NIYIBOGORA v DORISI N'ABANDI

[Rwanda URUKIKO RW'UBUJURIRE – RS/INJUST/RP 00003/2019/CA (Mukandamage P.J, Kaliwabo na Kamere, J.) 16 Ukwakira 2020]

Amategeko agenga imiburanishirize y'imanza nshinjabyaha – Ubujurire – Kujuririra indishyi mu rubanza nshinjabyaha – Igihe uregera indishyi ariwe gusa wajuriye, uregwa nta bihano agenerwa kabone niyo Urukiko rwasanga ahamwa n'icyaha.

Incamake y'ikibazo: Urubanza rwatangiriye mu Rukiko rw'Isumbuye rwa Musanze aho Ubushinjacyaha bwareze Dorisi, Hakizimana na Naburugero icyaha cyo kwihesha mu buriganya ikintu cy'undi. Aho Dorisi na Hakizimana bakoze inyandiko ivuga ko Dorisi agurishije ikibanza Hakizimana, maze bifashisha Naburugero wari Noteri w'ubutaka abakorera inyandiko z'ihererekanya ry'ubutaka z'ibinyoma ashingiye kuri ubwo bugure, kandi we akora mu murenge wa cyuve naho ubutaka bukaba bwari mu murenge wa Muhoza, kandi abagore babo aribo Niyibogora na Twizeyimana bakaba bataratumijwe muri iryo hererekanya. Urukiko rwaciye urubanza rwemeza ko Dorisi na Hakizimana bahamwa n'icyaha cyo guhimba no gukoresha inyandiko mpimbano rubahanisha igifungo cy'imyaka 6, naho Naburugero ahamwa n'icyaha cyo gutanga inyandiko ku muntu udakwiye kuyihabwa bikozwe n'umukozi wa Leta, nawe ahanishwa igifungo cy'imyaka 6.

Abaregwa ntibishimiye imikirize bajuririra Urukiko Rukuru Urugereko rwa Musanze, Urukiko rwaciye urubanza rwemeza ko Dorisi na Hakizimana badahamwa n'icyaha cyo guhimba no gukoresha inyandiko mpimbano, ko Naburugero adahamwa n'icyaha cyo gutanga inyandiko ku muntu udakwiye kuyihabwa bikozwe n'umukozi wa Leta, kuko rwasanze ibimenyetso byatanzwe n'Ubushinjacyaha bishidikanywaho.

Niyibogora yandikiye Perezida w'Urukiko rw'Ubujurire asaba ko urubanza rwasubirwamo ku mpamvu z'akarengane ku bijyanye n'indishyi, nawe yandikira Perezida w'Urukiko rw'Ikirenga asaba ko urwo rubanza rwasubirwamo ku mpamvu z'akarengane, Prezida w'Urukiko rw'Ikirenga ategeka ko urubanza rwoherezwa mu Rukiko rw'Ubujurire kugira ngo ruburanishwe.

Me Bizumuremyi uhagarariye Niyibogora avuga ko impamvu basubirishije urubanza ku mpamvu z'akarengane ari uko Urukiko Rukuru rwirengagije ibimenyetso rukagira abere abaregwa. Ibimenyetso rwirengagije ni: icyemezo cy'ishyingirwa cyemeza ko Nibogora ari umugore w'isezerano wa Dorisi kigaragaza ko basezeranye ivanga mutungo; amasezerano y'ubugure bw'ikibanza afite inenge; icyemezo cy'ubutaka cyasohotse nyuma gato yo gushyingirwa kwabo, kikaba kigaragaza ko ubutaka ari ubwabo ko iyo yari kuba yarabugurishije bwari kwandikwaho Hakizimana; Ihererekanya ry'ubutaka ryabaye hashize hafi imyaka 5, hakibazwa icyo Dorisi yari ategereje kugira ngo atange ubutaka yagurishije; ubutumwa bugufi Dorisi yangikiye Niyibogora; inyandiko y'ibazwa ya Dorisi igaragaramo kuvuguruzanya na Hakizimana; inyandiko igaragaza ko basabye inguzanyo muri banki bakubaka n'inyandiko zigaragaza ko bishyuraga imisoro buri mwaka kuva 2011 kugeza urubanza rutangiye.

Me Bizumuremyi akomeza garagaza ko kuri Naburugero, ibimenyetso byirengagijwe n'Urukiko Rukuru, byatumye Niyibogora agira akarengane ari uko mu nyandiko (form) isaba ihererekanya ry'uburenganzira ku butaka, Dorisi yabajijwe niba yubatse, akavuga ko yubatse, ariko Naburugero ntiyamuhamagaza, kugira ngo hatagira inyungu ze zibangamirwa, ntiyanahamagaza umugore wa

Hakizimana kandi yaragombaga kubikora, n'ubwo rero ubutaka bwari bwanditse kuri Dorisi 100%. Asoza avuga ko ibyo bimenyetso byose iyo bisuzumwa n'Urukiko Rukuru, Urugereko rwa Musanze, byari kugaragara ko amasezerano y'ubugure ari inyandiko yahimbwe.

Ubushinjacyaha bavuga ko ibimenyetso bwatanze mu Rukiko Rukuru, ko bwari bwareze busobanura uburyo amasezerano yakozwe ari amahimbano yakorewe mu nzu kwa Hakizimana nk'uko uwitwa Ntihabose yabivuze, akaba yarahimbwe, kuko Dorisi yari atangiye urubanza rw'ubutane, kugira ngo azegukane ikibanza n'inzu irimo, ko mu rubanza rwaciwe n'Urukiko Rwisumbuye rwa Musanze, mu gika cya 14, rwemeje ko ayo masezerano ari amahimbano, naho Urukiko Rukuru, Urugereko rwa Musanze rukita gusa ku nyandiko y'ihererekanya ry'ubutaka yakozwe ba nyiri ubwite badahari, maze abarezwe bagirwa abere, bituma Niyibogora avutswa uburenganzira ku mutungo ari byo byamuteye kurengana.

Dorisi avuga ko abona ariwe ukorerwa akarengane, kuko hari urubanza rwaciwe ku wa 20/01/2018 n'Urukiko Rwisumbuye rwa Musanze rwabaye itegeko, rwemeje ko amasezerano y'ubugure yakozwe mu buryo bukurikije amategeko, ko hari n'urubanza rwo ku wa 28/01/2019 rwaburanywe hagati ya Dorisi na Niyibogora narwo rwabaye itegeko, rwanditsemo ko bemeranya ko nta mutungo bafite. Avuga kandi ko kuba ariwe wasabye icyangombwa cyo kubaka, byatewe n'uko yari atarakorana ihererekanya ry'uburenganzira ku butaka na Hakizimana ngo ubutaka buve mu mazina ye bujye mu mazina ya Hakizimana, kandi ko "autorisation de bâtir" itangwa yanditseho amazina y'uwanditse ku butaka. Ku bijyanye n'ubutumwa bugufi (sms) buvugwa ko yohererezaga Niyibogora yemera ko bafite inzu i Musanze, avuga ko ntabwo yigeze amwohereza, ko Niyibogora nawe ashobora gufata telefone ye akabwiyohererereza, naho ku bijyanye no kuba ariwe watangaga imisoro y'ikibanza cyubatsemo inzu igibwaho impaka kugeza mu mwaka wa 2016, akavuga ko Hakizimana ariwe watangaga amafaranga y'imisoro, ariko ku nyandiko z'imenyekanisha y'iyishyurwa ry'imisoro bikagaraga ko ari Dorisi utanze imisoro, kubera ko ikibanza cyari kikimwanditseho. Ku byerekeye inguzanyo ku mushahara yafashwe mu mwaka wa 2013, avuga ko ayo mafaranga yasabye muri Banki y'Abaturage, atari ayo kubaka inzu nk'uko Niyibogora abivuga, kuko ayo yahawe adashobora kubaka inzu, ko ahubwo ayo mafaranga yakoreshejwe mu bijyanye n'amasomo ya Niyibogora

Hakizimana we avuga ko yaguze ikibanza na Dorisi akiri ingaragu atarashaka ariko ntibahita bakora ihererekanya, ko kuba icyangombwa cyo kubaka cyanditse kuri Dorisi ari uko batari bwahinduze ibyangombwa ndetse n'imisoro yatangirwaga kumazina ya Dorisi kuko ariwe icyangombwa cyanditseho ariko amafaranga amafaranga akaba ariwe uyatanga. Kuba dorisi yarabaga muri iyo nzu yubakishaga nuko yari yari yaramuhaye akazi kuko yari ingenieur azi ibyo kubaka akabimureberera. Ko ihinduranya ryabaye nyuma ntakibazo kibirimo kuko ryakozwe hashingiwe kumasezerano y'ubugure bari barakoranye kandi Dorisi ariwe wenyine wari wanditse kucyangombwa ndetse bikorerwa mbere ya Noteri w'ubutaka.

Naburugero nawe yiregura avuga nka Noteri w'ubutaka yagiye gukorera mu murenge wa Muhoza avuye cyuve agiye gusimbura uwaho yari agiye muri conge yoherejwe n'umuyobozi we, akaba ariyo mpamvu ariwe wabakoreye ihererekanya. Kuba Niyibogora ataramuhamagaje ngo asinye ku iherekanya nta mategeko yishe kuko mu iherekanya ry'uburenganzira ku butaka ikigenderwaho ari abanditse ku cyemezo cy'ubutaka, kandi ko ubwo butaka bwari bwanditse kuri Dorisi 100%. Avuga na none ko kuba Ubushinjacyaha buvuga ko yagombaga kubanza kureba uburyo bw'imicungire y'umutungo w'abo yari agiye gukorera ihererekanya ry'uburenganzira ku butaka atari byo, kuko "système" bakoreramo nka ba Noteri mu by'ubutaka mu Rwanda ishingira ku byanditswe ku cyangombwa cy'ubutaka, ko rero atagomba kujya iruhande rw'ibyanditse ku

cyangombwa cy’ubutaka ngo abaze abaje gukora ihererekanya ry’uburenganzira ku butaka uburyo bacungamo umutungo wabo.

