : Kuba nta busembure bwabayeho kuko ku munsu Sibomana Mvunabandi yishweho nta ntonganya yigeze agirana n'umugore we, ndetse no mu gihe uyu yamutemaguraga amufatiranye mu bitotsi asinziriyeye akaba atarigeze akangukira hejuru ngo amurwanye, ko ahubwo yapfuye nta no kuvuza induru itabaza nk'uko Uwomporansanga Cécile abyemeza, kandi akaba nta kimenyetso atanga kigaragaza amakimbirane avuga ko bari bafitanye ; Kuba icyaha cyo kwica umugabo we yaragikoranye ubugome bityo akaba adakwiriye kugabanyirizwa igihano. [7] Uwomporansanga Cécile yongeye kujurira mu Rukiko rw'Ubugurire, urubanza rwandikwa kuri N° RPAA 00200/2024/CA, ruburanishwa mu ruhamwe kuwa 09/05/2025 yunganiwe na Me Kananga Protogène naho Ubushinjacyaha buhagarariwe na Sibomana Stanislas, Umushinjacyaha ku rwego rw'Igihugu. [8] Avuga ko yajurirye kubera impamvu zikurikira:

Page 4

Kuba yaragaragaje ko yakoze icyaha biturutse ku busembure ariko Urukiko Rukuru ntirwabiha agaciro; Kuba ataragabanyirijwe igihano kandi yaraburanye yemera icyaha ku buryo budashidikanywaho, akacyicuza, akanagisabira imbabazi kandi akaba ari ubwa mbere akoze icyaha, kandi akaba afite abana bato akeneye kujya kwitaho. [9] Uhagarariye Ubushinjacyaha avuga ko ubujurire bwa Uwomporansanga Cecile nta shingiro bufite kuko mu rubanza rujuririrwa Urukiko rwagaragaje ko nta busembure bwabayeho, kandi ko igihe cyose hari impamvu nyoroshyacyaha Urukiko rudategetswe kugabanyiriza uregwa igihano.

[10] Urukiko rurasuzuma ibibazo bikurikira : Kumenya niba Uwomporansanga Cécile yaragaragaje ko yakoze icyaha cyo kwica Sibomana Mvunabandi biturutse ku busembure ntibihabwe agaciro ; Kumenya niba Uwomporansanga Cécile akwiriye kugabanyirizwa igihano. II. ISESENGURA RY' IBIBAZO BIGIZE URUBANZA Kumenya niba UWOMPORANSANGA Cécile yaragaragaje ko yakoze icyaha cyo kwica SIBOMANA Mvunabandi biturutse ku busembure ntibihabwe agaciro. [11] Uwomporansanga Cécile n'umwunganira bavuga ko mu rubanza rujuririrwa yagaragaje ko yakoze icyaha cyo kwica umugabo we asembuwe n'imyitwarire ye mibi, kuko yamuhozaga ku nkeke akajya mu bushoreke n'ubusambanyi akanasesagura umutungo w'urugo ndetse akaba yahoranaga umupanga mu cyumba bararagamo amubwira ko azamwica, uwo mupanga akaba ari nawo yakoresheje icyaha mu rwego rwo kwirwanaho. Basaba urukiko ko rwazemeza ko yasembuwe maze agahanwa mu buryo buteganywa mu ngingo ya 57, igika cya 1, y'Itegeko N° 68/2018 ryo kuwa 30/08/2018 riteganywa ibyaha n'ibihano muri rusange. [12] Uhagarariye Ubushinjacyaha avuga ko nk'uko Urukiko Rukuru rwabisobanuye mu gika cya 19 cy'urubanza rujuririrwa, nta busembure bwabayeho kubera impamvu zikurikira : Nta bimenyetso Uwomporansanga Cécile atanga bigaragaza ko umugabo we yagize imyitwarire yavuzwe haruguru ashingiraho avuga ko ari yo yamusembuye ; N'iyi imyitwarire yaba yarabayeho, yafatwa nk'ubusembure mu gihe UWOMPORANSANGA Cécile yagaragaza ko yishe umugabo we kubw'uburakari akimara kubimukorerwa; nyamara imvugo ze mu Bugenzacyaha no mu Bushinjacyaha zigaragaza ko nta gikorwa na kimwe umugabo we yari yamukoreye kuri uwo munsu cyari gutuma amutema kugeza apfuye, kuko UWOMPORANSANGA Cécile yasobanuye ko umugabo we yatashye yasinze, ajya kuryama abonye amaze gusinzira aragenda aramutemagura kugeza amwishe, kandi ko umugambi yari awumaranze ibyumweru bigera kuri bitatu ngo kuko ntacyo yari akimuramira. UKO URUKIKO RUBIBONA [13] Impaka kuri iyi ngingo zishingiye ku kumenya niba Uwomporansanga Cécile yarishe umugabo we Sibomana Mvunabandi biturutse ku busembure. [14] Ibibazo cyo kumenya igihe imyitwarire y'uwakorewe icyaha ifatwa nk'ubusembure no kumenya ufite inshingano zo kubugaragaza cyatanzweho umurongo n'Urukiko rw'Ikirenga mu rubanza RPAA038/15/CS rwaciye ku wa 15/09/2017 haburana Ubushinjacyaha na Sezikeye Emmanuel (igika cya 21), no mu zindi

