RUHUMURIZA v. NYIRABIHOGO N'ABANDI

[Rwanda URUKIKO RW'UBUJURIRE – RCAA00010/2022/CA CMB RCAA 00017/2022/CA (Munyangeri, P.J.) 30 Mutarama 2023]

Amategeko agenga imanza z'imbonezamubano – Ubutaka – Ubugure bw'ubutaka bw'abashyingiranywe mu buryo bw'ivangamutungo rusange – Ntabwo umwe mu bashakanye basezeranye ivangamutungo rusange yavuga ko yagurishije Umutungo hakozwe inyandiko bwite mbere yuko ashakana nuwo bawusangiye nyamara amasezerano y'ubugure yakorewe imbere ya Noteri yarakozwe baramaze gushyingirwa mu buryo bwemewe n'amategeko kuko niyo yemewe.

Amategeko agenga imiburanishirize y'imanza mbonezamubano – Gusesengura ibimenyetso – Ntabwo byakwitwa ko Urukiko rwivuguruje hashingiwe gusa ko rwagereranyije amasezerano agibwaho impaka kugirango hamenyekane akwiye guhabwa agaciro.

Amategeko agenga imiburanishirize y'imanza mbonezamubano – Amasezerano – Itegeko rikurikizwa mu gihe havutse impaka ku masezerano – Itegeko rikurikizwa mu bijyanye n'amasezerano ni iryakururikizwaga igihe amasezerano yashyirwagaho umukono. Bityo, kuba Itegeko ryahinduka nyuma yuko abantu bagiranye amasezerano, hakurikizwa Itegeko ryakurikizwaga igihe amasezerano bayashyiragaho umukono.

Incamake y'ikibazo: Uru rubanza rwatangiye Nyirabihogo arega Ruhumuriza mu Rukiko Rwisumbuye rwa Gasabo asaba Urukiko ko rwamutegeka kugarura imitungo itimukanwa mu Mutungo w'umuryango wabo bombi kuko ngo yayanditse ku bandi bantu ashingiye ku masezerano y'uburiganya bakoranye agamije kumuhuguza umutungo bashakanye biciye mu rubanza rw'ubutane. Urukiko Rwisumbuye rwemeje mu rubanza RC00329/2020/TGI/GSBO ko ikirego cya Nyirabihogo nta shingiro gifite, kuko ngo imitungo itimukanwa uyu asaba, umugabo we yayigurishije batarashyingiranwa, bivuze ko itari yakabaye iyabo bombi.

Nyirabihogo ntiyanyuzwe n'iki cyemezo akijuririra mu Rukiko Rukuru avuga ko ku rwego rwa mbere urukiko rutahaye agaciro ibisobanuro n'ibimeyetso yatanze.

Ruhumuliza n'umwunganira bisobanura bavuga ko urukiko rwaciye uru rubanza ku rwego rwa mbere nta kosa rwakoze, bavuga ko Ruhumuriza yagurishije imitungo iburanwa mbere yuko asezerana na Nyirabihogo kandi ko imwe muri iyo mitungo imaze kugurishwa inshuro nyinshi.

Urukiko Rukuru mu rubanza RCA00161/2021/HC/KIG rwemeje ko amasezerano y'ubugure agaragazwa nk'inyandiko bwite Ruhumuliza yagiranye n'abaguze imitungo iburanwa avuga ko yakozwe mbere yuko ashyingiranwa na Nyirabihogo, atahabwa agaciro kurusha amasezerano akorerwa imbere ya noteri w'ubutaka mbere y'uko ''mutation'' ikorwa, aya masezerano akorerwa imbere ya noteri niyo akorwa ugurisha n'ugura buzuza ''form'' yabigenewe, kandi yo akaba yarakozwe nyuma yuko asezerana na Nyirabihogo. Bityo, imitungo iburanwa ikaba igomba gusubira mu mutungo rusange wa Nyirabihogo na Ruhumuriza kuko ubwo bugure Nyirabihogo atabumenye.

Ruhumuriza yajuririye icyo cyemezo mu Rukiko rw'Ubujurire, avuga ko mu gufata icyemezo, Urukiko Rukuru rwivuguruje ku bimenyetso by'amasezerano y'ubugure yarushyikirije, runafata icyemezo rugenekereje. Rwihaniza na Byiringiro na bo nkabaguze umutungo uburanwa, bajuririye icyo cyemezo mu Rukiko rw'Ubujurire, bavuga ko mu gufata icyemezo Urukiko Rukuru rwashingiye ku itegeko N° 27/2021 ryo ku wa 10/06/2021 rigenga ubutaka, aho gushingira ku itegeko N° 43/2013 ryo ku wa 16/06/2013 rigenga ubutaka, ryakoreshwaga igihe hakorwaga amasezerano y'ubugure. Imanza zombi zahurijwe hamwe kuri RCAA00010/2022/CA CMB RCAA 00017/2022/CA.