Incamake y’Icyemezo: 1. Igihe uregera indishyi ariwe gusa wajuriye, uregwa nta bihano agenerwa kabone niyo Urukiko rwasanga ahamwa n’icyaha, bityo nubwo ibyaha Dorisi, Hakizimana na Naburugero baregwa bibahama, ntabwo bahabwa ibihano kuko ubushinjacyaha butajuriye ahubwo Niyibogora waregeye indishyi agomba kuzihabwa.

Gusubirishamo urubanza ku mpamvu z’akarengane bifite ishingiro;
Imikirize y’urubanza rwasubirishijwemo ku mpamvu z’akarengane ihindutse kuri bimwe.

Amategeko yashyingiweho:
Itegeko n° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw’inkiko, ingingo ya 55 n’iya 63
Itegeko- Ngenga nº 01/2012/OL ryo ku wa 02/05/2012 rishyiraho igitabo cy’amategeko ahana, ingingo ya 613 n’iya 614
Iteka rya Minisitiri nº 002/2008 ryo ku wa 01/04/2008 rigena uburyo iyandikisha ry’ubutaka rikorwa, ingingo ya 10

Imanza zifashishijwe
RS/INJUST/RP 00006/2017/CS; Ubushinjacyaha na Nsengiyumva rwaciwe kuwa 29/11/2019.

Urubanza

I. IMITERERE Y’URUBANZA

[1] Mu Rukiko Rwisumbuye rwa Musanze, Ubushinjacyaha bwareze Dorisi Melchiade, Hakizimana Sylvain na Naburugero Giramahoro Ajja icyaha cyo kwihesha mu buriganya ikintu cy’undi, buvuga ko Dorisi Melchiade na Hakizimana Sylvain bafatanyije, banditse inyandiko bise iyo ku wa 22/07/2011, ivuga ko Dorisi Melchiade agurishije Hakizimana Sylvain ikibanza nº PC 992 giherereye mu Kagari ka Mpenge, Umurenge wa Muhoza, Akarere ka Musanze, Intara y’Amajyaruguru, barangije bifashisha Naburugero Giramahoro Ajja, Noteri wa Leta mu by'ubutaka mu Murenge wa Cyuve, wabakoreye ku bw'uburiganya inyandiko zitangwa n'inzego zabugenewe zirimo ibinyoma z'ihererekanya ry'uburenganzira ku butaka rishingiye ku bugure hagati yabo, yirengagije ko icyo kibanza kibarizwa mu Murenge wa Muhoza, ko kandi Dorisi Melchiade na Hakizimana Sylvain bafite abagore bashyingiranywe, aribo Niyibogora Christine (umugore wa Dorisi Melchiade) na Twizerimana Kwitonda Emerita (umugore wa Hakizimana Sylvain), bagombaga gutumizwa bakemeza iryo hererekanya ry’uburenganzira ku butaka, ndetse anirengagije agaciro k’ikibanza, kuko mu masezerano y’ubugure banditse ko bakiguze ku giciro cya miliyoni ebyiri na magana atatu (2.300.000 Frw) kandi harimo inzu ifite agaciro k'amafaranga y’u Rwanda agera kuri miliyoni mirongo itanu (50.000.000 Frw).

[2] Mu rubanza RP 00205/2017/TGI/MUS rwaciwe ku wa 07/12/2017, Urukiko Rwisumbuye rwa Musanze rwemeje ko Dorisi Melchiade na Hakizimana Sylvain bahamwa n’icyaha cyo guhimba no gukoresha inyandiko mpimbano, ruhanisha buri wese igifungo cy’imyaka itandatu

(6), naho Naburugero Giramahoro Ajja ahamwa n'icyaha cyo gutanga inyandiko ku muntu udakwiye kuyihabwa bikozwe n'umukozi wa Leta, rumuhanisha igifungo cy'imyaka itandatu (6), rubategeka gufatanya kwishyura Niyibogora Christine indishyi zingana na miliyoni eshatu n'ibihumbi magana atatu (3.300.000 Frw).

[3] Dorisi Melchiade, Hakizimana Sylvain na Naburughero Giramahoro Ajja bajuririye Urukiko Rukuru, Urugereko rwa Musanze, ibirego byabo bihurizwa hamwe mu rubanza RPA 00572/2017/HC/MUS – RPA 00010/2018/HC/MUS – RPA 00018/208/HC/MUS, urwo Rukiko rwemeza ko ubujurire bwabo bufite ishingiro, ko Dorisi Melchiade na Hakizimana Sylvain badahamwa n'icyaha cyo guhimba no gukoresha inyandiko mpimbano, ko Naburugero Giramahoro Ajja adahamwa n'icyaha cyo gutanga inyandiko ku muntu udakwiye kuyihabwa bikozwe n'umukozi wa Leta, kuko rwasanze ibimenyetso byatanzwe n'Ubushinjacyaha bishidikanywaho, rutegeka Niyibogora Christine kwishyura amagarama y'urubanza angana n'amafaranga y'u Rwanda ibihumbi makumyabiri (20.000 Frw).

[4] Nyuma y'icibwa ry'urwo rubanza, Niyibogora Christine yandikiye Perezida w'Urukiko rw'Ubujurire asaba ko urubanza RPA 00572/2017/HC/MUS - RPA 00010/2018/HC/MUS - RPA 00018/208/HC/MUS rwasubirwamo ku mpamvu z'akarengane, nawe yandikira Perezida w'Urukiko rw'Ikirenga, asaba ko urwo rubanza rwasubirwamo ku mpamvu z'akarengane, maze ku wa 19/07/2019 mu cyemezo nº 138/CJ/2019, Perezida w'Urukiko rw'Ikirenga ategeka ko urubanza rwoherezwa mu Rukiko rw'Ubujurire kugira ngo ruruburanishe, ruhabwa nº RS/INJUST/RP 00003/2019/CA.

[5] Urubanza rwaburanishirijwe mu ruhame ku wa 10/02/2020 Niyibogora Christine ahagarariwe na Me Kabagema Aphrodice na Me Bizumuremyi Félix, Dorisi Melchiade yunganiwe na Me Kavuyekure Dieudonné, Hakizimana Sylvain yunganiwe na Me Nsengiyumva Straton afatanyije na Me Dukundane Anastase, Naburugero Giramahoro Ajja yunganiwe na Me Nsengiyumva Enos, naho Ubushinjacyaha buhagarariwe na Rudatinya Gaspard, Umushinjacyaha ku rwego rw'Igihugu, rurapfundikirwa, ariko mbere y'uko rucibwa, umwe mu bacamanza bagize inteko yaruburanishije yimurirwa mu Rukiko rw'Ikirenga, bituma rwongera kuburanishwa n'indi nteko ku wa 09/09/2020, Niyibogora Christine ahagarariwe na Me Bizumuremyi Félix, abandi baburanyi bunganiwe nka mbere.

II. IBIBAZO BIGIZE URU RUBANZA N'ISESENGURA RYABYO

Kumenya niba ikirego cyatanzwe na Niyibogora Christine cyo gusubirishamo urubanza ku mpamvu z'akarengane kitagomba kwakirwa, kuko yari agifite indi nzira y'ubujurire

[6] Me Nsengiyumva Enos, wunganira Naburugero Giramahoro Ajja, avuga ko hakurikijwe ingingo ya 55, igika cya 2, y'Itegeko Nº 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, iteganya ko umuburanyi wari ufite uburenganzira bwo kwiyambaza izindi nzira zo kujurira zisanzwe n'izidasanzwe, ariko ntabikore mu gihe giteganyijwe n'amategeko, atemerewe gusaba ko urubanza yatsinzwe rusubirwamo ku mpamvu z'akarengane, asanga ikirego cyatanzwe na Niyibogora Christine gisaba gusubirishamo urubanza nº RPA 00572/2017/HC/MUS – RPA 00010/2018/HC/MUS – RPA 00018/208/HC/MUS rwaciwe n'Urukiko Rukuru Urugereko rwa Musanze, kidakwiye kwakirwa, kubera ko atabanje kwiyambaza inzira yo gusubirishamo

urubanza ingingo nshya yemererwaga n'ingingo ya 193 n'iya 194, z'Itegeko Nº 30/2013 ryo ku wa 24/05/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, kubera ko avuga ko akarengane ke gashingiye ku bimenyetso byirengagijwe, ndetse mu bimenyetso avuga, hakaba harimo ibyo yungutse nyuma y'uko urubanza rucibwa.

[7] Me Kabagema Aphrodice, uhagarariye Niyibogora Christine, avuga ko iyo nzitizi yatanzwe na Naburugero Giramahoro Ajja nta shingiro ifite, kuko atumva neza impamvu ashingiraho avuga ko yari gutanga ikirego cyo gusubirishamo urubanza ingingo nshya, aho gusaba ko rusubirwamo ku mpamvu z'akarengane, kuko ibimenyetso avuga ko ari bishya, atari bishya, ahubwo ko byose byakoreshejwe mu iburanisha mu Rukiko Rukuru, Urugereko rwa Musanze.

[8] Me Bizumuremyi Félix, nawe uhagarariye Niyibogora Christine, avuga ko yasubirishijemo urubanza ku mpamvu z'akarengane ashingiye ku biteganywa n'ingingo ya 55, igika cya 2, y'Itegeko Nº 30/2018 ryo ku wa 02/06/2018 rigena ububasba bw'inkiko, kuko yabonaga ko nta yindi nzira y'ubujurire yari isigaye, kandi abona ko Urukiko Rukuru, Urugereko rwa Musanze, hari ibimenyetso rwirengagije kandi byaraburanweho.

UKO URUKIKO RUBIBONA

[9] Ingingo ya 55, igika cya 2, y'itegeko Nº 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko iteganya ko "Icyakora umuburanyi wari ufite uburenganzira bwo kwiyambaza izindi nzira z'ubujurire zisanzwe n'izidasanzwe, ariko ntabikore mu gihe giteganyijwe n'amategeko, ntiyemerewe gusaba ko urubanza yatsinzwe rusubirwamo ku mpamvu z'akarengane, keretse akarengane kabonywe n'Ubugenzuzi Bukuru bw'Inkiko".