Page 5

manza zaciye n'uru Rukiko nyuma yarwo harimo nk'urubanza RPAA00522/2024/CA, rwaciye n'Urukiko rw'Ubujurire ku wa 25/02/2025 Ubushinjacyaha buburana na Nzirorera Damien (igika cya 28) n'urubanza RPAA00829/2024/CA, rwaciye n'Urukiko rw'Ubujurire ku wa 28/03/2025 Ubushinjacyaha buburana na Ngiruwonsanga Emmanuel (igika cya 26). Izo manza zihuriye ku murongo ukurikira : "Ubusembure bwumvikana nk'impamvu ngabanyagihano igizwe no kuba uwakoze icyaha yarabitewe n'uko yari yabanje gukorera igikorwa kimubabaza gikomeye kandi kimurenganya. Habaho ubusembure igihe hari ibikorwa ukurikiranyweho icyaha yakorewe n'uwakorewe icyaha (victim), bituma ako kanya amukorerwa icyaha aregwa. Ni inshingano y'uregwa uburanisha ubusembure kubuzamura no ku butangira ibimenyetso, umucamanza

akaba afite inshingano yo kubusuzuma mu gihe abisabwa n'uregwa mu buryo bweruye kandi bwumvikana. [15] Dosiye igaragaza ko mu gika cya 18 n'icya 19 by'urubanza rujuririrwa, Urukiko Rukuru rwasobanuye ko nta bimenyetso Uwomporansanga Cécile yagaragaje byemeza ko yari abanye nabi n'umugabo we ku buryo bahoraga mu makimbirane, ko ariko niyo ayo makimbirane yaba yarabayeho yafatwa nk'ubusembure gusa mu gihe Uwomporansanga Cécile yari kumwica kubw'uburakari akimara kubimukorera; rwanzura ko nta busembure bwabayeho kuko nta gikorwa icyo aricyo cyose Sibomana Mvunabandi yakoreye Uwomporansanga Cécile cyatuma afatwa nk'aho ari we nyirabayazana w'icyaha yakorewe. [16] Kuri uru rwego rw'ubujurire, uretse gusa gusaba Urukiko gusuzuma ko habayeho ubusembure, Uwomporansanga Cécile ntagaragaza inenge ziri mu mpamvu zavuzwe haruguru Urukiko Rukuru rwashingiyeho rwemeza ko nta busembure bwabayeho. Urukiko rw'Ubugurire narwo rurasanga, nk'uko Urukiko Rukuru rwabisobanuye bikaba binahuje n'umurongo wavuzwe haruguru watanze mu rubanza rwaciye n'Urukiko rw'Ikirenga ukanashingirwaho mu zindi manza zitandukanye zaciye n'Urukiko rw'Ubugurire, Uwomporansanga Cécile atagaragaza igikorwa cy'ako kanya, kibabaje kandi kimurenganya umugabo we yamukoreye ku buryo cyari