Ku bijyanye no Kumenya niba Urukiko Rukuru rwarivuguruje ku byerekeye amasezerano y'ubugure bw'imitungo itimukanwa rwemeje ko nta kwivuguraza kwabayeho ahubwo ko icyo Urukiko rwakoze

ari ukugereranya amasezerano yakozwe hifashishijwe inyandiko bwite n'ayakorewe imbere ya Noteri w'ubutaka rugamije kumenya ayo rugomba guha agaciro.

Ku bijyanye no kumenya niba Urukiko Rukuru rwarirengagije ibimenyetso byatanzwe na Ruhumuriza

Rwemeje ko nta bimenyetso byirengagijwe n'Urukiko Rukuru mu gufata icyemezo, kuko rwabisesenguye rukanabikorera igereranya mu rwego rwo kumenya ibigomba guhabwa agaciro kuruta ibindi.

Ku bijyanye no kumenya niba Urukiko Rukuru rwaraciye urubanza mu buryo bugenekereje, Urukiko rw'Ubujurire rwemeje ko nta kibazo cyo kugenekereza kiri mu rubanza rujuririrwa, kuko ikibazo nyamukuru cyasuzumwaga, cyarebanaga n'ihinduranyamutungo Nyirabihogo avuga ko ryakorewe ku mitungo yari asangiye na Ruhumuriza atabigizemo uruhare kandi mu gihe cyo gushyingirwa barahisemo uburyo bwo gucunga umutungo bw'ivangamutungo rusange.

Ku bijyanye no Kumenya Itegeko rikwiye gushingirwaho mu gusuzuma agaciro k'amasezerano yo ku wa 15/07/2017, Urukiko rwemeje ko mu rubanza rujuririrwa ntaho Urukiko rwakoresheje Itegeko N˚27/2021 ryo rigenga ubutaka mu Rwanda ahubwo rwakoresheje Iteka rya Minisitiri N˚ 002/2008 rigena uburyo bw'iyandikishwa ry'ubutaka ryariho igihe ayo masezerano yakorwaho.

Urukiko rwemeje kandi ko urubanza RS/INJUST/RC00010/2019/SC rwifashishijwe mu rubanza rujuririrwa ruhuye n'icyaburanwaga bitandukanye nibyo abajuriye bavuga.

Incamake y'icyemezo:1. Ntabwo byakwitwa ko Urukiko rwivuguruje hashingiwe gusa ko rwagereranyije amasezerano agibwaho impaka kugirango hamenyekane akwiye guhabwa agaciro.

2. kuba umwe mu bashakanye ivangamutungo rusange yagurisha imitungo imwanditseho wenyine hisunzwe amasezerano bwite nyamara ntabimenyeshe uwo bashyiranywe, hanyuma agakora ihinduranyamutungo yarahinduye irangamimerere, nabwo ntabimenyeshe uwo bashakanye, ayo masezerano agomba guteshwa agaciro kuko bose bagomba kuyagiramo uruhare.

3. Itegeko rikurikizwa mu bijyanye n'amasezerano ni iryakururikizwaga igihe amasezerano yashyirwagaho umukono. Bityo, kuba Itegeko ryahinduka nyuma yuko abantu bagiranye amasezerano, hakurikizwa Itegeko ryakurikizwaga igihe amasezerano bayashyiragaho umukono.

4. Ntabwo Urukiko ruba rwagenekereje mu guca urubanza mu gihe rwifashishije umurongo wafashwe mu rundi rubanza rwakemuye ikibazo nyamukuru n'ubundi kigaragara mu rubanza rusuzumwa.

Ubujurire nta shingiro bufite.
Urubanza rwajuririwe ntiruhindutse.

Amategeko yashingiweho:

Iteka rya Minisitiri N˚ 002/2008 ryo ku wa 01/04/2008 rigena uburyo iyandikishwa ry'ubutaka rikorwa, ingingo 34.

Itegeko N˚ 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo ya 2, 6.

Itegeko N°27/2016 ryo ku wa 08/07/2016 ryerekeye imicungire y'umutungo w'abashyingiranywe, impano n'izungura, ingingo ya 5.

Itegeko Nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 111

Imanza zifashishijwe:

Urubanza RS/INJUST/RC 00010/2019/SC rwa Twizerimana V. Manizabayo Kennedy rwaciwe n'Urukiko rw'Ikirenga kuwa 25/09/2020

Urubanza

I. IMITERERE Y'URUBANZA

[1] Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Gasabo, Nyirabihogo Aline arega RUHUMURIZA Richard, asaba ko umutungo basangiye ugarurwa mu mutungo rusange w'umuryango. Asobanura ko bashakanye ku wa 06/07/2019, uburyo bw'imicungire y'umutungo bahitamo ivangamutungo rusange, bakaba bafite imitungo ibaruye kuri UPI: 1/02/14/03/1017, UPI: 1/02/14/03/1025 na UPI: 5/07/10/05/4075, ko baje kugirana amakimbirane kugeza ubwo umugabo atanze ikirego asaba ubutane bwa burundu, amaze kugitanga atangira kwikuraho imitungo itimukanwa ayandika ku bandi bantu, aho imitungo ibaruye kuri UPI: 1/02/14/03/1017 na UPI: 1/02/14/03/1025 yayandikishije kuri Rwihaniza Jonas, umutungo ubaruye kuri UPI: 5/07/10/05/4075 awandikisha kuri Byiringiro Samuel, na ho iyimukanwa ayijyana iwabo.

