MUKAMINEGA v MWISENEZA (ADD)

[Rwanda URUKIKO RW'UBUJURIRE – RCAA 00031/2020/CA- RCAA 00032/2020/CA (Nyirandabaruta, P.J., Tugireyezu na Munyangeri J.) 16 Nyakanga 2021]

Itegeko rigenga ibimenyetso mu manza n'itangwa ryabyo – Urukiko rushaka amakuru – Urukiko iyo rusanze hari amakuru rukeneye kugirango rufate icyemezo ku mitungo igibwaho impaka nta cyarubuza gutegeka inzego za Leta n'iz'abikorera ku giti cyabo zifite mu nshingano zazo kwandika cyangwa kubika imitungo yimukanwa n'itimukanwa, kurusyikiriza amakuru n'ibimenyetso byose bikenewe.

Incamake y'ikibazo: uru rubanza rwatangiye Mukaminega arega mu Rukiko Rwisumbuye rwa Gasabo asaba mu izina ry'abana be kuzungura imitungo ya Nzamurambaho ariwe se wa Nzamurambaho Antoinette Daniella, Nzamurambaho Ginette na Nzamurambaho Teta Ghislaine babyaranye nubwo babanye batarasezeranye mu buryo bukurije amategeko.

Mwiseneza umugore wemewe n'amategeko wa Nzamurambaho ahagarariye abana be, mu kwiregura avuga ko ibyo Mukaminega avuga ko inyandiko yakozwe na Nzamurambaho mbere y'uko apfa yahawe umutwe w'itangwa ry'iminani, atari iminani yatangwaga, kubera ko atari gutanga ibirenga 1/3 cy'umutungo we (quotité disponible), ndetse ko atari guha abana bamwe ngo asige abandi, ko ahubwo ari irage yakoraga yanga ko nyuma y'urupfu rwe mu muryango hazavuka amakimbirane.

Urukiko Rwisumbuye rwa Gasabo rwaciye urubanza RC 0288/15/TGI/GSBO, rwemeza ko abana ba Mukaminega nta bundi burenganzira bafite bwo kongera kuzungura se kuko ibyo bagombaga kuzungura ari byo bahawe. Urukiko rwasanze kandi icyifuzo cya Mukaminega cyo gutegeka ibigo bitandukanye (RDB, ikigo vy'Igihugu cy'ubutaka, BNR, RRA) gutanga amakuru ku mitungo ya Nzamurambaho nta shingiro bifite, kubera ko nta nyungu yemewe n'amategeko yatuma yemererwa kumenya imitungo ya Nzamurambaho yasigiye umuryango we (Mwiseneza n'abana be) nyuma y'aho akoreye inyandiko igenera abana babyawe na Mukaminega imwe mu mitungo ye.

Mukaminega mu izina ry'abana be, yajuririye urwo rubanza mu Rukiko Rukuru, avuga ko inyandiko yakozwe na Nzamurambaho atari irage, ahubwo ari inyandiko yemezaga ko Nzamurambaho ahaye abana be umunani, ko kandi kuba abo bana barahawe umunani bitababuza kuzungura umubyeyi wabo. Urukiko Rukuru, mu rubanza rubanziriza urundi, rwatesheje agaciro icyemezo cy'Urukiko Rwisumbuye, maze rwemeza ko Nzamurambaho Daniella Antoinette, Nzamurambaho Ginette na Nzamurambaho Teta Ghislaine bafite uburenganzira bwo kuzungura umubyeyi wabo nyakwigendera Nzamurambaho, rutegeka ko umutungo we bwite cyangwa uwo afatanyije n'umugore we w'isezerano ubarurwa raporo yawo igashyirwa muri dosiye.

Mwiseneza uhagarariye abana be yajuririye icyo cyemezo mu Rukiko rw'Ikirenga ariko aza kureka icyo kirego urwo Rukiko narwo rurabimwemerera. Nyuma yandikira Perezida w'Urukiko Rukuru ibaruwa yihana umucamanza wari ufite urwo rubanza, wanarufashemo icyemezo yari yajuririye. Ariko umucamanza wihanwe yimuriwe mu rundi Rukiko, urubanza ruhabwa undi. hagibwa impaka zo kumenya iherezo ry'icyemezo cyari cyafashwe mu rubanza rubanziriza urundi, kuko Mukaminega yavugaga ko ikibazo cy'izungura cyamaze gufatwaho icyemezo, ariko Urukiko rwemeza ko urubanza rugomba kongera kuburanishwa bundi bushya.Urukiko Rukuru rwaciye urubanza RCA00178/2016/HC/KIG, rwemeza ko ubujurire bwatanzwe na Mukaminega nta shingiro bufite, ko imitungo Mukaminega asabira abana be muri urwo rubanza, asaba ko izungurwa nta gaciro bifite, kuko irage Nzamurambaho ryagennye amerekezo y'umutungo we wose, rumutegeka guha Mwiseneza amafaranga y'ikurikiranarubanza n'igihembo cya Avoka.

Mukaminega uhagarariye abana be, yajuririye icyo cyemezo mu Rukiko rw'Ikirenga, arusaba gusuzuma niba umuburanyi ashobora kwihana umucamanza nyuma yo guca urubanza, yinubira ko Urukiko Rukuru rwaciye urubanza rutari mu bubasha bwarwo, arusaba kandi gusuzuma niba Urukiko rushobora

guca urubanza rushingiye ku bitaravuzwe mu iburanisha, arusaba kugena uburyo izungurwa rikorwa. Mwiseneza uhagarariye abana be nawe yatanze ubujurire bwuririye ku bundi asaba indishyi zitandukanye.

Nyuma y'ivugurura ry'amategeko agenga Urwego rw'Ubucamanza, ubujurire bwa Mukaminega bwoherejwe mu Rukiko rw'Ubujurire hashingiwe ku ngingo ya 105 y'Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'Inkiko.