gutuma nawe ahita amwica; ahubwo imvugo ze mu Bugenzacyaha no mu Bushinjacyaha zigaragaza ko kuri uwo munsu nta makimbirane cyangwa intonganya byabaye hagati yabo, kuko yivugira ko umugambi wo kwica umugabo we yari awumaranye ibyumweru bigera kuri bitatu, ku munsu yamwisheho akaba yaramutemesheje umuhoro amaze kubona ko yasinze. [17] Hashingiye kuri ibyo bisobanuro, impamvu y'ubujurire igamije kugaragaza ko Uwomporansanga Cécile yishe umugabo we biturutse ku busembure ikaba nta shingiro ifite. Kumenya niba Uwomporansanga Cécile akwiriye kugabanyirizwa igihano [18] Uwomporansanga Cécile n'umwunganira basaba ko agabanyirizwa igihano bashingiye ku mpamvu nyoroshyacyaha zikurikira bavuga ko zititaweho mu rubanza rujuririrwa : Kuba ataragoye ubutabera kuko yishyikirije inzego z'Ubuyobozi n'iz'umutekano kandi akaba yaremeye icyaha ku buryo budashidikanywaho, akakicuza akanagisabira imbabazi ; Kuba ari ubwa mbere akurikiranyweho icyaha mu nkiko kandi nyuma y'igihe amaze afunzwe akaba amaze kugororoka ; Kuba nyuma yo gukora icyaha yaranze n'imyitwarire myiza kuko yahise ijya iwabo kubabwira ko yiyiciye umugabo, n'aho umurambo w'umugabo we ubonekeye agahita aworosa ; [19] Me Kananga Protogène umwunganira avuga kandi ko mu rubanza rujuririrwa Urukiko rutitaye ku nyungu z'abana bato Uwomporansanga Cécile yasize mu rugo bonyine ubu bakaba badafite kirera; asaba uru Rukiko gushingira kuri iyo mpamvu no ku ngingo ya 19 y'Itegeko Nshinga rya Repubulika y'u Rwanda iteganya ko umwana wese afite uburenganzira bwo kurengerwa ku buryo bwihariye n'umuryango we, abandi Banyarwanda na Leta, bitewe n'ikigero n'imibereho arimo nk'uko biteganywa n'amategeko y'u Rwanda ndetse n'amategeko mpuzamahanga, rukamugabanyiriza igihano kugira ngo ashobore kujya kurera abana be bakiri bato.

Page 6

[20] Uhagarariye Ubushinjacyaha avuga ko igihe cyose hari impamvu nyoroshyacyaha Urukiko rudategetswe kuzishingiraho rugabanyiriza uregwa igihano, ko ahubwo rugena igihano hagendewe ku biteganywa mu ngingo ya 49 y'Itegeko N° 68/2018 ryo kuwa 30/06/2018