[2] Mu rubanza RC00329/2020/TGI/GSBO rwaciwe ku wa 14/05/2021, Urukiko rwemeje ko ikirego cya NYIRABIHOGO Aline nta shingiro gifite, ko nta kigaragaza ko imitungo itimukanwa aregera yayisanganye umugabo we, rwemeza ko umutungo wimukanwa uvugwa mu gika cya 28 cy'urubanza ugaruka mu rugo (mu gika cya 28 hasobanurwa ko uwo mutungo ugaragara ku nyandiko y'Akagari yo ku wa 04/07/2020).

[3] Mu gufata icyemezo, Urukiko rwashingiye ku kuba Ruhumuriza Richard yaragurishije imitungo itimukanwa Nyirabihogo Aline aregera batarabana, byumvikanisha ko yari itaraba iyabo bombi.

[4] Nyirabihogo Aline yajuririye icyo cyemezo mu Rukiko Rukuru, avuga ko Urukiko rubanza rutahaye agaciro ibisobanuro yatanze ku bimenyetso n'imiburanire bya Ruhumuriza Richard. Kuri uru rwego hagobokeshejwe Rwihaniza Jonas na Byiringiro Samuel, ku munsi w'iburanisha ntibitaba Urukiko, urubanza ruburanishwa badahari.

[5] Mu rubanza RCA00161/2021/HC/KIG rwaciwe ku wa 31/03/2022, Urukiko Rukuru rwemeje ko ubujurire bwa Nyirabihogo Aline bufite ishingiro, rutegeka ko imitungo iburanwa ibaruye kuri UPI: 1/02/14/03/1017, UPI: 1/02/14/03/1025 na UPI: 5/07/10/05/4075 yandukurwa ku bayiguze, ikandikwa kuri Nyirabihogo Aline na Ruhumuriza Richard, rutegeka ko amagarama y'urubanza aherera kuri Ruhumuriza Richard.

[6] Mu gufata icyo cyemezo, Urukiko rwasanze amasezerano y'ubugure Ruhumuriza Richard yagiranye n'abo avuga ko yagurishije umutungo utimukanwa uburanwa, yakorewe imbere ya Noteri ari yo agomba guhabwa agaciro, na ho amasezerano yakorewe mu nyandiko bwite akaba nta gaciro akwiye guhabwa, rwabonye kandi ko amasezerano afite agaciro yakozwe Ruhumuriza Richard yaramaze gusezerana na Nyirabihogo Aline ivangamutungo rusange, mu kujya gukora ayo masezerano ntiyigera abimumenyesha ngo yemere ibiyakubiyemo ndetse anabisinyire, rwanzura ko uwo mutungo ugomba kugarurwa mu mutungo w'umuryango kubera ko isezerano ryo gucunga umutungo mu buryo bw'ivangamutungo rusange, ryakozwe mbere y'amasezerano y'ubugure yakorewe imbere ya Noteri.

[7] Ku wa 21/04/2022, Ruhumuriza Richard yajuririye icyo cyemezo mu Rukiko rw'Ubujurire, ubujurire bwe bwandikwa kuri RCAA00010/2022/CA, avuga ko mu gufata icyemezo, Urukiko Rukuru rwivuguruje ku bimenyetso by'amasezerano y'ubugure yarushyikirije, runafata icyemezo rugenekereje.

[8] Ku wa 25/04/2022, Rwihaniza Jonas na Byiringiro Samuel na bo bajuririye icyo cyemezo muri uru Rukiko, ubujurire bwabo bwandikwa kuri RCAA00017/2022/CA, bavuga ko mu gufata icyemezo Urukiko Rukuru rwashingiye ku itegeko n° 27/2021 ryo ku wa 10/06/2021 rigenga ubutaka, aho gushingira ku itegeko n° 43/2013 ryo ku wa 16/06/2013 rigenga ubutaka, ryakoreshwaga igihe

hakorwaga amasezerano y'ubugure. Imanza zombi zahurijwe hamwe kuri RCAA00010/2022/CA CMB RCAA00017/2022/CA.

[9] Iburanisha ry'urubanza ryashyizwe ku wa 03/10/2022, uwo munsi ugeze umunyamategeko wunganira Ruhumuriza Richard ntiyashobora kuboneka, ryimurirwa ku wa 13/10/2022, uwo munsi iburanisha ribera mu ruhame, Ruhumuriza Richard yunganiwe na Me Rugeyo Jean, Nyirabihogo Aline yunganiwe na Me Mukunzi Jean Marie Vianney, Rwihaniza Jonas ahagarariwe na Me Tuyisenge Tito Théogēne, Byiringiro Samuel ahagarariwe na Me Sebusandi Moses, hasuzumwa inzitizi y'iburabubasha bw'Urukiko rw'Ubujurire yatanzwe n'uruhande rwa Nyirabihogo Aline.