Urukiko rw'Ubujurire rwaciye urubanza RCAA00055/2018/CA rwemeza ko urubanza RCA00178/2016/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 31/07/2017 ruteshejwe agaciro. Rutegeka ko urubanza RCA00178/2016/HC/KIG rukomeza kuburanishwa n'Urukiko Rukuru ku gice cy'ikiburanwa cyasigaye nyuma y'icyemezo kijyanye n'igabana ry'umutungo wasizwe na Nzamurambaho ndetse n'uwo yari afatanyije n'umugore we Mwiseneza kuko nta cyemezo cyagifashweho, hagakorwa ibarura ryawo, raporo ijyanye nabyo igashyikirizwa Urukiko. Urukiko rw'Ubujurire rukaba rwarafashe icyo cyemezo kubera inenge urwo rubanza rwari rufite yo kuburanishwa hiregangijwe ingingo ya 18 igika cya

2 y'amabwiriza ya Perezida w'Urukiko rw'Ikirenga yakurikizwaga igihe urubanza rwaburanishwaga, ubu yasimbuwe n'ingingo ya 74 igika cya 2 y'itegeko Nº 22/2018 ryo kuwa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, iteganya ko Muri icyo gihe, iburanisha rikomereza aho ryari rigeze, kandi ibyemezo byafashwe mu rubanza bikagumana agaciro kaby

Nyuma yuko urubanza rusubiye mu Rukiko Rukuru, kugira ngo ruburanishwe ku gice cy'ikiburanwa cyasigaye, Mukaminega uhagarariye abana be n'abamwunganira basobanuye ko ibarura ry'imitungo igomba kuzungurwa ryakozwe naho Mwiseneza n'abamwunganira bo bagaragaza ko hagomba kuzungurwa umutungo wa Nzamurambaho uhari ubu, ko hatagomba kurebwa imitungo yariho ubwo yitabaga Imana, kuko imitungo bavuga itanditse kuri Nzamurambaho cyangwa kuri we na Mwiseneza, ko ari imitungo bwite y'abayifite ubu. Urukiko Rukuru rwaciye rubanza RCA00008/2020/HC/KIG, rwemeza ko ubujurire bwatanzwe na Mukaminega bufite ishingiro kuri bimwe, ko imikirize y'urubanza RC0288/15/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ihindutse kuri byose. Urukiko Rukuru rwategetse ko imitungo yose ya Nanzamurambaho yamenyekanye igizwe n'itimukanwa, n'iyimukanwa ndetse n'imigabane afite mu masosiyete atandukanye igabanywamo kabiri, ½ kigahabwa umugore w'isezerano ikindi ½ kigabanywa abana bose ba Nzamurambaho. Urukiko rwemeje kandi ko niba hari umutungo udashobora kugabanywa uko bikwiye, abazungura bakumvikana uburyo bwo kuwucunga no kugabana inyungu, bidashobotse, uwo mutungo ukagurishwa, ariko abazungura bakaba ari bo bagira uburenganzira bwo kuba babigura mbere y'undi muntu wese.

Mukaminega, uhagarariye abana be yajuririye Urukiko rw'Ubujurire, anenga Urukiko Rukuru kuba rwaremeje ko Mwiseneza ahabwa ½ cy'imitungo yasizwe na nyakwigendera kandi igihe izungura ryatangiraga atari afite ubwo burenganzira, hashingiwe ku itegeko rirebana n'izungura ryakurikizwaga icyo gihe, ko rwirengagije imwe mu mitungo itimukanwa yasizwe na Nzamurambaho kandi yarakorewe igenagaciro ikanashyirwaho itambama, ko rwirengagije imigabane Nzamurambaho yari afite mu masosiyete no mu makoperative atandukanye Mwiseneza yikubiye, ko ntacyo rwavuze ku mitungo yimukanwa igizwe n'amakonti ya banki, umusaruro uva mu bukode bw'amazu atandukanye, uva mu bworozi n'ubuhinzi, ko ntacyo rwavuze ku birebana n'imwe mu mitungo Mwiseneza yatanzeho ingwate muri banki agamije kuyihuguza abazungura bo ku ruhande rwa Mukaminega no ku yo yagiye agurisha rwihishwa imanza zirebana nayo zikiburanwa, ko ntacyo rwavuze ku bana ba Mwiseneza basanzwe ari abanyamigabane muri sosiyete zitandukanye zashinzwe na Mwiseneza agamije guhishamo imitungo, asaba Urukiko rw'Ubujurire kwita ku gaciro k'umuryango (Consideration des valeurs familiale ou sociale), gusigasira umuco n'icyubahiro n'agaciro k'izina ry'umuryango wa Nzamurambaho. Asoza asaba indishyi zitandukanye.

Mwiseneza, uhagarariye abana be nawe yajuririye Urukiko rw'Ubujurire, avuga ko Urukiko Rukuru rwirengagije inzitizi y'iburabubasha bw'Urukiko bwo kutaburanisha urubanza ku cyaciriweho urubanza, ko inteko y'iburanisha yirengagije inzitizi yo kwanga gutangiza iburanisha ry'urubanza bundi bushya nk'uko byasabwe na Mwiseneza hashigiwe ku ngingo ya 74 igika cya 3 y' itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ko inteko yaburanishije urubanza rujuririrwa yihaye ububasha bwo gufata icyemezo ku kirego cyo kwihana umucamanza mu kwemeza ko iburanisha rikomeza hatabanje gufatwa icyemezo ku bwihane bw'umucamanza wari watangiye urubanza ko rwaciye urubanza ku kitaregewe (ultra petita) rwemeza ko irage ryakozwe na Nzamurambaho riteshejwe agaciro kandi atari cyo cyaregewe ku rwego rwa mbere, ko kandi rwirengagije ingingo za 94, 101 na 95 z'itegeko n° 27/2016 ryo ku wa 08/07/2016 rigenga umutungo w'abashyingiranwe, impano n'izungura maze rukemeza ko hazungurwa imitungo itakiriho n'itagihari. Mu gusoza nawe asaba indishyi zitandukanye.