riteganya ibyaha n'ibihano muri rusange, birimo uburemere by'icyaha cyakozwe, ingaruka cyateye, impamvu zatumye agikora, uko uwagikoze yari asanzwe yitwara, imibereho ye bwite n'uburyo icyaha cyakozwemo. [21] Akomeza asobanura ko ibijyanye n'inyungu z'abana Uwomporansanga Cécile n'umwunganira bavuga ko Urukiko Rukuru, Urugereko rwa Nyanza rwirengagije bitagomba gusuzumwa kuko bitaburanyweho mu rubanza rujuririrwa kuko icyo yari yasabye ari uguhabwa isubikagihano kuko atazi uko babayeho, kandi urukiko rukaba rwarabifasheho icyemezo; ko ariko n'iyi Urukiko rwabibona ukundi, bitashingirwaho agabanyirizwa igihano kuko uretse no kuba nta bimenyetso atanga bigaragaza ko afite abana koko kandi ko badafite ubitaho, kuba abo bana baba barasigaye bonyine ari ingaruka z'icyaha yakozwe, akaba rero atabyitwaza asaba kugabanyirizwa igihano. UKO URUKIKO RUBIBONA [22] Impaka kuri iyi ngingo zishingiye ku kumenya niba igihano cy'igifungo cya burundu Uwomporansanga Cécile yahanishijwe kubera icyaha cy'ubwicanyi yahamijwe gishobora kugabanywa hashingiwe ku mpamvu nyoroshyacyaha agaragaza. [23] Ingingo ya 49, igika cya mbere y'Itegeko N° 68/2018 ryo ku wa 30/08/2018 riteganya ibyaha n'ibihano muri rusange iteganya ko « Umucamanza atanga igihano akurikije uburemere bw'icyaha, ingaruka icyaha cyateye, impamvu zatumye agikora, uko uwagikoze yari asanzwe yitwara, imibereho ye bwite n'uburyo icyaha cyakozwemo ». [24] Nk'uko byemejwe mu rubanza RPAA0021/14/CS - RPAA0022/14/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 13/10/2017 haburana Ubushinjacyaha na Uzabakiriho Bernard1, Urukiko ntirutegetswe kwemeza impamvu nyoroshyacyaha igihe cyose zigaragajwe ngo rugabanyirize uregwa igihano, ahubwo ruzemeza mu bushishozi bwarwo, kandi rukaba rushobora no kwanga kuzemeza nk'impamvu ngabanya gihano, rushingiye ku mikorere y'icyaha uregwa akurikiranyweho cyangwa uburyo yagikoze. Uyu murongo ni nawo wakomeje gukurikizwa mu zindi manza zaciwe n'uru Rukiko, mu ziheruka gucibwa harimo nk'urubanza RPAA00833/2024/CA rwaciwe ku wa 29/04/2025 haburana Ubushinjacyaha na Ngerejaho Télésphore (igika cya 15). Muri urwo rubanza RPAA0021/14/CS - RPAA0022/14/CS kandi, mu gika cya 14, Urukiko rw'Ikirenga rwasobanuye ko n'ubwo Ntabanganyimana Félicien yemera icyaha cy'ubwicanyi aregwa, umucamanza adategetswe kugabanya igihano kuwemeye icyaha mu gihe asanga icyaha cyarakoranwe ubugome bukabije nk'uko yagikoze. [25] Ku birebana n'uru rubanza, mu Rukiko Rukuru, Urugereko rwa Nyanza, Uwomporansanga Cécile yari yajuriye asaba kugabanyirizwa igihano, urwo Rukiko rusanga ibyo asaba nta shingiro bifite rushingiye ku buremere bw'icyaha yahamijwe cyo kwica umugabo we n'ubugome bw'indengakamere yagikoranye, rwemeza ko igifungo cya burundu yari yahanishijwe n'Urukiko Rwisumbuye rwa Nyamagabe kigumye, kabone n'ubwo haba hari impamvu nyoroshyacyaha. [26] Mu bujurire bwe kuri uru rwego, nabwo Ngiruwonsanga Cécile asaba kugabanyirizwa igihano ashingiye ku mpamvu nyoroshyacyaha zavuzwe haruguru (igika cya 18 n'icya 19). Urukiko rw'Ubujurire rurasanga nk'uko Urukiko Rukuru, Urugereko rwa Nyanza rwabibonye, icyaha yahamijwe cyo kwica umugabo we ari icyaha kiremereye kuko cyavukije ubuzima umugabo we, akaba kandi yaragikoranye ubugome bukabije ubwo yamufatiranaga asinziriywe akamutemagura umubiri wose kugeza apfuye; hashingiwe ku murongo wavuzwe haruguru watanze mu rubanza RPAA0021/14/CS - RPAA0022/14/CS (mu gika cya