[10] Ku wa 28/10/2022, Urukiko rwemeje ko hagomba gushyirwaho umugenagaciro wo kugaragaza agaciro k'imitungo itimukanwa iburanwa ibaruye kuri: UPI: 1/02/14/03/1017, uherereye mu Mudugudu wa Kalisimbi, mu Kagari ka Kabuga I, mu Murenge wa Rusororo, mu Karere ka Gasabo, mu Mujyi wa Kigali; UPI: 1/02/14/03/1025, uherereye mu Mudugudu wa Kalisimbi, mu Kagari ka Kabuga I, mu Murenge wa Rusororo, mu Karere ka Gasabo, mu Mujyi wa Kigali: UPI: 5/07/10/05/4075, uherereye mu Mudugudu wa Nyabivumu, mu Kagari ka Nyamata y'Umujyi, mu Murenge wa Nyamata, mu Karere ka Bugesera, mu Ntara y'Iburasirazuba,

[11] Iburanisha ry'urubanza ryapfunduwe ku wa 09/11/2022, uwo munsi ababuranyi bumvikana k'umugenagaciro witwa Havugimana Justin, ahabwa inshingano, bamenyeshwa ko iburanisha rizasubukurwa ku wa 23/11/2022 hagaragazwa raporo y'igenagaciro, uwo munsi ntirwaburanishwa kubera uburwayi bwa Me Sebusandi Moses, ryimurirwa ku wa 16/01/2023, uwo munsi umugenagaciro asobanura raporo yakoze igaragaza ko umutungo ubaruye kuri UPI: 1/02/14/03/1017 ufite agaciro kangana na 24.477.243Frw, umutungo ubaruye kuri UPI: 1/02/14/03/1025 ufite agaciro kangana na 12.803.250Frw, na ho umutungo ubaruye kuri UPI: 5/07/10/05/4075 ufite agaciro kangana na 46.904.310 Frw.

[12] Ababuranyi bahawe umwanya wo kugira icyo bavuga kuri raporo y'igenagaciro, Me Rugeyo Jean avuga ko we n'uwo yunganira bemera ibiyikubiyemo, Me Mukunzi Jean Marie Vianney avuga ko we n'uwo yunganira nta cyo banenga iyo raporo, Urukiko rufatira mu ntebe icyemezo ku nzitizi, rwemeza ko inzitizi y'iburabubasha ishingiye ku gaciro k'ikiburanwa yatanzwe na Nyirabihogo Aline nta shingiro ifite, rwemeza ko ubujurire bwa Ruhumuriza Richard, Rwihaniza Jonas na Byiringiro Samuel ku rubanza RCA00161/2021/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 31/03/2022 ruri mu bubasha bw'Urukiko rw'Ubujurire, hashingiwe ku kuba raporo y'igenagaciro yakozwe n'umuhanga washyizweho n'Urukiko, igaragaza ko agaciro k'umutungo utimukanwa uburanwa, karengeje 75.000.000Frw agenwa n'itegeko.

[13] Urukiko rwakomeje iburanisha mu mizi, rusuzuma impamvu z'ubujurire zatanzwe na Ruhumuriza Richard ndetse n'izatanzwe na Rwihaniza Jonas na Byiringiro Samuel, Ruhumuriza Richard yunganiwe na Me Rugeyo Jean, Nyirabihogo Aline yunganiwe na Me Mukunzi Jean Marie Vianney, Rwihaniza Jonas ahagarariwe na Me Tuyisenge Tito Théogēne, Byiringiro Samuel ahagarariwe na Me Sebusandi Moses.

II. IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO

Kumenya niba Urukiko Rukuru rwarivuguruje ku byerekeye amasezerano y'ubugure bw'imitungo itimukanwa ibaruye kuri UPI: 1/02/14/03/1017, UPI: 1/02/14/03/1025 na UPI: 5/07/10/05/4075

[14] Me Rugeyo Jean avuga ko kuba mu gika cya 12 cy'urubanza rujuririrwa, Urukiko Rukuru rwaravuze ko hari amasezerano y'ubugure yabaye hagati ya Ruhumuriza Richard n'abo yagurishije ashingiye ku nyandiko bwite (acte sous seing privé) kandi ko yabaye mbere y'uko Ruhumuriza Richard ashyingiranwa na Nyirabihogo Aline, mu gika cya 13, rukavuga ko amasezerano yakorewe imbere ya

Noteri w'ubutaka ari yo agomba guhabwa agaciro nyamara hatarabayeho impaka mu igereranya ryayo, ndetse ku bwe ko amasezerano yakorewe imbere ya Noteri w'ubutaka atari amasezerano y'ubugure ahubwo yakozwe kugira ngo huzuzwe ibisabwa mu guhererekanya ubutaka, asanga Urukiko rwarivuguruje. Asaba ko ingingo ya 64 y'itegeko rigenga amasezerano yubahirizwa[1]