Urukiko rw'Ubujurire rwemeje ko abana bujuje imyaka y'ubukure badakomeza guhagararirwa ahubwo batanga uburenganzira bwo guhagararirwa cyangwa bakiburanira, Urukiko kandi rwafashe icyemezo mu rubanza rubanziriza urundi RCAA00031/2020/CA- RCAA 00032/2020/CA cyo gutegeka ibigo bya Leta n'ibyabikorera ndetse n'abagenagaciro gufasha kugaragaza imitungo ya Nzamurambaho.

Incamake y'icyemezo.1. iyo urubanza rwatangiye abana bahagarariwe kuberako batujuje imyaka y'ubukure, iyo bayujuje urubanza rukirimo bategekwa kwiburanira cyangwa bagatanga uburenganzira ku babahagararira.

2. Urukiko iyo rusanze hari amakuru rukeneye kugirango rufate icyemezo ku mitungo igibwaho impaka nta cyarubuza gutegeka inzego za Leta n'iz'abikorera ku giti cyabo zifite mu nshingano zazo kwandika cyangwa kubika imitungo yimukanwa n'itimukanwa, kurusyikiriza amakuru n'ibimenyetso byose bikenewe.

Urubanza ruzakomeza amakuru yasabwe yabonetse.

Nta manza zifashishijwe

I. IMITERERE Y'URUBANZA

[1] Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Gasabo, Mukaminega Epiphanie uhagarariye abana be asaba ko bazungura imitungo yimukanwa n'itimukanwa n'imigabane (shares) yasizwe na se Nzamurambaho Antoine. Mu iburanisha yavuze ko kubona ibimenyetso by'imitungo asabira abana be kuzungura byamugoye cyane, akandikira BNR, RRA, Land Center na RDB, ariko ko kubera imiterere y'imikorere y'ibyo bigo nta gisubizo yahawe. Asaba Urukiko gufata icyemezo kibanziriza icibwa ry'urubanza mu mizi gitegeka ibigo byandikiwe kugaragaza imitungo ya Nzamurambaho Antoine bibitse kugira ngo kuyifataho icyemezo bizashoboke.

[2] Nzamurambaho Antoine akaba yari yarashakanye mu buryo bwemewe n'amategeko na Mwiseneza Marie Laetitia, babyarana abana batanu (5), anabyarana na Mukaminega Epiphanie abana batatu bavuzwe haruguru aribo Nzamurambaho Antoinette Daniella, Nzamurambaho Ginette na Nzamurambaho Teta Ghislaine, bikaba byaremejwe ko ari bene Nzamurambaho Antoine nk'uko bigaragarira mu rubanza RC0404-406/14/TB/KCY rwaciwe ku wa 25/03/2014 n'Urukiko rw'lbanze rwa Kacyiru. Ku itariki 15/08/2013 Nzamurambaho Antoine yaje gupfa, ariko asiga akoze inyandiko yise "Itanga ry'iminani" aha abana be bakomoka kuri Mukaminega Epiphanie imwe mu mitungo ye.

[3] Mwiseneza Marie Laetitia uhagarariye abana be mu kwiregura avuga ko ibyo Mukaminega Epiphanie uhagarariye abana be avuga ko inyandiko yakozwe na Nzamurambaho Antoine mbere y'uko

apfa yahawe umutwe w'itangwa ry'iminani, atari iminani yatangwaga, kubera ko atari gutanga ibirenga 1/3 cy'umutungo we (quotité disponible), ndetse ko atari guha abana bamwe ngo asige abandi, ko ahubwo ari irage yakoraga yanga ko nyuma y'urupfu rwe mu muryango hazavuka amakimbirane.

[4] Mu rubanza RC0288/15/TGI/GSBO, rwaciwe ku wa 23/02/2016, Urukiko Rwisumbuye rwa Gasabo rwemeje ko abana ba Mukaminega Epiphanie nta bundi burenganzira bafite bwo kongera kuzungura se kuko ibyo bagombaga kuzungura ari byo bahawe. Urukiko rwasanze kandi icyifuzo cya Mukaminega Epiphanie cyo gutegeka ibigo byavuzwe haruguru gutanga amakuru ku mitungo ya Nzamurambaho Antoine nta shingiro gikwiye guhabwa, kubera ko nta nyungu yemewe n'amategeko yatuma yemererwa kumenya imitungo ya Nzamurambaho Antoine yasigiye umuryango we (Mwiseneza Marie Laetitia n'abana be) nyuma y'aho akoreye inyandiko yo ku wa 07/08/2013 agenera abana be babyawe na Mukaminega Epiphanie imwe mu mitungo ye.

[5] Mukaminega Epiphanie mu izina ry'abana be, yajuririye urwo rubanza mu Rukiko Rukuru, ubujurire bwe bwandikwa kuri RCA00178/2016/HC/KIG, avuga ko inyandiko yakozwe ku wa 07/08/2013 atari irage, ahubwo ari inyandiko yemezaga ko Nzamurambaho Antoine ahaye abana be umunani, ko kandi kuba abo bana barahawe umunani bitababuza kuzungura umubyeyi wabo. Ku wa 18/07/2016, mu rubanza rubanziriza urundi, Urukiko Rukuru rwatesheje agaciro icyemezo cy'Urukiko Rwisumbuye, maze rwemeza ko Nzamurambaho Daniella Antoinette, Nzamurambaho Ginette na Nzamurambaho Teta Ghislaine bafite uburenganzira bwo kuzungura umubyeyi wabo nyakwigendera Nzamurambaho Antoine, rutegeka ko umutungo we bwite cyangwa uwo afatanyije n'umugore we w'isezerano ubarurwa raporo yawo igashyirwa muri dosiye.