[10] Naho ku byerekeye gusubirishamo urubanza ingingo nshya, ingingo ya 194, agace ka 5, y'Itegeko Nº 30/2013 ryo ku wa 24/05/2013 ryerekeye imiburanishirize y'imanza z'inshinjabyaha ryakurikizwaga igihe Niyibogora Christine yasabaga gusubirishamo urubanza ku mpamvu z'akarengane, iteganya ko "Urubanza rushobora gusubirishwamo ingingo nshya kubera imwe mu mpamvu zikurikira: (…) Iyo kuva aho urubanza ruciriwe habonetse ikimenyetso cya kamarampaka kigaragaza neza akarengane katewe n'urubanza rusabirwa gusubirishwamo, icyo kimenyetso kikaba cyari mu nyandiko zatanzwe mu rubanza, ariko urukiko ntirukibone".

[11] Urukiko rurasanga ibyo uwunganira Naburugero Giramahoro Ajja avuga ko Niyibogora Christine yari agifite inzira yo gusubirishamo urubanza ingingo nshya, mbere yo kwiyambaza iyo gusubirishamo urubanza ku mpamvu z'akarengane nta shingiro bifite, kuko atagaragaza ikimenyetso cya kamarampaka cyabonetse nyuma y'icibwa ry'urubanza, cyangwa se icyari muri dosiye umucamanza ntakibone, kikaba kiburanishwa na Niyibogora Christine muri uru rubanza, mu gihe ababuranira Niyibogora Christine bavuga ko ibimenyetso baburanisha byose byaburanweho, ariko agasanga urubanza uko rwaciwe byaramuteye akarengane.

[12] Hashingiwe ku ngingo z'amategeko zagaragajwe haruguru no ku bimaze gusobanurwa, Urukiko rurasanga inzitizi yo kutakira ikirego yatanzwe na Naburugero Giramahoro Ajja nta shingiro ifite.

Kumenya niba Dorisi Melchiade na Hakizimana Sylvain barakoze, ku bw'uburiganya inyandiko y'ubugure bw'ikibanza UPI:4/03/08/03/992 no kumenya niba Naburugero

Giramahoro Ajja, nka Noteri w'Ubutaka, yaragize uruhare mu buriganya buvugwa na Niyibogora Christine akabaha inyandiko badakwiye

[13] Me Bizumuremyi Félix, uhagarariye Niyibogora Christine, avuga ko Dorisi Melchiade na Niyibogora Christine bashyingiranywe ku wa 15/09/2011, mu buryo bw'ivangamutungo rusange, Niyibogora Christine amusangana ikibanza UPI:4/03/08/03/992 kitarubakwa, bakajya bacyishyurira imisoro kuva mu mwaka wa 2011 kugeza uru rubanza rutangiye, ko muri Gashyantare 2013 batse uruhushya rwo kubaka (*autorisation de bâtir*), batangira kubaka inzu muri icyo kibanza bakoresheje amatafari ahiye yavaga muri Koperative Dorisi Melchiade yari arimo, bigeze muri Nzeli 2013, basaba inguzanyo muri Banki y'Abaturage ya Musanze kugira ngo basakare iyo nzu banayikinge, nyuma bayibamo, bakagenda bayubaka buhoro buhoro, kuko banakoreraga imishahara buri kwezi.

[14] Akomeza avuga ko mu gihe Dorisi Melchiade yari mu mugambi wo gusaba ubutane, yatangiye gutegura uburyo yiharira iyo nzu, maze afatanyije na Hakizimana Sylvain bakora amasezerano y'ubugure bw'ikibanza UPI:4/03/08/03/992 cyavuzwe haruguru, bashyiraho itariki ya mbere y'ugushyingirwa kwa Dorisi Melchiade na Niyibogora Christine, bavuga ko ayo masezerano akozwe ku wa 22 Nyakanga 2011, barangije bajya gukora andi masezerano imbere ya Noteri ku wa 28 Ukwakira 2016, ikibanza cyari icya Dorisi Melchiade gihinduka icya Hakizimana Sylvain, ibyo babikora mu buriganya, kuko Noteri Naburugero Giramahoro Ajja yari ahagarariye ihererekanya ry'ubutaka ntagire icyo ababaza, nyamara bombi bafite abagore bashyingiranywe, kandi ifishi yabahaye igaragaza ahuzuzwa irangamimerere y'ugurisha ubutaka, bituma avutswa 50% ku kibanza yubakanyemo inzu n'umugabo we akakigurisha atamubwiye.

[15] Asanga rero mu rubanza yasubirishijemo ku mpamvu z'akarengane, Urukiko Rukuru, Urugereko rwa Musanze rwarahinduye urubanza rwaciwe n'Urukiko Rwisumbuye rwa Musanze, abarezwe bagirwa abere, n'indishyi yari yagenewe zikurwaho hirengagijwe ibimenyetso byose byagaragajwe n'Ubushinjacyaha bikurikira:

- "*Acte de mariage*" igaragaza ko Dorisi Melchiade yashyingiranywe na Niyibogora Christine mu buryo bw'ivangamutungo rusange.
- Amasezerano y'ubugure yo ku wa 22/07/2011 afite inenge, kuko ariho umukono w'Umukuru w'Umudugudu, ariko nta kashe iriho, kubera ko iyo iba iriho byari kugaragara ko ayo masezerano y'ubugure ari amahimbano, kuko Dorisi Melchiade yari yiyanditseho ubutaka n'inzu agiye gutangiza urubanza rw'ubutane ;
- Icyemezo cy'umutungo cyasohotse ku wa 05/10/2011, nyuma gato cyane y'ishyingirwa ryabo: iyo Dorisi Melchiade aba yaragurishije ubutaka, ntabwo icyo cyemezo cyari gusohoka cyanditsweho Dorisi Melchiade;
- Ihererekanya ry'ubutaka ryabaye ku wa 28/10/2016, hashize hafi imyaka 5, hakibazwa icyo Dorisi Melchiade yari ategereje kugira ngo atange ubutaka yagurishije;
- Ubutumwa bugufi (sms) Dorisi Melchiade yandikiye Niyibogora Christine hagati y'itariki 9 - 12/07/2016, ubwo yamusabaga gushaka inzu i Kigali kugira ngo abone aho arerera umwana wabo, undi akamubwira ko atashaka indi nzu i Kigali kandi n'iy'i Musanze itaruzura, byumvikanisha ko nawe yemeraga ko iyo nzu bayisangiye;

- Inyandiko mvugo y'ibazwa rya Dorisi Melchiade mu Bushinjacyaha, aho yabajijwe uko aba muri iyo nzu, akavuga ko ayikodesha 25.000 Frw, naho Hakizimana Sylvain avuga ko bayibamo ku buntu;
- Inyandiko zigaragaza ko ku wa 12/09/2013 basabye inguzanyo ingana na 3.800.000 Frw muri Banki y'Abaturage, ishami rya Musanze, maze bakubaka;
- Inyandiko zigaragaza ko bishyuye imisoro y'ikibanza buri mwaka kuva mu mwaka wa 2011 kugeza uru rubanza rutangiye;

[16] Me Bizumuremyi Félix avuga ko kuri Naburugero Giramahoro Ajja, ibimenyetso byirengagijwe n'Urukiko Rukuru, Urugereko rwa Musanze byatumye Niyibogora Christine agira akarengane ari uko mu nyandiko (*form)* isaba ihererekanya ry'uburenganzira ku butaka, Dorisi Melchiade yabajijwe niba yubatse, akavuga ko yubatse, ariko Naburugero Giramahoro Ajja ntiyahamagaza Niyibogora Christine bashakanye kugira ngo hatagira inyungu ze zibangamirwa, ntiyanahamagaza umugore wa Hakizimana Sylvain kandi yaragombaga kubikora, ko n'ubwo rero ubutaka bwari bwanditse kuri Dorisi Melchiade 100%, ariko Naburugero Giramahoro Ajja yagombaga guhamagaza umugore wa Dorisi Melchiade n'uwa Hakizimana Sylvain bakihagararira.

[17] Yongeraho ko ibyo Naburugero Giramahoro Ajja yabikoze ari Noteri w'Umurenge wa Cyuve, utari uw'Umurenge wa Muhoza, uretse ko abazwa mu Bugenzacyaha yavuze ko yari afite uburenganzira bwo gukora ibikorwa by'ubunoteri mu wundi Murenge, ariko ko yabuhawe mu magambo gusa, mu Rukiko Rwisumbuye rwa Musanze avuga ko hari inyandiko ibimuhera uburenganzira, aribwo yayishakishije mu mayeri ayishyira muri iecms, kandi mbere yaravuze ko uburenganzira yabuhawe mu magambo.

[18] Me Bizumuremyi Félix avuga na none ko Naburugero Giramahoro Ajja, nka Noteri mu by'ubutaka yagombaga kwita ku biteganywa n'ingingo ya 36 y'Itegeko rigenga umurimo w'abanoteri, igaragaza ibyo basabwa mbere yo gusinya ku nyandiko y'ihererekanya ry'uburenganzira ku butaka, no ku ngingo ya 37 y'iryo tegeko imusaba ubushishozi mbere yo gusinya ku nyandiko y'ihererekanya ry'uburenganzira ku butaka, ko izi ngingo zombi zigaragaza ko mbere y'uko Noteri wa Leta mu by'ubutaka Naburugero Giramahoro Ajja asinya ku nyandiko z'ihererekanya ry'uburenganzira ku butaka, yagombaga kubanza kubaza umwirondoro wa dorisi Melchiade n'uwa Hakizimana Sylvain, akamenya ko nta wundi muntu basangiye uwo mutungo, cyane cyane ko bamusanze mu wundi Murenge.