1 Uru rubanza rwatangajwe mu Cyegeranyo cy'ibyemezo by'Inkiko {2018} 4 RLR.

Page 7

31), Urukiko rukaba rudategetswe gushingira ku mpamvu nyoroshyacyaha Ngiruwonsanga Cécile ashingiraho ubujurire bwe ngo rumugabanyirize igihano mu gihe icyaha yahamijwe yagikoranye ubugome bukabije nk'uko bimaze gusobanurwa. [27] Urukiko rw'Ubujurire rurasanga kandi kuba Ngiruwonsanga Cécile avuga ko yasize abana bato bari bonyine bakaba badafite ubitaho ari ingaruka z'icyaha yakoze, bikaba rero bitafatwa nk'impamvu nyoroshyacyaha yatuma agabanyirizwa igihano hashingiwe ku murongo watanze n'Urukiko rw'Ikirenga mu rubanza RPA0129/10/CS rwaciwe ku wa 07/03/2014 haburana Ubushinjacyaha na Mpitabakana ; muri urwo rubanza Urukiko rwasobanuye ko "Ntawakwitwaza ingaruka mbi z'icyaha ngo asabe kugabanyirizwa igihano." Uyu murongo kandi wakomeje gukurikizwa mu zindi manza zaciwe n'uru Rukiko, mu ziheruka gucibwa harimo nk'urubanza RPAA00582/2021/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 25/02/2025 haburana Ubushinjacyaha na Nyiraminani Julienne n'abandi (igika cya 25) n'urubanza RPAA00282/2024/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 14/02/2025 haburana Ubushinjacyaha na Hirwa Délice (igika cya 18). [28] Urukiko rw'Ubujurire rushingiye ku bisobanuro byose byatanze mu bika bibanziriza iki, rurasanga igihano cy'igifungo cya burundu Ngiruwonsanga Cécile yahanishijwe gihuye n'uburemere bw'icyaha yakoze, bugome yagikoranye ndetse n'ingaruka cyateye, kikaba rero kigomba kugumaho. Iki gihano kandi gihura n'icyatanze mu zindi manza zaciwe n'uru Rukiko, aho abaregwa bahamijwe icyaha cy'ubwicanyi cyakoranywe ubugome bukabije, bagahanishwa igifungo cya burundu kuko ari cyo gikwiranye n'uburemere bw'icyaha bakoze n'ubugome bagikoranye, mu ziheruka gucibwa harimo nk'urubanza RPAA00312/2023/CA rwaciwe ku wa 18/03/2025 haburana Ubushinjacyaha na Biziyaremye Faustin (igika cya 22), n'urubanza RPAA00833/2024/CA rwaciwe ku wa 29/04/2025 haburana Ubushinjacyaha na Ngerejaho Télésphore (ibika bya 15,17 na 18). [29] Hashingiwe ku bisobanuro byose byatanze, Urukiko rw'Ubujurire rurasanga nta kosa Uwomporansanga Cécile agaragaza ryakozwe mu rubanza yajuririye, bityo imikirize yarwo ikaba idahindutse. III. ICYEMEZO CY'URUKIKO [30] Rwemeje ko ubujurire bwa Uwomporansanga Cécile nta shingiro bufite. [31] Rwemeje ko urubanza RPA00657/2021/HC/NYZ rwaciwe n'Urukiko Rukuru, Urugereko rwa Nyanza kuwa 28/02/2024 rudahindutse mu ngingo zarwo zose. [32] Rwemeje ko igifungo cya burundu Uwomporansanga Cécile yahanishijwe kigumyeho. [33] Rutegetse ko Uwomporansanga Cécile asonewe amagarama y'urubanza kuko aburana afunze.

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/9742/10232>

CASE PAGE <https://chat.esheria.ai/case-law/rwanda/uwomporansanga-cecile-mitigatingcircumstances-court-of-appeal-2025>

Prepared on 13 October 2026 · Esheria