[6] Mwiseneza Marie Laetitia uhagarariye abana be yajuririye icyo cyemezo mu Rukiko rw'Ikirenga ubujurire bwe bwandikwa kuri RCAA00039/2016/SC ariko aza kureka icyo ikirego urwo Rukiko narwo rurabimwemerera. Yandikira na Perezida w'Urukiko Rukuru ibaruwa ku wa 22/08/2016 yihana umucamanza wari ufite urwo rubanza, wanarufashemo icyemezo yari yajuririye nyuma akareka ikirego. Nyuma y'aho umucamanza wihanwe yimuriwe mu rundi Rukiko, urubanza ruhabwa mugenzi we. Yavuze ko urubanza rwaburanishijwe mu mizi hadasuzumwe ikirego cy'ubwihane, hagibwa impaka zo kumenya iherezo ry'icyemezo cyari cyafashwe mu rubanza rubanziriza urundi, kuko Mukaminega Epiphanie yavugaga ko ikibazo cy'izungura cyamaze gufatwaho icyemezo, ariko Urukiko rwemeza ko urubanza rugomba kongera kuburanishwa bundi bushya.

[7] Ku wa 31/07/2017, Urukiko Rukuru rwakijije urubanza RCA00178/2016/HC/KIG, maze rwemeza ko ubujurire bwatanzwe na Mukaminega Epiphanie nta shingiro bufite, ko imitungo Mukaminega Epiphanie uburanira abana be asaba ko izungurwa n'abana bose ba Nzamurambaho Antoine nta gaciro bifite, kuko irage Nzamurambaho Antoine yakoze ku wa 07/08/2013 ryagennye amerekezo y'umutungo we wose, rumutegeka guha Mwiseneza Marie Laetitia amafaranga y'ikurikiranarubanza n'igihembo cya Avoka angana n'ibihumbi magana arindwi (700.000 Frw).

[8] Mukaminega Epiphanie uhagarariye abana be, yajuririye icyo cyemezo mu Rukiko rw'Ikirenga, ubujurire bwe bwandikwa kuri RCAA00037/2017/SC, arusaba gusuzuma niba umuburanyi ashobora kwihana umucamanza nyuma yo guca urubanza, yinubira ko Urukiko Rukuru rwaciye urubanza rutari mu bubasha bwarwo, arusaba kandi gusuzuma niba Urukiko rushobora guca urubanza rushingiye ku bitaravuzwe mu iburanisha, no kugena uburyo izungurwa rikorwa, asoza asaba Urukiko kuvanaho urubanza RCA00178/2016/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 31/07/2017. Muri ubu bujurire Mwiseneza Marie Laetitia uhagarariye abana be yatanze ubujurire bwurire ku bundi asaba indishyi zitandukanye.

[9] Nyuma y'ivugurura ry'amategeko agenga Urwego rw'Ubucamanza, ubujurire bwa Mukaminega Epiphanie uhagarariye abana be bwoherejwe mu Rukiko rw'Ubujurire hashingiwe ku

ngingo ya 105 y'Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'Inkiko, bwandikwa kuri RCAA00055/2018/CA.

[10] Urukiko rw'Ubujurire rwaciye urwo rubanza ku wa 11/10/2019, maze rwemeza ko urubanza nº RCA00178/2016/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 31/07/2017 ruteshejwe agaciro. Rutegeka ko urubanza RCA00178/2016/HC/KIG rukomeza kuburanishwa n'Urukiko Rukuru ku gice cy'ikiburanwa cyasigaye nyuma y'icyemezo cyo ku wa 18/07/2016, kijyanye n'igabana ry'umutungo wasizwe na Nzamurambaho Antoine ndetse n'uwo yari afatanyije n'umugore we Mwiseneza Marie Laetitia kuko nta cyemezo cyagifashweho, hagakorwa ibarura ryawo, raporo ijyanye nabyo igashyikirizwa Urukiko. Urukiko rw'Ubujurire rukaba rwarafashe icyo cyemezo kubera inenge urwo rubanza rwari rufite yo kuburanishwa hiregangijwe ingingo ya 18 igika cya 2 y'amabwiriza ya Perezida w'Urukiko rw'Ikirenga yakurikizwaga igihe urubanza rwaburanishwaga, ubu yasimbuwe n'ingingo ya 74 igika cya 2 y'itegeko Nº 22/2018 ryo kuwa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, iteganya ko Muri icyo gihe, iburanisha rikomereza aho ryari rigeze, kandi ibyemezo byafashwe mu rubanza bikagumana agaciro kabyo

[11] Nyuma yuko urubanza rusubiye mu Rukiko Rukuru, kugira ngo ruburanishwe ku gice cy'ikiburanwa cyasigaye nyuma y'icyemezo cyo ku wa 18/07/2016, rwahawe RCA00008/2020/HC/KIG. Mu iburanisha ryarwo, Mukaminega Epiphanie uhagarariye abana be n'abamwunganira basobanuye ko ibarura ry'imitungo igomba kuzungurwa ryakozwe naho Mwiseneza Marie Laetitia n'abamwunganira bo bagaragaza ko hagomba kuzungurwa umutungo wa Nzamurambaho Antoine uhari ubu, ko hatagomba kurebwa imitungo yariho ubwo yitabaga Imana muri 2013, kuko imitungo bavuga itanditse kuri Nzamurambaho Antoine cyangwa kuri we na Mwiseneza Marie Laetitia, ko ari imitungo bwite y'abayifite ubu.

[12] Ku wa 06/11/2020, Urukiko Rukuru rwakijije urwo rubanza, maze rwemeza ko ubujurire bwatanzwe na Mukaminega Epiphanie uhagarariye abana be Nzamurambaho Daniella Antoinette, Nzamurambaho Ginette na Nzamurambaho Teta Gislaine bufite ishingiro kuri bimwe, ko imikirize y'urubanza RC 0288/15/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ihindutse kuri byose.