[19] Asoza avuga ko ibyo bimenyetso byose iyo bisuzumwa n'Urukiko Rukuru, Urugereko rwa Musanze, byari kugaragara ko amasezerano y'ubugure yashyizwe mbere gato y'ishyingirwa rya Dorisi Melchiade na Niyibogora Christine, ari inyandiko yahimbwe yahawe itariki itari iyo yakoreweho (*antidaté*), bigatuma Dorisi Melchiade na Hakizimana Sylvain bahamwa n'icyaha cyo guhimba no gukoresha inyandiko mpimbano, naho Naburugero Giramahoro Ajja agahamwa n'icyaha cyo guha umuntu inyandiko atayikwiye bikozwe n'umukozi wa Leta, maze Niyibogora Christine nawe agahabwa indishyi, kuko ibyo byaha bakoze byatumye Dorisi Melchiade yiharira umutungo bari basangiye ufite agaciro ka miliyoni mirongo itanu z'amafaranga y'u Rwanda (50.000.000 Frw).

[20] Uhagarariye Ubushinjacyaha avuga ko ibimenyetso bwatanze mu Rukiko Rukuru, Urugereko rwa Musanze byirengagijwe, ko bwari bwareze busobanura uburyo amasezerano yakozwe ku wa 22/07/2011 ari amahimbano yakorewe mu nzu kwa Hakizimana Sylvain nk'uko uwitwa Ntihabose Modeste yabivuze, akaba yarahimbwe, kuko Dorisi Melchiade yari atangiye urubanza rw'ubutane, kugira ngo azegukane ikibanza n'inzu irimo, ko mu rubanza rwaciwe n'Urukiko Rwisumbuye rwa Musanze, mu gika cya 14, rwemeje ko ayo masezerano ari amahimbano, naho Urukiko Rukuru, Urugereko rwa Musanze rukita gusa ku nyandiko y'ihererekanya ry'ubutaka yakozwe ba nyiri ubwite badahari, maze abarezwe bagirwa abere, bituma Niyibogora Christine avutswa uburenganzira ku mutungo ari byo byamuteye kurengana.

[21] Akomeza avuga ko Urukiko Rukuru, Urugereko rwa Musanze rwemeje ko amasezerano yo ku wa 22/07/2011 avugisha ukuri, rushingiye ku mpamvu y'uko hari abayashyizeho umukono, rwumva ko bihagije, rwirengagije ko bamwe mu bayasinyeho bemeje ko yabereye mu rugo rwa Hakizimana Sylvain, batageze ku kibanza kigurishwa, akibaza icyo bahamyaga ko kigurishijwe, mu gihe ikigurishwa batari bakibonye ngo bamenye ko gihari, ko ikindi cyirengagijwe ari uko bamwe mu bahamije ubwo bugure ari abo mu muryango wa Dorisi Melchiade, ndetse ko binagaragara ko uwaguze nawe ari uwo mu muryango we, n'abamusinyiye ari abavandimwe be, akaba ari nabo bagiye mu gusuzuma ikibazo cye n'umugore we adahari, ibyo bikaba bigaragaza ko abakoze ayo masezerano ari abashakaga gufasha Dorisi Melchiade guhisha umutungo, kuko babonaga atabanye neza n'umugore we.

[22] Uhagarariye Ubushinjacyaha avuga ko ikindi Urukiko Rukuru, Urugereko rwa Musanze rwirengajie, ari uko mu butumwa bugufi (*sms*), Dorisi Melchiade yandikiye umugore we ku wa 09/07/2016 no ku wa 12/07/2016, yavugaga ko bafite inzu i Musanze, akaba atagaragaza indi nzu bahafite uretse igibwaho impaka, ko ubwo butumwa umucamanza yabutesheje agaciro kandi bwaragombaga kumubera ikimenyetso kigaragaza ko iyo nzu ari iy'umuryango, kandi ko ikibanza yubatsemo kitigeze kigurishwa.

[23] Avuga na none ko hirengagijwe ko Dorisi Melchiade avuga ko inzu yayigurishije tariki 22/07/2011, ashyingiranwa na Niyibogora Christine ku wa 15/09/2011, ko yagurishije umutungo adasangiye n'undi kuko umwanditseho 100%, nyamara akirengagiza ko basezeranye ivangamutungo rusange, ko Dorisi Melchiade abaye yaragurishije ikibanza tariki 22/07/2011, atari gukora iherekanya ry'uburenganzira ku butaka rishingiye ku bugure (mutation) nyuma y'imyaka itanu (5) yose, ko hakwibazwa icyo Hakizimana Sylvain yari yizeye mu gihe ubutaka yitwa ko yaguze bwari bucyanditse kuri Dorisi Melchiade, ko kandi n'ubwo bwose ubutaka bwari bwanditse kuri Dorisi Melchide 100%, uyu atari kubugurisha umugore we atabizi, kubera ko bashyingiranywe ivangamutungo rusange, kandi ko no mu gihe cyo gukora ihererekanya ry'uburenganzira ku butaka (*mutation)* umugore we yagombaga kuba ahari nk'uko biteganywa ku nyandiko yabugenewe.

[24] Uhagarariye Ubushinjacyaha avuga ko Urukiko Rukuru, Urugereko rwa Musanze rwanirengagije ko Dorisi Melchiade avuga ko yagurishije Hakizimana Sylvain ikibanza, cyubakwamo inzu, yuzuye we n'umugore we bayimukiramo, bakajya bayikodesha amafaranga ibihumbi makumyabiri na bitanu (25.000 Frw), mu gihe Hakizimana Sylvain we avuga ko yayibatije ku buntu, ibyo bikaba bidashoboka ko yamugurisha ikibanza, akacyubakamo inzu, yarangiza kuyubaka akayituramo batarakora ihererekanya ry'uburenganzira ku butaka.

[25] Asoza avuga ko ibyo byose ari byo byatumye habaho akarengane, kuko urubanza rwavukije Niyibogora Christine uburenganzira ku mutungo bushingiye ku isezerano ryo gushyingirwa ryo ku wa 15/09/2011, ko rero ashingiye ku ngingo ya 63 y'Itegeko Nº 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, Ubushinjacyaha busaba ko Urukiko rw'Ubujurire rwasuzuma ibimenyetso byose bwatanze, maze rukemeza ko abaregwa bahamwa n'ibyaha baregwa ndetse rukagumishaho igihano bari bahawe n'Urukiko Rwisumbuye rwa Musanze.

[26] Dorisi Melchiade avuga ko abona ariwe ukorerwa akarengane, kuko hari urubanza RADA 00006/2017/TGI/MUS rwaciwe ku wa 20/01/2018 n'Urukiko Rwisumbuye rwa Musanze rwabaye itegeko, rwemeje ko amasezerano y'ubugure yakozwe mu buryo bukurikije amategeko, ko hari n'urubanza RC 00071/2018/TB/MUH na RC 00188/2017/TB/MUH rwo ku wa 28/01/2019 rwaburanywe hagati ya Dorisi Melchiade na Niyibogora Christine narwo rwabaye itegeko, rwanditsemo ko Niyibogora Christine na Dorisi Melchiade bemeranya ko nta mutungo bafite.

[27] Akomeza avuga ko ikibanza UPI:4/03/08/03/992 yakigurishije akiri ingaragu ku itariki ya 22/07/2011, ashyingiranwa na Niyibogora Christine ku wa 15/09/2011, ko Hakizimana Sylvain yakigurishije yamusabye ko yamwubakishiriza inzu muri icyo kibanza, kuko ari inzobere mu by'ubwubatsi (*engineer*), inzu arayubakisha, igihe itari yuzura neza ayimukiramo akajya ayikodesha ku mafaranga ibihumbi makumyabiri na bitanu (25.000 Frw) bitewe n'ubuzima yari abayeho, kuko umugore we Niyibogora Christine yari yaramutaye, ko kuba rero yaravuze ko iyo nzu yayibagamo ayikodesha, naho Hakizimana Sylvain akavuga ko yayibagamo ku buntu, abona nta kibazo kirimo, kuko igihe yabaga yahakoreye yayibagamo ku buntu, yaba atahakoreye akishyura amafaranga y'ubukode.

[28] Avuga kandi ko kuba ariwe wasabye icyangombwa cyo kubaka (*autorisation de bâtir*), byatewe n'uko yari atarakorana ihererekanya ry'uburenganzira ku butaka na Hakizimana Sylvain ngo ubutaka buve mu mazina ye bujye mu mazina ya Hakizimana Sylvain, kandi ko "*autorisation de bâtir*" itangwa yanditseho amazina y'uwanditse ku butaka.

[29] Ku bijyanye n'ubutumwa bugufi (sms) buvugwa ko yohererezaga Niyibogora Christine yemera ko bafite inzu i Musanze, Dorisi Melchiade avuga ko ntabwo yigeze amwohererereza, ko Niyibogora Christine nawe ashobora gufata telefone ye akabwiyohererereza, naho ku bijyanye no kuba ariwe watangaga imisoro y'ikibanza cyubatsemo inzu igibwaho impaka kugeza mu mwaka wa 2016, akavuga ko Hakizimana Sylvain ariwe watangaga amafaranga y'imisoro, ariko ku nyandiko z'imenyekanisha y'iyishyurwa ry'imisoro bikagaragaga ko ari Dorisi Melchiade utanze imisoro, kubera ko ikibanza cyari kikimwanditseho.

[30] Ku bivugwa n'Ubushinjacyaha ko abanditse mu masezerano y'ubugure banayasinyeho ari abo mu muryango we, banagaragara mu nyandiko y'umuryango yo gukemura ibibazo bye na Niyibogora Christine, Dorisi Melchiade avuga ko nta kosa ririmo, kuko ikibanza yakigurishije atarashaka, akigurisha hari umuryango, kuko ariwo wamufashaga mu bibazo, ko kuba yaratinze guhererekanya ubwo butaka na Hakizimana Sylvain byatewe n'uko ku wa 28/10/2016 ari bwo Hakizimana Sylvain yari abonye umwanya, kuko yari mu kazi kenshi.