[15] Me Mukunzi Jean Marie Vianney avuga ko Urukiko Rukuru rutivuguruje, ko icyagombaga gusobanuka kwari ukwerekana ko Ruhumuriza Richard yagiranye amasezerano y'ubugure n'abagombaga kumufasha kurigisa imitungo iburanwa abigambiriye, aho mu kuyakora bagiye bashyiraho amatariki ya mbere y'uko ashyingiranwa na Nyirabihogo Aline, kandi ko amasezerano yakorewe imbere ya Noteri w'ubutaka ku wa 04/03/2020 no ku wa 11/06/2020, yakozwe Ruhumuriza Richard na Nyirabihogo Aline babana nk'uko bigaragazwa n'ibaruwa y'Ikigo cy'Igihugu Gishinzwe Ubutaka yo ku wa 15/07/2020, nyamara ntibajyana mu gukoresha ihinduranyamutungo (mutation).

UKO URUKIKO RUBIBONA

[16] Igika cya 12 cy'urubanza rujuririrwa, Urukiko Rukuru rusobanura ko mu bimenyetso byatanzwe harimo inyandiko igaragaza ubugure bushingiye ku masezerano agaragazwa n'inyandiko bwite, hakaba n'andi masezerano akorerwa imbere ya Noteri w'ubutaka mbere y'uko "mutation" ikorwa kandi ko akorwa ugurisha n'ugura buzuza"form" yabigenewe bakayuzuriza imbere ya Noteri w'ubutaka w'aho umutungo utimukanwa uherereye nk'uko biteganywa n'ingingo ya 34[2] y'Iteka rya Minisitiri N° 002/2008 ryo ku wa 01/04/2008 rigena uburyo iyandikishwa ry'ubutaka rikorwa.

[17] Igika cya 13 cy'urwo rubanza, Urukiko rusobanura ko rusanga amasezerano akozwe mu buryo bwubahirije ingingo ya 34 y'Iteka rya Minisitiri ryavuzwe haruguru, aba agomba gufatwa nk'amasezerano y'umwimerere (acte authentique) kandi ko ari yo agomba guhabwa agaciro kuruta ayakozwe nk'inyandiko bwite.

[18] Urukiko rurasanga isesengura ryakozwe n'Urukiko Rukuru muri ibi bika byombi, ryari rigamije gusubiza ikibazo kirebana no "Kumenya agaciro k'ibisobanuro byatanzwe na Nyirabihogo Aline ku bimenyetso n'imiburanire bya Ruhumuriza Richard".

[19] Urukiko rurasanga Ruhumuriza Richard ashaka kuvugisha Urukiko Rukuru ibyo rutavuze, kuko ibikubiye mu bika aheraho agaragaza ko habayeho kwivuguruza kwarwo atari byo, ahubwo bigaragara ko habanje kugaragazwa amasezerano y'ubugure y'ubwoko bubiri (ayakozwe hifashishijwe inyandiko bwite n'ayakorewe imbere ya Noteri w'ubutaka), habaho kuyagereranya rugamije kugira ayo ruha agaciro, akaba rero nta kwivuguruza kwabaye mu bika by'urubanza byavuzwe, iyi ngingo y'ubujurire ikaba nta shingiro ihawe.

Kumenya niba Urukiko Rukuru rwarirengagije ibimenyetso byatanzwe na RUHUMURIZA Richard

[20] Me Rugeyo Jean avuga ko Urukiko Rukuru rwirengagije ibimenyetso byatanzwe na Ruhumuriza Richard bigaragaza ko yagurishije umutungo uburanwa atarabana na Nyirabihogo Aline kandi ko ibyo bimenyetso nta wundi muburanyi ubivuguruza. Asaba ko amasezerano y'ubugure bw'imitungo itimukanwa uwo yunganira yagiranye na Rwihaniza Jonas na Byiringiro Samuel agumana agaciro kayo,

[1] Ingingo ya 64 y'itegeko n° 45/2011 ryo ku wa 25/11/2011 rigenga amasezerano iteganya ko" Amasezerano akozwe ku buryo bukurikije amategeko aba itegeko ku bayagiranye. Ashobora guseswa ari uko babyumvkanyeho cyangwa ku mpamvu zemewe n'amategeko. Agomba kubahirizwa nta buryarya".

[2]Iyi ngingo y'Iteka rya Minisitiri iteganya ko" Ihererekanya rishingiye ku masezerano yo kwegurira undi ibintu ntirishobora gukorwa iyo amasezerano rishingiyeho atakozwe ku buryo bw'inyandiko y'umwimerere" (forme authentique). Ifishi igomba gukoreshwa iteganyijwe ku mugereka wa 4 w'iri Teka".

iyo mitungo ikaguma ku mazina y'abayiguze, hubahirizwa ingingo ya 264 y'igitabo cya gatatu cy'urwunge rw'amategeko mbonezamubano, cyakoreshwaga igihe ayo masezerano y'ubugure yakorwaga.