[13] Urukiko Rukuru rwemeje ko imitungo igomba kugabanwa n'abagize umuryango wa Nzamurambaho Antoine ari imitungo itimukanwa ibaruye ku buryo bukurikira:

UPI: 1/02/09/01/2264, uherereye mu Karere ka Gasabo mu Murenge wa Kimironko;

UPI: 5/01/12/01/914, uherereye mu Karere ka Rwamagana mu Murenge wa Nyakariro,

UPI: 1/02/02/03/47, uherereye mu Karere ka Gasabo mu Murenge wa Gatsata;

UPI: 3/01/03/02/3875,uherereye mu karere ka Karongi mu Murenge wa Gishyita;

UPI: 1/02/02/03/46, uherereye mu Karere ka Gasabo mu Murenge wa Gatsata;

UPI: 1/02/02/03/45, uherereye mu Karere ka Gasabo mu Murenge wa Gatsata;

UPI: 3/01/03/02/3348, uherereye mu Karere ka Karongi mu Murenge wa Gishyita;

UPI: 1/02/02/03/1569, uherereye mu Karere ka Gasabo mu Murenge wa Gatsata;

UPI: 1/02/09/03/500, uherereye mu Karere ka Gasabo mu Murenge wa Kimironko;

UPI: 1/02/09/01/2263, uherereye mu Karere ka Gasabo mu Murenge Kimironko;

UPI: 1/02/09/01/1502, uherereye mu Karere ka Gasabo mu Murenge wa Kimironko;

UPI: /02/02/01/5, uherereye mu Karere ka Gasabo mu Murenge wa Gatsata;

UPI: 3/01/03/03/1686, uherereye mu Karere ka Karongi mu Murenge wa Gishyita;

UPI: 3/01/03/03/1716, uherereye mu Karere ka Karongi mu Murenge wa Gishyita;

UPI: 3/01/03/03/1758, uherereye mu Karere ka Karongi mu Murenge wa Gishyita;

UPI: 3/01/03/03/3064, uherereye mu Karere ka Karongi mu Murenge wa Gishyita;

UPI: 3/01/03/03/3049, uherereye mu Karere ka Karongi mu Murenge wa Gishyita;

UPI: 3/01/03/03/3181, uherereye mu Karere ka Karongi mu Murenge wa Gishyita;

UPI: 3/01/03/03/3185, uherereye mu Karere ka Karongi mu Murenge wa Gishyita;

UPI: 3/01/03/03/3190, uherereye mu Karere ka Karongi mu Murenge wa Gishyita;

UPI: 3/01/03/03/3196; uherereye mu Karere ka Karongi mu Murenge wa Gishyita;

UPI: 3/01/03/03/3904; uherereye mu Karere ka Karongi mu Murenge wa Gishyita;

UPI: 1/03/06/01/331, buherereye mu Karere ka Kicukiro mu Murenge wa Kicukiro.

[14] Rwemeje kandi ko hagabanwa imitungo yimukanwa igizwe n'imodoka zikurikira: RAD161K, RAD695I, RAC034T, RAC738N, RL0923, RAC198C, RL0653, RL0599, RL0486, RL0791, RAD663B, RAA675B, RAB831A. Rwemeza na none ko hagabanwa imigabane MWISENEZA Marie Laetitia afite muri Blessing Journey Limited, KAURWA Ltd na New Finest Traders Ltd.

[15] Urukiko Rukuru rutegeka ko iyo mitungo imaze kuvugwa haruguru yose igabanwa uko iri, ½ cy'iyo mitungo kigahabwa umugore w'isezerano wa Nzamurambaho Antoine witwa Mwiseneza Marie Laetitia naho ikindi ½ kikagabanwa ku buryo bungana n'abana bose ba Nzamurambaho Antoine aribo Nzamurambaho Julien, Nzamurambaho Junine, Nzamurambaho Julie, Nzamurambaho Juliette, Nzamurambaho Jules, Nzamurambaho Daniella Antoinette, Nzamurambaho Ginette na Nzamurambaho Teta Ghislaine, haba hari umutungo udashobora kugabanywa uko bikwiye, abazungura bakumvikana uburyo bwo kuwucunga no kugabana inyungu, ibi byaramuka bidashobotse, uwo mutungo ukagurishwa, ariko abazungura bakaba ari bo bagira uburenganzira bwo kuba babigura mbere y'undi muntu wese.

[16] Tariki ya 04/12/2020, Mukaminega Epiphanie, uhagarariye abana be yajuririye Urukiko rw'Ubujurire, ubujurire bwe bwandikwa kuri RCAA00031/2020/CA, anenga Urukiko Rukuru kuba rwaremeje ko Mwiseneza Laetitia ahabwa ½ cy'imitungo yose yasizwe na nyakwigendera kandi igihe izungura ryatangiraga atari afite ubwo burenganzira, hashingiwe ku itegeko rirebana n'izungura ryakurikizwaga icyo gihe, ko rwirengagije imwe mu mitungo itimukanwa yasizwe na Nzamurambaho Antoine kandi yarakorewe igenagaciro ikanashyirwaho itambama, ko rwirengagije imigabane Nzamurambaho Antoine yari afite mu masosiyete no mu makoperative atandukanye Mwiseneza Laetitia yikubiye, ko ntacyo rwavuze ku mitungo yimukanwa igizwe n'amakonti ya banki, umusaruro uva mu bukode bw'amazu atandukanye, uva mu bworozi n'ubuhinzi kandi kugeza ubu ibiciro byatanzwe na Mukaminega Epiphanie bikaba bitarigeze bivuguruzwa na Mwiseneza Marie Laetitia uhagarariye abana be, ko ntacyo rwavuze ku birebana n'imwe mu mitungo Mwiseneza Marie Laetitia yatanzeho ingwate muri banki agamije kuyihuguza abazungura bo ku ruhande rwa Mukaminega Epiphanie no ku yo yagiye agurisha rwihishwa imanza zirebana nayo zikiburanwa, ko ntacyo rwavuze ku bana ba Mwiseneza Marie Laetitia basanzwe ari abanyamigabane muri sosiyete zitandukanye zashinzwe na Mwiseneza Marie Laetitia agamije guhishamo imitungo, asaba Urukiko rw'Ubujurire kwita ku gaciro k'umuryango (Consideration des valeurs familiale ou sociale), gusigasira umuco n'icyubahiro n'agaciro k'izina ry'umuryango wa Nzamurambaho Antoine. Asoza asaba indishyi zitandukanye.