[31] Me Kavuyekure Dieudonné, wunganira Dorisi Melchiade, avuga ko urubanza RC 00071/2018/TB/MUH na RC 00188/2017/TB/MUH rwo ku wa 28/01/2019 ruvuguruza ibyo abahagarariye Niyibogora Christine bavuga, kuko we ubwe yivugiye imbere y'Urukiko ko nta

mutungo afitanye na Dorisi Melchiade, kandi ko ibyo yabivuze nyuma y'imyaka ibiri (2) urubanza RP 00205/2017/TGI/MUS ruciwe, kuko rwaciwe ku wa 07/12/2017, ko agaciro gahabwa urubanza rwabaye itegeko ku birebana n'imitungo gatuma babona ko ibyo Niyibogora Christine yivugiye bifite ishingiro.

[32] Me Kavuyekure Dieudonné akomeza avuga ko ubutumwa bugufi (sms) buvugwa muri uru rubanza ko Dorisi Melchiade yandikiye Niyibogora Christine atari byo, ko kandi ntacyo bwamumarira, kuko yiyemereye ko nta mutungo afitanye na Dorisi Melchiade, ko kandi ubwo butumwa ari ubwo mu mwaka wa 2016, mu gihe ubugure bw'ikibanza bwari bwarabaye mbere.

[33] Anavuga ko amasezerano y'ubugure atari amahimbano, kuko abayagiranye basinyiye ibyo bahagazeho kandi bemeza ko ariko byagenze, ko kuba ayo masezerano ariho amatariki abiri, byatewe n'uko hasi bashyizeho itariki Umukuru w'Umudugudu yasinyeho, ko kandi nta muntu n'umwe uhakana ayo masezerano y'ubugure yo ku wa 22/07/2011, kuko Niyibogora Christine atigeze aregera kuyatesha agaciro, kandi ko ikigaragaza nyiri umutungo ari icyangombwa cy'ubutaka, icyo cyangombwa cy'ubutaka kikaba cyari cyanditse kuri Dorisi Melchiade 100%, kandi Niyibogora Christine akaba nabyo atarigeze abiregera.

[34] Me Kavuyekure Dieudonné avuga ko Dorisi Melchiade yasabiye Hakizimana Sylvain icyangombwa cyo kubaka, kuko ikibanza cyari kikimwanditseho, ko ari we wishyuraga n'imisoro, ariko ikaza mu mazina ya DORISI Melchiade, kuko Hakizimana Sylvain yari atarinjira muri "système" bitewe n'uko ikibanza cyari kitaramwandikwaho, ko kubijyanye no kuba baratinze gukora ihererekanya ry'uburenganzira ku butaka, nta kibazo abibonamo, kuko bikorwa igihe icyo ari cyo cyose, kandi nta gihe ntarengwa gihari kigenwa n'itegeko.

[35] Ku bijyanye no kuba Dorisi Melchiade yarabaga mu nzu yubatse mu kibanza bivugwa ko ari icya Hakizimana Sylvain, Me Kavuyekure Dieudonné avuga ko iyo nzu Dorisi Melchiade yayubakishaga anayibamo, yaba yagiye gukorera ahandi hantu akishyura Hakizimana Sylvain amafaranga y'ubukode ibihumbi makumyabiri na bitanu (25.000 Frw), ko rero atagombaga gukodesha kandi hari ibikoresho bya Hakizimana Sylvain yagombaga kurinda.

[36] Ku byerekeye inguzanyo ku mushahara ingana na 3.787.560 Frw yafashwe mu mwaka wa 2013, Me Kavuyekure Dieudonné avuga ko ayo mafaranga Dorisi Melchiade yasabye muri Banki y'Abaturage, ishami rya Musanze atari ayo kubaka inzu nk'uko Niyibogora Christine abiburanisha, kuko ayo yahawe adashobora kubaka inzu bavuga ko ifite agaciro k'amafaranga miliyoni mirongo itanu (50.000.000 Frw), ko ahubwo ayo mafaranga yakoreshejwe mu bijyanye n'amasomo ya Niyibogora Christine.

[37] Asanga nta kuntu Dorisi Melchiade yari guhimba inyandiko y'ubugure, kuko atari kwihesha uburenganzira ku butaka asanganywe, ibyo bikaba bihura n'ibiteganywa n'ingingo ya 18 y'itegeko ry'ubutaka ryakoreshwaga mu mwaka wa 2013 iteganya ko nyiri ubutaka ari uwo bwanditseho, kandi ko mu gukora ihererekanya ry'uburenganzira ku butaka, hakenerwa uwo ubwo ubutaka bwanditseho gusa, ari nayo mpamvu bitari ngombwa ko Dorisi Melchiade ajyana n'umugore we Niyibogora Christine kwa Noteri w'ubutaka.

[38] Hakizimana Sylvain avuga ko yaguze ikibanza na Dorisi Melchiade akiri ingaragu, uyu nawe akaba yari yarakiguze n'abandi, barakoze ihererekanya ry'uburenganzira ku butaka, ariko

ibyangombwa bitarasohoka, yubakamo inzu, ndetse aha Dorisi Melchiade akazi ko kujya amurebera uko ibikorwa by'ubwubatsi bigenda, kuko ari impuguke mu by'ubwubatsi (*Ingénieur civil*), ko kubera ko ikibanza cyari cyanditswe kuri Dorisi Melchiade bitewe nuko bari batarakora ihererekanya ry'uburenganzira ku butaka, byatumye icyangombwa cyo kubaka (autorisation de bâtir) gisohoka cyanditse kuri Dorisi Melchiade, gitansi z'imisoro nazo zikaza zimwanditseho, ariko amafaranga y'imisoro ari we (Hakizimana Sylvain) wayatanze, ko rero byabaye ngombwa ko Dorisi Melchiade wari ufite icyangombwa cy'ikibanza kimwanditseho nk'umutungo we 100% acyivanaho, kuko yari yaramaze kukigurisha, maze ku wa 28/10/2016 cyandikwa kuri Hakizimana Sylvain wari warakiguze, bikorerwa imbere ya Noteri w'ubutaka Naburugero Giramahoro Ajjya, Hakizimana Sylvain ahabwa icyangombwa cy'icyo kibanza.

[39] Hakizimana Sylvain avuga kandi ko inzu Dorisi Melchiade yamwubakishirizaga yayubakaga ayibamo, yaba yagiye gukorera ahandi hantu akamwishyura amafaranga ibihumbi makumyabiri na bitanu (25.000 Frw) y'ubukode, ko kuba baratinze gukora ihererekanya ry'uburenganzira ku butaka byatewe n'uko bari barumvikanye ko igihe cyose azabishakira ari cyo gihe bazabikora, kandi ko nta cyo byari bimutwaye.

[40] Me Nsengiyumva Straton, wunganira Hakizimana Sylvain, avuga ko intandaro y'ikirego cy'Ubushinjacyaha ari ikirego cyatanzwe na Niyibogora Christine asaba ko amasezerano y'ubukode burambye ateshwa agaciro, mu kuyasuzuma, Urukiko rusanga nta nenge afite, akaba asanga urwo rubanza rutateshwa agaciro, ko ahubwo uru Rukiko rukwiye kureba impamvu yatumye Niyibogora Christine yamaze igihe cy'imyaka itanu (5) adakurikirana inzu yita ko ari iye, ngo asabe ko imwandikwaho.

[41] Akomeza avuga ko atabona ibimenyetso bishinja icyaha cyo guhimba amasezerano byaba byarirengagijwe n'Urukiko Rukuru nk'uko bivugwa na Niyibogora Christine, mu gihe ugura n'ugurisha bayasinyeho kandi bayemera, ko kandi amasezerano y'ubugure yo ku wa 22/07/2011 avuga ko Dorisi Melchiade agurishije ikibanza aho kuba inzu.

[42] Me Nsengiyumva Straton avuga na none ko kuba abahamya bagaragara mu masezerano y'ubugure ari inshuti z'umuryango, nta kibazo kirimo, kuko nta tegeko ribibuza, ndetse ko bamwe muri bo barimo Gatete Callixte na Ntihabose Modeste nta sano bafitanye na DORISI Melchiade wagurishije cyangwa se na Hakizimana Sylvain waguze, ko rero ntaho Niyibogora Christine n'Ubushinjacyaha bahera bavuga ko amasezerano ari amahimbano.

[43] Ku byerekeye ubutumwa bugufi buvugwa ko Dorisi Melchiade yagiye yohereza Niyibogora Christine, Me Nsengiyumva Straton avuga ko ntacyo burebaho Hakizimana Sylvain, kuko bashobora no kubiganira ahubwo bashaka kumunyaga ibye.

[44] Me Nsengiyumva Straton asoza avuga ko kuba Dorisi Melchiade na Hakizimana Sylvain barakoze ihererekanya ry'uburenganzira ku butaka batinze bitafatwa nk'ikimenyetso cyemeza ko amasezerano y'ubugure ari amahimbano, kuko nta tegeko ribihana, ko rero ibyo amategeko adahana bitaba ikimenyetso cy'uko amasezerano y'ubugure ari amahimbano, ko kandi kuba Hakizimana Sylvain atarabwiye umugore we ngo bajyane gukora iherekanya ry'uburenganzira ku butaka bitafatwa nk'ikimenyetso cy'uko amasezerano y'ubugure ari amahimbano, kuko we nta kibazo yari afitanye n'umugore we.

[45] Naburugero Giramahoro Ajja avuga ko nka Noteri w'iby'ubutaka yagiye gukorera mu Murenge wa Muhoza, kubera ko Noteri waho witwa Sebutwa Félicien yari muri konji, agenda yoherejwe n'umukuriye mu kazi, kandi ko itegeko ry'abanoteri ribiteganya. Akomeza avuga ko n'ubwo kuri "formulaire" buzuza bakora ihererekanya ry'uburenganzira ku butaka bandikaho ko umuntu ari ingaragu cyangwa se yubatse, ibyo bidakuraho amategeko ba noteri bagenderaho, cyane cyane ingingo ya 5 n'iya 23 z'Iteka rya Minisitiri Nº 002/2008 ryo ku wa 01/04/2008 rigena uburyo iyandikisha ry'ubutaka rikorwa, ziteganya ko mu iherekanya ry'uburenganzira ku butaka ikigenderwaho ari abanditse ku cyemezo cy'ubutaka, kandi ko ubwo butaka bwari bwanditse kuri Dorisi Melchiade 100%.