[21] Akomeza avuga ko mu gihe Ruhumuriza Richard yabanaga na Nyirabihogo Aline, uyu yari azi neza ko bari muri uwo mutungo nk'abakodesha, kandi ko itegeko riteganya ko uwanditse ku cyangombwa cy'umutungo ari we ukoresha ihinduranyamutungo, akaba asanga nta mpamvu yari gutuma uwo yunganira amenyesha Nyirabihogo Aline ko agiye gukoresha ihinduranyamutungo.

[22] Ruhumuriza Richard avuga ko imitungo itimukanwa iburanwa yayigurishije mbere yo kubana na Nyirabihogo Aline, kandi ko afite ibimenyetso bigaragaza igihe yagurishirije, igihe yakoreye ihinduranyamutungo n'igihe yabaniye na Nyirabihogoaline, ko iyo Nyirabihogo Aline aba azi ko hari umutungo bafitanye, aba yarasabye ko na we umwandikwaho, ntabibyutse ari uko bamaze guhabwa ubutane bwa burundu.

[23] Nyirabihogo Aline asobanura ko yabanye na Ruhumuriza Richard uwo mutungo uhari, ko babanje kuba mu nzu iri i Nyamata itaruzura neza, bakaza kuyongeraho akandi kantu, na ho umutungo uri i Kabuga bakaba barawusuraga ubamo abantu, ko igihe cyageze umugabo we akamwohereza kuba kwa sebukwe akajyayo, sebukwe akaba yaramuganirizaga byinshi amuha amakuru y'imitungo bafite. Avuga ko atari kumara gushyingiranwa na Ruhumuriza Richard ngo ahite asaba kwandikwaho imitungo, kuko yatekerezaga ko aramutse abisabye, byafatwa nk'aho yaje gushaka akuruwe n'imitungo.

[24] Akomeza avuga ko asanga ibikorwa by'igura n'igurisha byakorewe ku mitungo iburanwa byakozwe mu buriganya, kuko byagaragaye ko amasezerano yiswe ay'ubugure atari ay'ukuri, kubera ko mu gukora aya nyuma yabereye imbere ya Noteri w'ubutaka, hirengagijwe ko yari yarashyingiranwe na Ruhumuriza Richard, biityo ko ibyakozwe nta gaciro byahabwa, cyane ko amasezerano bavuga ko yakozwe mbere y'uko bashyigiranwa, badasobanura niba harabayeho inkomyi yaba yaratumye batayakorera imbere ya Noteri w'ubutaka.

[25] Me Mukunzi Jean Marie Vianney avuga ko batanze ibimenyetso bigaragaza ko Ruhumuriza Richard yasezeranye na Nyirabihogo Aline babana mu mitungo yabo, baza kugirana ibibazo byatumye Ruhumuriza Richard asaba ubutane, ko muri ibyo bihe yashatse uko yikuraho iyo mitungo. Asobanura ko impamvu bavuga ko habaye uburiganya, ari uko yagiye gukoresha ihinduranyamutungo ku mutungo avuga ko yagurishije atarashyingirwa, ntabwire mugenzi we bari barasezeranye ivangamutungo rusange. Avuga ko amasezerano yakorewe imbere ya Noteri w'ubutaka yakuyeho ay'ubugure yakozwe hifashishijwe inyandiko bwite.

Uko Urukiko rubibona

[26] Ingingo ya 2 y'itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo iteganya ko" Ikimenyetso cyo mu rubanza ni uburyo bukoreshwa kugira ngo ukuri kw'ibyabaye kugaragare".

[27] Ingingo ya 5 y'itegeko N°27/2016 ryo ku wa 08/07/2016 ryerekeye imicungire y'umutungo w'abashyingiranywe, impano n'izungura iteganya ko"Ivangamutungo rusange ni amasezerano abashyingiranywe bagirana bakumvikana gushyira hamwe umutungo wose".

[28] Ingingo ya 6, igika cya kabiri n'icya gatatu y'itegeko rimaze kuvugwa iteganya ko" Abashyingiranywe bahisemo ivangamutungo rusange bacungira hamwe umutungo wabo, kandi bakagira ububasha bungana bwo kuwukurikirana no kuwuhagararira". Umutungo wose wanditse kuri umwe mu bashyingiranywe ubarirwa mu mutungo w'abashyingiranywe mu buryo bw'ivangamutungo rusange".

[29] Izi ngingo z'itegeko zumvikanisha ko imicungire y'umutungo witwa "ivangamutungo" muri rusange, buri umwe mu bashyingiranywe aba awufiteho uruhare rungana n'urwa mugenzi we, n'iyo waba wanditse ku mazina y'umwe muri bo.