[17] Ku wa 05/12/2020, Mwiseneza Marie Laetitia, uhagarariye abana be yajuririye Urukiko rw'Ubujurire, ubujurire bwe bwandikwa kuri RCAA00032/2020/CA, avuga ko Urukiko Rukuru rwirengagije inzitizi y'iburabubasha bw'Urukiko bwo kutaburanisha urubanza ku cyaciriweho urubanza, ko inteko y'iburanisha yirengagije inzitizi yo kwanga gutangiza iburanisha ry'urubanza bundi

bushya nk'uko byasabwe na Mwiseneza Marie Laetitia hashigiwe ku ngingo ya 74 igika cya 3 y' itegeko No 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ko inteko yaburanishije urubanza RCA00008/2020/HC/KIG yihaye ububasha bwo gufata icyemezo ku kirego cyo kwihana umucamanza mu kwemeza ko iburanisha rikomeza hatabanje gufatwa icyemezo ku bwihane bw'umucamanza wari watangiye urubanza, ko Urukiko Rukuru rwakomereje iburanisha ku cyemezo cyafashwe mu rubanza RCA 00178/2016/HC/KIG cyo ku wa 18/07/2016 cyo kuburanisha urubanza mu mizi ku rwego rw'ubujurire ikirego kitaburanweho mu mizi ku rwego rwa mbere mu Rukiko Rwisumbuye rwa Gasabo, ko rwaciye urubanza ku kitaregewe (ultra petita) rwemeza ko irage ryakozwe na Nzamurambaho Antoine riteshejwe agaciro kandi atari cyo cyaregewe ku rwego rwa mbere, ko kandi rwirengagije ingingo za 94, 101 na 95 z'itegeko N° 27/2016 ryo ku wa 08/07/2016 rigenga umutungo w'abashyingiranwe, impano n'izungura maze rukemeza ko hazungurwa imitungo itakiriho n'itagihari. Mu gusoza asaba indishyi zitandukanye.

[18] Iburanisha ryabereye mu ruhame ku wa 09/03/2021 Mukaninega Epiphanie yitabye yunganiwe na Me Nkaninka Alimasi na Me Kananga Protogène naho Mwiseneza Marie Laetitia yunganiwe na Me Ngirumpetse Jean Marie Vianney na Me Nkurunziza François Xavier, uwo munsi iburanisha ryarasubitswe kugirango ababuranyi bajye kumvikana, ryimurirwa ku wa 21/04/2021, ariko ubwumvikane ntibwashoboka, kuri iyo tariki ya 21/04/2021 iburanisha ryagiye ryimurwa ku mpamvu no ku matariki bitandukanye, kugeza ubwo ku wa 27/04/2021, iburanisha ryasubukuwe ribera mu ruhame Mukaminega Epiphanie uhagarariye abana be yunganiwe na Me Nkanika Alimasi na Me Kananga Protogène, naho Mwiseneza Marie Laetitia uhagarariye abana be yunganiwe na Me Ngirumpetse Jean Marie Vianney na Me Nkurunziza François Xavier.

[19] Mbere y'uko urubanza ruburanishwa Me Jean Marie Vianney Ngirumpetse yasobanuye ko batanze inzitizi ndemyagihugu ebyiri, ijyanye n'uko Inkiko zabanje nta bubasha zari zifite bwo kuburanisha izungura n'ijyanye n'izungura mu gihe umwe mu bashakanye akiriho. Ariko Urukiko nyuma yo kubisuzuma rwasanze uru Rukiko rufite ububasha bwo gusuzuma mu mizi ubujurire bwatanzwe, iburanisha rirakomeza, ariko riza gusubikwa kugirango abana urubanza rwatangiye bahagarariwe n'ababyeyi babo ubu bakaba barakuze batange uburenganzira bwo guhagararirwa cyangwa biburanire, iburanisha ryimurirwa ku wa 09/06/2021, uwo munsi ugeze, iburanisha ribera mu ruhame, Mukaminega Epiphanie uhagarariye Nzamurambaho Teta Gislaine yunganiwe na Me Nkanika Alimasi na Me Kanaga Prothegene bahagarariye Nzamurambaho Daniella Antoinette na Nzamurambaho Ginette, Mwiseneza Marie Laectitia uhagarariye Nzamurambaho Julie, yunganiwe na Me Ngirumpetse na Me Nkurunziza françois Xavier, aba bombi bakaba bahagarariye Nzamurambaho Julien, Nzamurambaho Jlues, Nzamurambaho Juliette na Nzamurambaho Junine, bamenyeshwa ko urubanza rwabo ruzasomwa ku wa 02/07/2021, uwo munsi isomwa ryimurirwa ku wa 16/07/2021.