[46] Naburugero Giramahoro Ajja avuga na none ko kuba Ubushinjacyaha buvuga ko yagombaga kubanza kureba uburyo bw'imicungire y'umutungo w'abo yari agiye gukorera ihererekanya ry'uburenganzira ku butaka atari byo, kuko *système* bakoreramo nka ba Noteri mu by'ubutaka mu Rwanda ishingira ku byanditswe ku cyangombwa cy'ubutaka, ko rero atagomba kujya iruhande rw'ibyanditse ku cyangombwa cy'ubutaka ngo abaze abaje gukora ihererekanya ry'uburenganzira ku butaka uburyo bacungamo umutungo wabo.

[47] Avuga kandi ko *formulaire* yujujwe na Dorisi Melchiade asaba ihererekanya ry'uburenganzira ku butaka yujujeho ko afite umugore, ariko ko atari yo igenderwaho mu gukora ihererekanya ry'uburenganzira ku butaka, ahubwo ko hagenderwa ku mategeko yagaragaje haruguru.

[48] Me Nsengiyumva Enos, wunganira Naburugero Giramahoro Ajja, avuga ko icyaha uwo yunganira aregwa cyo guhesha umuntu inyandiko atagenewe bikozwe n'umukozi wa Leta ntacyo yakoze, kuko abo yakoreye ihererekanya ry'uburenganzira ku butaka, Dorisi Melchiade na Hakizimana Sylvain, batabanje kumwereka amasezerano y'ubugure, ko rero atari guhanwa mu manza nshinjabyaha, ahubwo yari guhanwa mu rwego rw'akazi akora, niba hari amakosa yaba yarakoze.

UKO URUKIKO RUBIBONA

[49] Ingingo ya 55, agace ka 2º, y'Itegeko Nº 30/2018 ryo ku wa 02/0682018 rigena ububasha bw'inkiko iteganya ko "Urubanza rwaciwe ku rwego rwa nyuma rushobora gusubirwamo ku mpamvu z'akarengane kubera impamvu zikurikira: (...) 2° iyo mu icibwa ry'urubanza hirengagijwe amategeko n'ibimenyetso bigaragarira buri wese (...).

[50] Ikirego cyatanzwe na Niyibogora Christine cyo gusubirishamo urubanza RPA 00572/2017/HC/MUS - RPA 00010/2018/HC/MUS - RPA 00018/208/HC/MUS rwaciwe ku wa 26/07/2018 n'Urukiko Rukuru, Urugereko rwa Musanze, ku mpamvu z'akarengane, gishyigikiwe n'Ubushinjacyaha, kigamije kugaragaza ko hari ibimenyetso byirengagijwe n'urwo Rukiko, maze rukagira abere Dorisi Melchiade na Hakizimana Sylvain ku cyaha cyo guhimba no gukoresha inyandiko mpimbano bari bahamijwe n'Urukiko Rwisumbuye rwa Musanze, iyo nyandiko akaba ari amasezerano y'ubugure bw'ikibanza nº UPI 04/03/08/03/992 MUS/MUH, giherereye mu Kagari ka Mpenge, Umurenge wa Muhoza, Akarere ka Musanze, Intara y'Amajyaruguru bashyizeho itariki ya mbere y'ugushyingirwa kwa Niyibogora Christine na Dorisi Melchiade

(antidaté), maze bavuga ko yakozwe ku wa 22/07/2011, bayitwaza imbere ya Noteri w'ubutaka bahamya ubwo bugure ku itariki ya 28/10/2016, naho Naburugero Giramahoro Ajja agirwa umwere ku cyaha cyo gutanga inyandiko ku muntu udakwiye kuyihabwa bikozwe n'umukozi wa Leta, ibyo byaha bakaba barabikoze bagamije kumuvutsa uburenganzira afite kuri uwo mutungo nk'umugore wasezeranye na Dorisi Melchiade mu buryo bw'ivangamutungo rusange, akaba abisabira indishyi atahawe.

Kuri Dorisi Melchiade na Hakizimana Sylvain

[51] Ingingo ya 614, agace ka 1º n'aka 3º, y'Itegeko - Ngenga Nº 01/2012/OL ryo ku wa 02/05/2012 rishyiraho igitabo cy'amategeko ahana ryakurikizwaga igihe icyaha cyakurikiranwaga, iteganya ko "Umuntu wese: 1º wandika abizi inyandiko ivuga ibintu uko bitari; (…), ukoresha abizi, inyandiko itavugisha ukuri cyangwa yahinduwe; ahanishwa igifungo kirenze imyaka itanu (5) kugeza ku myaka irindwi (7) n'ihazabu y'amafaranga y'u Rwanda kuva ku bihumbi magana atanu (500.000) kugeza kuri miliyoni ebyiri (2.000.000)".

[52] Ikimenyetso nyamukuru kigibwaho impaka muri uru rubanza ni inyandiko y'amasezerano y'ubugure bivugwa ko yakozwe ku wa 22/07/2011 hagati ya Dorisi Melchiade na Hakizimana Sylvain, Niyibogora Christine n'Ubushinjacyaha bakaba bavuga ko ibiyavugwamo ko Dorisi Melchiade agurishije Hakizimana Sylvain ikibanza atari ukuri, kuko icyo kibanza ari icya Dorisi Melchiade na Niyibogora Christine basezeranye ivangamutungo rusange, bakacyubakamo inzu, bakayituramo, ayo masezerano akaba yarahimbwe agahabwa itariki ya mbere y'ugushyingirwa kwabo, Dorisi Melchiade agamije kwegukana inzu basangiye ubwo yateganyaga gutanga ikirego cy'ubutane.

[53] Ikindi kimenyetso Niyibogora Christine n'Ubushinjacyaha bashingiraho ni amasezerano yo ku wa 28/10/2016 y'ihererekanya ry'uburenganzira ku butaka yakozwe na Dorisi Melchiade na Hakizimana Sylvain, imbere ya Noteri w'Ubutaka, ari nayo yashingiweho bahererekanya uburenganzira ku butaka (mutation), ngo bakaba barabikoze bazi neza ko nta bugure bwabayeho, bityo nayo ngo akaba agomba gufatwa nk'inyandiko mpimbano.

[54] Inyandiko ziri muri dosiye zigaragaza ko ku wa 15/09/2011, Dorisi Melchiade yashyingiranywe na Niyibogora Christine mu buryo bw'ivangamutungo rusange, ko ku wa 05/10/2011, Dorisi Melchiade yagiranye na Leta y'u Rwanda amasezerano y'ubukode burambye nº 0992/MUS/MUH ku kibanza nº 4/03/08/03/992, acyandikwaho 100%.

[55] Dosiye igaragaza kandi ko nyuma yo guhabwa icyo kibanza Dorisi Melchiade yagiye agisorera imyaka yose kuva mu mwaka wa 2011 kugeza mu mwaka wa 2016, ubwo yagihererekanyaga na Hakizimana Sylvain, ko yasabye icyemezo cyo kucyubaka, aranacyubaka, atura mu nzu abana n'umugore we NIYIBOGORA Christine kugeza ku wa 28/01/2019 habayeho urubanza rw'ubutane RC 00071/2018/TB/MUH-RC 00188/2017/TB/MUH rwaciwe n'Urukiko rw'Ibanze rwa Muhoza.

[56] Bigaragara ko muri urwo rubanza rw'ubutane, Dorisi Melchiade yareze avuga ko umugore we yataye urugo, kandi ko amuhoza ku nkeke amuhoza mu manza[1], Niyibogora Christine nawe yiregura avuga ko atataye urugo, ko yiga ubuganga muri Kaminuza i Butare, agakorera no mu bitaro binyuranye i Kigali n'i Butare kugira ngo abashe kuzamura urugo rwabo, ibyo bikaba byaratumye babasha kubaka inzu bafitanye mu Kagari ka Mpenge, Umurenge wa Muhoza, Akarere ka Musanze (reba igika cya 4, urupapuro rwa 3 rw'urubanza RC 00071/2018/TB/MUH-RC 00188/2017/TB/MUH).

[57] Urukiko rurasanga ubwo ku wa 15/09/2011 Dorisi Melchiade yashyingiranwaga na Niyibogora Christine yari afite ikibanza, kuko cyamwanditsweho ku wa 05/10/2011 kuri nº 4/03/08/03/992, akaba rero atavuga ko ari icye 100%, kubera ko mu ivanga mutungo rusange ibyanditswe kuri umwe mu bashyingiranywe aba abihuriyeho n'uwo bashyingiranywe nk'uko biteganywa n'ingingo ya 6, igika cya 3 y'Itegeko nº 27/2016 ryo ku wa 08/07/2016 rigenga imicungire y'umutungo w'abashyingiranywe, impano n'izungura[2].

[58] Urukiko rurasanga rero amasezerano y'ubugure bw'ikibanza nº PC 992 bivugwa ko yakozwe ku wa 22/07/2011 hagati ya Dorisi Melchiade na Hakizimana Sylvain bavuga ko amugurishije ikibanza yaguze na Nsanzuwera Désiré, ko amuhaye amafaranga miliyoni ebyiri na magana atatu, hakaba harimo n'icyitonderwa kivuga ngo "Nkaba niyemeje kuzamukorera mutation igihe cyose azabishakira kandi amafaranga ajyanye nayo nkazayitangira", atavugisha ukuri, kubera ko ikibanza cyanditswe kuri Dorisi Melchiade ku wa 05/10/2011, akaba rero atari kugurisha umutungo ku wa 22/07/2011 kandi icyo gihe ntawo yari afite, ahubwo, nk'uko byavuzwe haruguru, icyo gihe umwandikwaho wari waramaze kuba umutungo asangiye n'umugore we, kuko bashyingiranywe ku wa 15/09/2011 mu buryo bw'ivangamutungo rusange.