[30] Urukiko Rukuru mu gufata umwanzuro ku kibazo rwagombaga gusubiza, rwavuze ku masezerano y'ishyingirwa yabaye hagati ya Ruhumuriza Richard na Nyirabihogo Aline, ku masezerano y'ubugure bw'imitungo iherereye i Kabuga yabaye hagati ya Ruhumuriza Richard n'umubyeyi we Rwihaniza Jonas ku wa 15/07/2017, amasezerano y'ubugure y'inzu iri i Nyamata yabaye hagati ya Ruhumuriza Richard na Byiringiro Samuel ku wa 30/08/2018 ndetse n'amasezerano y'ubugure yakorewe imbere ya Noteri w'ubutaka.

[31] Ku birebana no kuba Ruhumuriza Richard yaragurishije imitungo atarabana na Nyirabihogo Aline, Urukiko rurasanga kuba yaragiye gukoresha ihinduranyamutungo yarahinduye irangamimerere, ndetse agasezerana ivangamutungo rusange, yaragombaga kujyana n'uwo basangiye uwo mutungo ufatwa ko awufiteho uburenganzira.

[32] Urukiko rurasanga, ibivugwa na Ruhumuriza Richard ko bitari ngombwa kumenyesha Nyirabihogo Aline ko agiye gukora ihinduranyamutungo ku bo yawugurishije, nta shingiro byahabwa kuko mu gihe basezeranaga ivangamutungo rusange, atigeze amubwira ko hari umutungo wanditse ku mazina ye yagurishije, ariko akaba atarakoresha ihinduranyamutungo n'abawuguze, cyane ko amasezerano yakorewe imbere ya Noteri ari yo agomba gufatwa ko afite agaciro.

[33] Ku birebana no kuba Ruhumuriza Richard avuga ko Urukiko Rukuru rwashingiye ku masezerano yakorewe imbere ya Noteri nyamara amasezerano y'ubugure yakozwe hifashishijwe inyandiko bwite atagibwaho impaka ndetse akaba nta n'umuburanyi uyanenga, uru Rukiko rurasanga impaka zaravutse muri ayo masezerano mu gihe Nyirabihogo Aline avuga ko nta gura n'igurisha ry'iyo mitungo ryabayeho mu gihe yari atarabana na Ruhumuriza Richard, ko ahubwo byakorewe imbere ya Noteri mu gihe cyo gukora ihinduranyamutungo, ari nayo mpamvu Urukiko Rukuru rwagize icyo ruvuga ku masezerano agomba guhabwa agaciro.

[34] Ku birebana no kuba Ruhumuriza Richard avuga ko iyo Nyirabihogo Aline amenya ko hari imitungo bafitanye koko, aba yarasabye ko na we yandikwa ku byangombwa byayo, Urukiko rurasanga kuba ibyo bitarakozwe, bitamukuraho uburenganzira afite ku mutungo wanditse ku mazina y'uwo bashyingiranywe mu gihe bahisemo uburyo bw'imicungire y'imitungo bw'ivangamutungo rusange nk'uko biteganywa n'itegeko ryavuzwe haruguru.

[35] Hashingiwe ku bisobanuro bitanzwe, Urukiko rw'Ubujurire rurasanga nta bimenyetso byirengagijwe n'Urukiko Rukuru mu gufata icyemezo, kuko bigaragara ko rwabisesenguye ndetse rukanabikorera igereranya mu rwego rwo kumenya ibigomba guhabwa agaciro kuruta ibindi, kuba rero rwarahaye agaciro ibyo bimenyetso mu buryo Ruhumuriza Richard atifuza, bikaba bitavuze ko rwabyirengagije, iyi ngingo y'ubujurire ya Ruhumuriza Richard na yo ikaba nta shingiro ihawe.

Kumenya niba Urukiko Rukuru rwaraciye urubanza mu buryo bugenekereje

[36] Me Rugeyo Jean avuga ko Urukiko Rukuru rwaciye urubanza agenekereje mu gihe yashingiraga ku mikirize y'urubanza RS/INJUST/RC00010/2019/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 25/09/2020, nyamara zidahuje kamere, aho gushingira ku ngingo ya 64 n'iya 113, igika cya mbere z'itegeko N°45/2011 ryo ku wa 25/11/2011 rigenga amasezerano, ndetse no ku ngingo ya 22 y'itegeko N°43/2013 ryo ku wa 16/06/2013 rigenga ubutaka mu Rwanda ryakurikizwaga muri icyo gihe.

[37] Mu gusobanura uko urubanza rwa Ruhumuriza Richard rudahuje kamere n'urwashingiweho n'umucamanza w'Urukiko Rukuru, asobanura ko Twizerimana na Manizabayo Kennedy bombi uwitwa

Hafashimana Elias yabagurishije inzu imwe, ko muri urwo rubanza uwaguze mbere atahawe ibyangombwa ngo hakorwe ihinduranyamutungo, uwaguze bwa kabiri ahabwa icyangombwa cy'umutungo anakorerwa ihinduranyamutungo, Urukiko rw'Ikirenga ruvuga ko n'ubwo bigaragara ko hari amasezerano y'uwaguze mbere, amasezerano afite agaciro ari aya kabiri kuko ari yo yakorewe imbere ya Noteri, n'aho mu rubanza rwa Ruhumuriza Richard, uwagurishije n'abaguze akaba ari bamwe, nta wahindutse, ko rero Urukiko rutagombaga gushingira ku Iteka rya Minisitiri rigena uburyo iyandikishwa ry'ubutaka rikorwa, ahubwo rwagombaga gushingira ku mategeko arebana n'igurisha.