[20] Nyuma yo kumva imiburanire y'impande zose muri uru rubanza, Urukiko rwatangaje ko urubanza ruzasomwa ku wa 02/07/2021, uwo munsi ntirwasomwa kubera ko hari ibyari bigisuzumwa, isomwa ryarwo ryimurirwa ku wa 16/07/2021, ariko mu gusesengura ibigize dosiye, Urukiko rusanga mbere yo guca uru rubanza rugomba kubanza gusobanukirwa ibi bikurikira:

> Kumenya ubwo Nzamurambaho Antoine mwene Munyarubibi Jean na Mukakarara Thérèse yapfaga ku wa 15/08/2013, uwari wanditseho imitungo ibaruye kuri UPI: 1/02/09/01/1870, uherereye mu Karere ka Gasabo,Umurenge wa Kimironko, Akagari ka Bibare, Umudugudu wa Umwezi, UPI: 1/02/11/04/2101, uherereye mu Karere ka Gasabo,Umurenge wa Ndera, Akagari ka Masoro, Umudugudu wa Munini, UPI: 1/02/09/01/1088, uherereye mu Karere ka Gasabo,Umurenge wa Kimironko, Akagari ka Kibagabaga, Umudugudu wa Inyamibwa, UPI: 1/02/09/02/2950, uherereye mu Karere ka Gasabo,Umurenge wa Kimironko, Akagari ka Kibagabaga, Umudugudu wa Akintwari na UPI: 5/01/12/01/813, uherereye mu Karere ka Rwamagana,Umurenge wa Nyakaliro, Akagari ka Bihembe, Umudugudu wa Bihembe. .

Kumenya inkomoko y'amafaranga yaguzwe New Finest Traders Ltd ihagarariwe na Mwiseneza Marie Laetitia ku wa 31/07/2017 no kumenya ingano y'amafaranga ava mu musaruro uturuka muri urwo ruganda.

Kumenya inkomoko ya sosiyete KAURWA Ltd na Blessing Journey Ltd n'inkomoko y'amafaranga yazitangije n'ingano y'umusaruro wazo;

Kumenya umutungo utimukanwa wari ubaruye kuri Nzamurambaho Antoine ku giti cye, uwari umwanditseho we na Mwiseneza Marie Latitia n'uwari wanditse kuri Mwiseneza Marie Laetitia wenyine kugeza ku wa 15/08/2013, abo wanditseho uyu munsi, n'agaciro nyakuri k'uwo mutungo;

Kumenya amategeko shingiro n'amategeko ngengamikorere ya Koperative Icyerekezo uko yari ari mu mwaka wa 2013 n'iherezo ry'imigabane ya Nzamurambaho Antoine muri iyo Koperative Kumenya imigabane Nzamurambaho Antoine yari afite muri BRALIRWA SA kugeza ku wa 15/08/2013 n'iherezo ryayo nyuma y'urupfu rwe;

Kumenya Konti Nzamurambaho Antoine mwene Munyarubibi Jean na Mukakarara Therese yari afite mu ma Banki yo mu gihugu no mu bigo by'imari iciriritse (microfinances) mu Rwanda ubwo yapfaga ku wa 15/08/2013, konti yari afatanyije n'umugore we mwiseneza Marie Laetitia mwene Zigiranyirazo Callixte na Kantarama Bonifrida n'izo Mwiseneza Marie Laetitia ubwe yari afite muri ayo mabanki n'ibigo by'imari iciriritse (microfinances), amafaranga yari ari kuri ayo makonti, n'aho yagiye mu gihe yaba atagihari;

Kumenya agaciro ka sosiyete New Finest Traders Ltd, Blessing Journey Limited na KAURWA Ltd zifite ubu.

Kumenya agaciro k'umusaruro uva mu bukode bw'amazu n'uva mu bworozi n'ubuhinzi byasizwe na Nzamurambaho Antoine;

Kumenya agaciro k'imigabane ya Nzamurambaho Antoine yari iri muri KCB Bank ikaza kwegurirwa Mwiseneza Marie Laetitia;

[21] Urukiko rwasanze kugirango amakuru akenewe kuri iyi mitungo yavuzwe haruguru aboneke, ababuranyi, inzego za Leta n'iz'abikorera ku giti cyabo zifite mu nshingano zazo kwandika cyangwa kubika imitungo yimukanwa n'itimukanwa, zigomba gusabwa gushyikiriza Urukiko amakuru n'ibimenyetso byose bikenewe.

ICYEMEZO CY'URUKIKO

[22] Rwemeje ko Mwiseneza Marie Laetitia agomba kugaragariza Urukiko ibimenyetso by'inkomoko y'amafaranga yaguzwe New Finest Traders Ltd n'iby' umusaruro uturuka muri urwo ruganda;

[23] Rutegetse Mwiseneza Marie Laetitia kugaragariza Urukiko inkomoko ya sosiyete KAURWA Ltd na Blessing Journey Limited, inkomoko y'amafaranga yazitangije n'umusaruro uzivamo;

[24] Rwemeje ko sosiyete New Finest Traders Ltd, Blessing Journey Limited na KAURWA Ltd zikorerwa igenagaciro mu rwego rwo kumenya agaciro buri imwe ifite ubu;

[25] Rutegetse Mwiseneza Marie Laetitia kugaragariza Urukiko amakonti yahawe gucunga mu rubanza RC 1191/13/TB/KYC rwaciwe ku wa 01/11/2013 n'Urukiko Rw'Ibanze rwa Kacyiru, ba nyiri ayo makonti, n'umubare w'amafaranga yari kuri buri konti icyo gihe, n'aho ayo mafaranga herereye ubu;

[26] Rutegetse Mwiseneza Marie Laetitia kugaragariza Urukiko umusaruro uva mu bukode bw'amazu n'uva mu bworozi n'ubuhinzi byasizwe na Nzamurambaho Antoine n'aho amafaranga ava muri uwo musaruro aherereye ubu;

[27] Rutegetse Koperative Icyerekezo Gatsata gushyikiriza Urukiko, amategeko shingiro yayo uko yari ari ku wa 15/08/2013 ndetse n'amategeko ngengamikorere yagenderagaho icyo gihe;