[59] Urukiko rurasanga ikindi kigaragaza ko amasezerano y'ubugure atavuga ukuri, ari uko mu kuyakora bongeyemo icyitonderwa kivuga ngo DORISI Melchiade yiyemeje kuzamukorera mutation igihe cyose azabishakira, ibi bikaba byari ukugira ngo bazabashe gusobanura impamvu batahinduje mu gihe gikwiye ngo umutungo wandikwe k'uwaguze. Byongeyeye kandi nta mpamvu bari gushyiramo icyo cyitonderwa bataramenya ko Hakizimana Sylvain azabura umwanya wo guhinduza.

[60] Urukiko rurasanga na none ibyo Dorisi Melchiade n'umwunganira bavuga ko mu rubanza rw'ubutane RC 00071/2018/TB/MUH na RC 00188/2017/TB/MUH rwo ku wa 28/01/2019 ruvuguruza ibyo uhagarariye Niyibogora Christine aburanisha, kuko we ubwe yivugiye imbere y'Urukiko ko nta mutungo afitanye na Dorisi Melchiade, kandi ko ibyo yabivuze nyuma y'imyaka ibiri (2) urubanza nº RP 00205/2017/TGI/MUS ruciwe, kuko rwaciwe ku wa 07/12/2017, nta shingiro bifite, kuko nk'uko byagaragajwe haruguru, Niyibogora Christine yaburanye avuga ko bafite inzu ivugwa muri uru rubanza, ahubwo Urukiko rw'Ibanze rwa Muhoza, mu guca urubanza, ntirwagira icyo ruyivugaho. Harebwe na none ubutumwa bugufi (sms) Dorisi Melchiade, akoresheje telefone ye 0788679458, yandikiye Niyibogora Christine kuri telefone ye 0785973782

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[1] Urubanza yavugaga icyo gihe ni urubanza nº RP 00205/2017/TGI/MUS rwaciwe n'Urukiko Rwisumbuye rwa Musanze ku wa 07/12/2017 aho DORISI Melchiade yahamijwe icyaha cyo guhimba no gukoresha inyandiko mpimbano agahanishwa igifungo cy'imyaka 6

[2] Umutungo wose wanditse kuri umwe mu bashyingiranywe ubarirwa mu mutungo w'abashyingiranywe mu buryo bw'ivangamutungo rusange

ku wa 09/07/2016 no ku wa 12/07/2016 nk'uko MTN yabutanze, bigaragara ko nawe yemeraga ko bafite inzu i Musanze itaruzura, ko badakwiye gushaka indi i Kigali.

[61] Ku byerekeye urubanza RADA 00006/2017/TGI/MUS rwaciwe ku wa 20/01/2018 n'Urukiko Rwisumbuye rwa Musanze rwabaye itegeko, Dorisi Melchiade n'umwunganira bavuga ko rwemeje ko amasezerano y'ubugure yakozwe mu buryo bukurikije amategeko, Urukiko rurasanga muri urwo rubanza Niyibogora Christine yari yareze asaba gutesha agaciro amasezerano y'ubukode burambye yakozwe hagati ya Hakizimana Sylvain, Twizeyimana Kwitonda Emerthe n'Ikigo cy'igihugu gishinzwe imicungire n'imikoreshereze y'ubutaka mu Rwanda, urukiko rwemeza ko ikirego cye nta shingiro gifite, rumuca indishyi zinyuranye, hakaba rero ntaho rwemeje ko amasezerano y'ubugure yakozwe mu buryo bukurikije amategeko. Byongeye kandi urwo rubanza rwaciwe mu gihe n'uru rwari rukiburanishwa, urukiko runagaragarizwa ko habayeho gusubirishamo urubanza ku mpamvu z'akarengane, ariko ruvuga ko kuba urubanza rwaciwe burundu nta kibuza ko rurangizwa, bityo nta n'icyabuza ko urwo rubanza ruburanishwa.

[62] Urukiko rurasanga na none ibyo Dorisi Melchiade avuga ko yashakiye Hakizimana Sylvain icyangombwa cyo kubaka inzu mu kibanza baguze, akamutangira imisoro ndetse akanamwubakishiriza kuko ari inzobere mu by'ubwubatsi *(engineer*), igihe inzu itari yuzura neza akayimukiramo akajya ayikodesha ku mafaranga ibihumbi makumyabiri na bitanu (25.000 Frw) bitewe n'ubuzima yari abayeho, kuko umugore we Niyibogora Christine yari yaramutaye, nabyo nta kuri kurimo, kuko nk'uko bigaragara mu nyandiko mvugo ye mu Bushinjacyaha, yavuze ko yayimukiyemo ku wa 30/11/2013 akaba ayikodesha 25.000 Frw, naho Hakizimana Sylvain, abajijwe, avuga ko Dorisi Melchiade yamukoreye "consultance", amuhemba kuba muri iyo nzu, ariko imbere y'uru Rukiko bavuze ko hari igihe yayiberagamo ubuntu, ubundi akayikodesha, mu buryo bwo gushaka guhuza imvugo.

[63] Urukiko rurasanga kandi, ku wa 28/10/2016, Dorisi Melchiade na Hakizimana Sylvain bari imbere ya Noteri w'ubutaka, barakoze amasezerano y'ubugure ashingiye ku nyandiko y'amasezerano yitiriwe itariki ya 22/07/2011 nayo atavugisha ukuri, maze bahererekanya ikibanza n'inzu irimo, byandikwa kuri Hakizimana Sylvain, bazi neza ko ayo masezerano nayo atavugisha ukuri, kuko uwo mutungo awusangiye na Niyibogora Christine, nk'uko byasobanuwe haruguru, agamije kuwikubira wenyine, bityo iyo nyandiko y'ubugure yakorewe imbere ya Noteri ikaba nayo ari impimbano.

[64] Hashingiwe ku ngingo ya 614, agace ka 1º n'aka 3º, y'Itegeko - Ngenga Nº 01/2012/OL ryo ku wa 02/05/2012, no ku bimaze gusobanurwa, Urukiko rurasanga Dorisi Melchiade na Hakizimana Sylvain baranditse inyandiko y'amasezerano y'ubugure bw'ikibanza nº UPI 04/03/08/03/992 MUS/MUH, bavuga ko yakozwe ku wa 22/07/2011, DORISI Melchiade akiri ingaragu, babizi neza ko ibiyivugwamo atari ukuri, banayikoresha buzuza inyandiko yo ku wa 28/10/2016 y'amasezerano y'ihererekanya ry'uburenganzira ku butaka yakorewe imbere ya Noteri w'ubutaka bahinduranya icyo kibanza n'inzu yubatsemo, nabwo bazi ko iyo nyandiko itavugisha ukuri, bakaba bahamwa n'icyaha cyo gukora inyandiko irimo ibinyoma, no kuyikoresha.

Kuri Naburugero Giramahoro Ajja

[65] Ingingo ya 613 y'Itegeko - Ngenga Nº 01/2012/OL ryo ku wa 02/05/2012 ryavuzwe haruguru, iteganya ko "Umukozi wa Leta uha umuntu cyangwa umuhesha imwe mu nyandiko ziteganywa mu ngingo ya 612 y'iri tegeko ngenga, akayimuha azi ko adakwiye kuyihabwa,

ahanishwa igifungo kirenze imyaka itanu (5) kugeza ku myaka irindwi (7) n'ihazabu y'amafaranga y'u Rwanda kuva ku bihumbi magana atanu (500.000) kugeza kuri miliyoni ebyiri (2.000.000)".

[66] Naho ku byerekeye kwandikisha ibyemezo by'ubutaka, ingingo ya 10 y'Iteka rya Minisitiri Nº 002/2008 ryo ku wa 01/04/2008 rigena uburyo iyandikisha ry'ubutaka rikorwa, iteganya ko "Usaba iyandikisha ry'ubutaka abikora mu nyandiko yuzuza ifishi yabugenewe yateguwe n'Urwego rw'Umubitsi w'impapurompamo. Ku birebana n'ihererekanya ry'ubutaka, iyo fishi igomba kuba iherekejwe na:

a) Umwimerere cyangwa kopi yashyizweho umukono na noteri ku masezerano y'ihererekanya ry'ubutaka iyo ayo masezerano yanyuze imbere y'umuyobozi ubifitiye ububasha utari Umubitsi w'impapurompamo cyangwa Umubitsi w'impapurompamo wungirije ubifitiye ububasha;

b) Dipulikata y'icyemezo kibitswe na nyiri umutungo utimukanwa".

[67] Inyandiko isaba ihererekanya ry'uburenganzira ku butaka rishingiye ku bugure iri muri dosiye, igaragaza ko hari ahasabwa kuzuza umwirondoro w'usaba (Dorisi Melchiade) urimo n'irangamimirere aho yanditse ko yubatse, nyamara kuri iyi tariki ya 28/10/2016 hakaba nta tegeko ryasabaga ko agomba gushyiraho uwo bashakanye, cyangwa se uwashakanye n'uwo umutungo ugiye guhabwa.

[68] Urukiko rurasanga ibivugwa n'uhagarariye Niyibogora Christine n'Ubushinjacyaha ko Naburugero Giramahoro Ajja yagombaga gukora ihererekanya ry'ubutaka abanje guhamagaza abashakanye na Dorisi Melchiade na Hakizimana Sylvain, nta shingiro bifite, kuko nta tegeko ryabimusabaga. Byongeye kandi kuba Dorisi Melchiade yari afite amasezerano y'ubukode burambye agaragaza ko ubutaka bumwanditseho 100%, ntacyagombaga gutuma agira amakenga ko hari uwo amasezerano agamije guheza ku mutungo ugurishwa.

[69] Ku bijyanye n'ibyo Niyibogora Christine n'Ubushinjacyaha bavuga ko Naburugero Giramahoro Ajja yakoreye mu wundi Murenge agatanga ibyangombwa nta burenganzira abifitiye, Urukiko rurasanga hari inyandiko y'umukuriye mu kazi igaragaza ko yari abyemerewe, kandi ibyo ubwabyo ntibigize icyaha, ahubwo yabikurikiranwaho mu rwego rw'akazi.