[28] Rutegetse ko Ikigo cy' Imisoro n'Amahoro (RRA) kigomba kugaragariza Urukiko abo imodoka RAD161K, RAD695I, RAC034T, RAC738N, RL0923, RAC198C, RL0653, RL0599, RL0486, RL0791, RAD663B, imodoka RAA675B yanditse kuri New Finest Traders Ltd n'imodoka RAB831A yanditse kuri Mwiseneza Marie Laetitia, zari zanditseho ku wa 15/08/2013, no kurugaragariza imodoka zose zari zanditse kuri Nzamurambaho Antoine no kuri Mwiseneza Marie Laetitia kugeza ku wa 15/08/2013 n'abo izo modoka zanditseho uyu munsi;

[29] Rutegetse ko imodoka zanditswe kuri sosiyete KAURWA Ltd arizo RAD161K, RAD695I, RAC034T, RAC738N, RL0923, RAC198C, RL0653, RL0599, RL0486, RL0791, RAD663B, imodoka RAA675B yanditse kuri New Finest Traders Ltd n'imodoka RAB831A yanditse kuri Mwiseneza Marie Laetitia zikorerwa igenagaciro;

[30] Rutegetse Ikigo cy'Igihugu gishinzwe imikoreshereze n'imicungire y'Ubutaka (National Land Center) kugaragariza Urukiko umutungo utimukanwa wose wari ubaruye kuri Nzamurambaho Antoine ku giti cye, uwari umwanditseho we na Mwiseneza Marie Laetitia n'uwari wanditse kuri Mwiseneza Marie Laetitia wenyine kugeza ku wa 15/08/2013;

[31] Rutegetse Ikigo cy'Igihugu gishinzwe gishinzwe imikoreshereze n'imicungire y'Ubutaka (National Land Center) kugaragariza Urukiko amazina y'abo imitungo ibaruye kuri UPI: 1/02/09/01/1870, UPI: 1/02/11/04/2101, UPI: 1/02/09/01/1088, UPI: 1/02/09/02/2950 na UPI: 5/01/12/01/813 yari yanditseho kugeza ku wa 15/08/2013 n'igihe yandikiwe kubo yanditweho ubu;

[32] Rutegetse ko imitungo ibaruye kuri UPI: 1/02/09/01/1870, uherereye mu Karere ka Gasabo,Umurenge wa Kimironko, Akagari ka Bibare, Umudugudu wa Umwezi, UPI: 1/02/11/04/2101, uherereye mu Karere ka Gasabo,Umurenge wa Ndera, Akagari ka Masoro, Umudugudu wa Munini, UPI: 1/02/09/01/1088, uherereye mu Karere ka Gasabo,Umurenge wa Kimironko, Akagari ka Kibagabaga, Umudugudu wa Inyamibwa, UPI: 1/02/09/02/2950, uherereye mu Karere ka Gasabo,Umurenge wa Kimironko, Akagari ka Kibagabaga, Umudugudu wa Akintwari na UPI: 5/01/12/01/813, uherereye mu Karere ka Rwamagana,Umurenge wa Nyakaliro, Akagari ka Bihembe, Umudugudu wa Bihembe, ikorerwa igenagaciro;

[33] Rutegetse Bralirwa SA kugaragariza Urukiko agaciro k'imigabane Nzamurambaho Antoine yari afite muri Bralirwa SA no kwerekana iherezo ryayo kuva aho Nzamurambaho Antoine apfiriye ku wa 15/08/2013;

[34] Rutegetse KCB Bank kumenyesha Urukiko agaciro k'imigabane Nzamurambaho Antoine yari afite muri iyo Banki, ku wa 15/08/2013, n'amaherezo yayo kugeza ubu;

[35] Rutegetse Banki Nkuru y'Igihugu (BNR), kumenyera no gushyikiriza Urukiko konti Nzamurambaho Antoine mwene Munyarubibi Jean na Mukakarara Thérèse yari afite mu ma Banki yo mu gihugu no mu bigo by'imari iciriritse (microfinances) ubwo yapfaga ku wa 15/08/2013, konti yari afatanyije n'umugore we Mwiseneza Marie Laetitia mwene Zigiranyirazo Callixte na Kantarama Bonifrida n'izo Mwiseneza Marie Laetitia ubwe yari afite muri ayo mabanki n'ibigo by'imari iciriritse (microfinances), amafaranga yari ari kuri ayo makonti, n'aho yagiye mu gihe yaba atagihari;

[36] Rutegetse Ubwanditsi bw'Urukiko kumenyesha ababuranyi hakoreshejwe ikoranabuhanga, amazina y'abagenagaciro 3 bari ku rutonde rw'abagenagaciro rwemejwe na BNR, bagahitamo umwe Urukiko ruzaha inshingano yo kugena agaciro k'imitungo yagaragajwe muri iki cyemezo, kandi ko nibadashobora kugeza ku Rukiko uwo bumvikanyeho bitarenze ku wa 06/08/2021, Urukiko ruzamugena hakoreshejwe ikoranabuhanga, ababuranyi bakagaragaza icyo bamuvugaho hifashishijwe IECMS, byagaragara ko nta kibazo bamufiteho rukamuha inshingano zizagaragazwa mu cyemezo kimushyiraho kikanagena igihe agomba kuba yarangije gukora ibyo asabwa n'igihe ababuranyi bazaba bafite cyo kugira icyo babivugaho, byose bigakorwa hifashishijwe ikoranabuhanga rya IECMS;

[37] Ruvuze ko ibyategetswe n'Urukiko byose byavuzwe haruguru bigomba kuba byarushyikirijwe bitarenze ku wa 30/09/2021;

[38] Rwemeje ko iburanisha ry'uru rubanza rizongera gupfundurwa ku munsi ababuranyi bazamenyeshwa n'Ubwanditsi bw'Urukiko hakoreshejwe ikoranabuhanga;

[39] Ruvuze ko amagarama y'urubanza abaye asubitswe.