[70] Urukiko rurasanga, n'ubwo amasezerano y'ihererekanya ry'uburenganzira ku butaka yakozwe hagati ya Dorisi Melchiade na Hakizimana Sylvain ku wa 28/10/2016 byagaragaye ko atavugisha ukuri, nyamara nta kimenyetso kigaragaza ko Noteri w'ubutaka, Naburugero Giramahoro Ajja, yayashyizeho umukono azi neza ibinyoma biyavugwamo, bityo icyaha cyo gutanga inyandiko ku muntu udakwiye kuyihabwa bikozwe n'umukozi wa Leta yari yahamijwe n'Urukiko Rwisumbuye rwa Musanze kikaba kitamuhama.

Kumenya niba Dorisi Melchiade na Hakizimana Sylvain bagenerwa ibihano

[71] Uhagarariye Ubushinjacyaha avuga ko ashingiye ku ngingo ya 63 y'Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, asaba ko Urukiko rw'Ubujurire rusuzuma ibimenyetso byose bwatanzwe, maze rukemeza ko abaregwa bahamwa n'ibyaha baregwa, rukabahanisha igifungo cy'imyaka itandatu (6) nk'uko UrukikoRwisumbuye rwa Musanze rwari rwabitegetse.

[72] Me Kavuyekure Dieudonné, wunganira Dorisi Melchiade, avuga ko nta burenganzira Ubushinjacyaha bufite bwo gusaba ibihano, kuko atari bwo bwasabye ko urubanza rusubirwamo ku mpamvu z'akarengane.

[73] Me Nsengiyumva Enos, wunganira Naburugero Giramahoro Ajja, avuga ko Ubushinjacyaha butagombye gusabira ibihano abaregwa, kuko urubanza rwabaye itegeko, kandi ko bwaje mu rubanza nka "*partie jointe*", aho kuba "*partie principale*".

UKO URUKIKO RUBIBONA

[74] Ingingo ya 63 y'Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko iteganya ko: "Iyo Urukiko rw'Ikirenga cyangwa urundi rukiko Perezida w'Urukiko rw'Ikirenga agena rushyikirijwe urubanza rusabirwa gusubirwamo ku mpamvu z'akarengane, rurusuzuma mu mizi bundi bushya abarubayemo ababuranyi bose bahamagajwe".

[75] Urukiko rurasanga, nubwo Dorisi Melchiade na Hakizimana Sylvain bahamwa n'icyaha cyo gukora inyandiko irimo ibinyoma no kuyikoresha, nyamara aba badashobora kugenerwa igihano kubera ko, uwasabye gusubirishamo urubanza ari Niyibogora Christine, Ubushinjacyaha bukaba bwarahamagawe mu rubanza kuko bwaburanye urubanza rusabirwa gusubirishwamo ku mpamvu z'akarengane rwaciwe burundu n'Urukiko Rukuru, Urugereko rwa Musanze, bukaba rero butasabira abaregwa ibihano, kuko urwo Rukiko rwabagize abere, ntibwasubirishamo urubanza, muri uru rubanza hakaba hagomba gusuzumwa gusa ibirebana n'indishyi zaregewe na Niyibogora Christine.

[76] Urukiko rurasanga uwo ari nawo murongo wafashwe mu rubanza RS/INJUST/RP 00006/2017/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 29/11/2019, haburana Ubushinjacyaha na Nsengiyumva Fulgence wasubirishijemo urubanza, Rutembesa Phocas, Gabiro David na Habimana Asman Olivier, aho rwasanze Rutembesa Phocas, Gabiro David na Habimana Asman Olivier bahamwa n'icyaha bari barezwe, ko ariko batagihanirwa kuko bagizwe abere ku rwego rwa mbere, Ubushinjacyaha ntibwajuririra icyo cyemezo, uregera indishyi aba ari we ujurira wenyine, rusuzuma urubanza ku birebana n'indishyi gusa, runabishingiye ku zindi manza rwaciye.

Ku byerekeye indishyi zisabwa na Niyibogora Christine

[77] Me Bizumuremyi Félix, uhagarariye Niyibogora Christine, avuga ko NIYIBOGORA Christine asaba DORISI Melchiade, HAKIZIMANA Sylvain na NABURUGERO GIRAMAHORO Ajja wabafashije kumuha 5.000.000 Frw y'indishyi z'akababaro kubera ko yahemukiwe n'uwo bakundanye, bagashyingiranwa ndetse bagafatanya gushaka umutungo, 4.000.000 Frw y'igihembo cya ba Avoka bamuburaniye ku nzego zose kugeza ubu, bakanamuha 1.000.000 Frw yo gusiragira mu nzego zishinzwe ubutaka, mu Murenge, mu Karere no ku Ntara y'Amajyaruguru, kuri Banki y'Abaturage, ishami rya Musanze, mu Bugenzacyaha, mu Bushinjacyaha no mu nkiko, hose yishyura ingendo, icumbi n'amafunguro, no gusubizwa 50.000 Frw yatanzeho igarama ry'urukiko.

[78] Me Kavuyekure Dieudonné, wunganira Dorisi Melchiade, avuga ko indishyi zisabwa na Niyibogora Christine nta shingiro zifite, ahubwo ko Dorisi Melchiade ariwe ukwiye guhabwa na Niyibogora Christine 1.500.000 Frw y'igihembo cya Avoka, 1.000.000 Frw y'indishyi

z'akababaro na 500.000 Frw y'ikurikiranarubanza, kuko yashowe mu manza z'amaherere kandi atarahimbye inyandiko.

[79] Me Nsengiyumva Straton, wunganira Hakizimana Sylvain, avuga ko nta ndishyi z'akababaro akwiye kwishyura Niyibogora Christine muri uru rubanza rw'akarengane, kuko rwabayeho kubera amakosa y'Urukiko, ko ahubwo ari we ukwiye guha Hakizimana Sylvain 1.000.000 Frw y'igihembo cya Avoka na 500.000 Frw y'indishyi z'akababaro, kuko akomeje kumuhangayikisha no kumushyira ku nkeke amushora mu rubanza bitari ngombwa.

[80] Me Nsengiyumva Enos, wunganira Naburugero Giramahoro Ajja, avuga ko nta ndishyi akwiye guha Niyibogora Christine, kuko nta kosa yamukorewe, ko ahubwo ari we ugomba guha Naburugero Giramahoro Ajja 200.000 Frw y'ingendo, 100.000 Frw yo gutegura urubanza, 500.000 Frw y'igihembo cya Avoka na 1.000.000 Frw y'indishyi z'akababaro, yose hamwe akaba 1.800.000 Frw.

UKO URUKIKO RUBIBONA

[81] Urukiko rurasanga, nk'uko byasobanuwe haruguru, Niyibogora Christine yarakorewe icyaha na Dorisi Melchiade na Hakizimana Sylvain cyamwangiririje, bimutera akababaro, indishyi asaba akaba akwiye kuzigenerwa mu bushishozi, kuko izo asaba ari ikirenga, Dorosi Melchiade na Hakizimana Sylvain bakaba bagomba gufatanya kumwishyura 2.000.000 Frw y'indishyi z'akababaro na 1.000.000 Frw y'ikurikiranarubanza n'igihembo cya Avoka.

[82] Ku byerekeye 50.000 Frw y'igarama Niyibogora Christine asaba gusubizwa, Urukiko rurasanga atayagenerwa, kuko nk'uko biteganywa n'ingingo ya 62, igika cya 2, y'Itegeko Nº 30/2018 ryo ku wa 02/0682018 rigena ububasha bw'inkiko, "Umuburanyi usaba kurenganurwa hakurikijwe ibivugwa muri iyo ngingo ntatanga ingwate y'amagarama".

[83] Urukiko rurasanga amafaranga y'indishyi z'akababaro, ay'ikurikiranarubanza n'ay'ibihembo bya ba Avoka asabwa na Dorisi Melchiade na Hakizimana Sylvain batayagenerwa kuko batsinzwe n'urubanza.

[84] Ku byerekeye amafaranga y'indishyi z'akababaro, ay'ikurikiranarubanza n'ay'igihembo cya Avoka Naburugero Giramahoro Ajja asaba Niyibogora Christine, Urukiko rurasanga atayagenerwa, kubera ko kuba yarasubirishijemo urubanza ari uburenganzira ahabwa n'itegeko, kandi ntagaragaza ko yabikoze agamije gusa kumutesha umwanya. Kuba kandi Naburugero Giramahoro Ajja yaraje kuburana uru rubanza n'uko ingingo ya 63 y'Itegeko n° 30/2018 ryo ku wa 02/06/2018 ryavuzwe haruguru iteganya ko mu rubanza rusubirwamo ku mpamvu z'akarengane, abarubayemo ababuranyi bose bongera guhamagarwa.

III. ICYEMEZO CY'URUKIKO

[85] Rwemeje ko Ikirego cyatanzwe na Niyibogora Christine cyo gusubirishamo urubanza nº RPA 00572/2017/HC/MUS - RPA 00010/2018/HC/MUS - RPA 00018/208/HC/MUS rwaciwe ku wa 26/07/2018 n'Urukiko Rukuru, Urugereko rwa Musanze, ku mpamvu z'akarengane gifite ishingiro kuri bimwe;

[86] Rwemeje ko urubanza nº RPA 00572/2017/HC/MUS - RPA 00010/2018/HC/MUS - RPA 00018/208/HC/MUS rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze ku wa 26/07/2018 ruhindutse mu ngingo zarwo zose;

[87] Rwemeje ko Dorisi Melchiade na Hakizimana Sylvain bahamwa n'icyaha cyo gukora inyandiko irimo ibinyoma no kuyikoresha;

[88] Ruvuze ko nta gihano bahawe kubera ko uregera indishyi ari we wenyine wasabye ko urubanza rusubirwamo ku mpamvuz'akarengane;

[89] Rwemeje ko Naburugero Giramahoro Ajja adahamwa n'icyaha akurikiranyweho;

[90] Rutegetse Dorisi Melchiade na Hakizimana Sylvain gufatanya kwishyura Niyibogora Christine 2.000.000 Frw y'indishyi z'akababaro na 1.000.000 Frw y'ikurikiranarubanza n'igihembo cya Avoka;

[91] Ruvuze ko amagarama y'urubanza aherereye ku Isanduku ya Leta.