[38] Nyirabihogo Aline avuga ko nta kugenekereza kugaragara mu rubanza rujuririrwa, kuko Urukiko Rukuru rwasobanuye neza imiterere y'ikibazo n'amategeko rwashingiyeho mu gufata icyemezo. Avuga kandi ko urubanza RS/INJUST/RC 00010/2019/SC rwaciwe n'Urukiko rw'Ikirenga rwashingiweho, ruhuje kamere n'urubanza ruburanishwa, ko hanakwiye kwibazwa niba amasezerano yose bagereranya yahabwa agaciro kimwe, mu gihe hari ayayavanyeho hagakorwa andi mashya, ari na yo mpamvu amasezerano yakorewe imbere ya Noteri w'ubutaka ari yo yakabaye akurikizwa, bityo ko ari ho ahera avuga ko niba nta buriganya ayo masezerano yakoranywe, yagombaga kumenyeshwa ko hagiye gukorwa ayo masezerano y'ubugure, na we akayagiramo uruhare.

[39] Me Sebusandi Moses avuga ko kuba umucamanza w'Urukiko Rukuru yaravuze ko Byiringiro Samuel ari inshuti y'umuryango wa Ruhumuriza Richard, nyamara nta kimenyetso gifatika ashingiyeho kibigaragaza ndetse akaba nta n'isano y'amaraso igaragara mu myirondoro yabo, ari ho bahera bavuga ko umucamanza yagenekereje, ndetse no kuba ataravuze ku iherezo ry'amafaranga yatanzwe mu kugura uwo mutungo.

UKO URUKIKO RUBIBONA

[40] Ikibazo gisa n'iki cyatanzweho umurongo mu rubanza rwaciwe n'Urukiko rw'Ikirenga mu rubanza RS/INJUST/RC 00010/2019/SC rwo ku wa 25/09/2020, mu buryo bukurikira : […] "Imihango yihariye amasezerano y'ubugure bw'ubutaka agomba kubahiriza, akaba ari uko agomba gukorerwa imbere ya Noteri. Ibi bigaragarira mu ngingo ya 34, igika cya 1 y'Iteka rya Minisitiri Nº 002/2008 ryo ku wa 01/04/2008 rigena uburyo iyandikishwa ry'ubutaka rikorwa. Iyo ngingo iteganya ko ihererekanya rishingiye ku masezerano yo kwegurira undi ibintu ridashobora gukorwa iyo amasezerano rishingiyeho atakozwe ku buryo bw'inyandiko y'umwimerere. Ingingo imaze kuvugwa yumvikanisha ko amasezerano y'ubugure bw'ubutaka atarakorewe imbere ya Noteri nta gaciro yagira, kubera ko atakwemerwa kugira ngo habeho ihererekanya ry'ubutaka ubugure bunandikwe, kandi ugura icyo aba agamije ari ukugira ngo agire uburenganzira ku butaka yaguze, ubwo burenganzira akaba atabubona atabanje kubwandikisha ngo abihererwe icyangombwa cy'iyandikisha ry'ubutaka".

[41] Ku birebana no kuba Ruhumuriza Richard n'umwunganizi we bavuga ko Urukiko Rukuru rutagombaga gushingira ku rubanza RS/INJUST/RC 00010/2019/SC kuko zidahuje kamere n'urubanza RCA00161/2021/HC/KIG rwa Ruhumuriza Richard, Urukiko rurasanga ibikorwa byabaye muri izi manza zombi bidatandukanye, kuko muri zose hari ikibazo cyo kumenya amasezerano y'ubugure afite agaciro hagati y'ayakorewe imbere ya Noteri n'atarakorewe imbere ya Noteri, na ho ibyo bavuga ko hagati ya Ruhumuriza Richard n'abo yagurishije nta kibazo kirimo ndetse ko batigeze bahinduka, bikaba bitahabwa ishingiro kuko Nyirabihogo Aline yatangije urubanza ashingiye ku ihinduranyamutungo ryakorewe ku mitungo yari asangiye na Ruhumuriza Richard atabigizemo uruhare, kandi mbere yo gukora iryo hinduranyamutungo, haragombaga gukorwa amasezerano yemewe ari yo akorewe imbere ya Noteri, ari na yo mpamvu habayeho igereranya ry'amasezerano yakozwe hifashishijwe inyandiko bwite n'ayakorewe imbere ya Noteri.

[42] Ku birebana no kuba Avoka uhagarariye Byiringiro Samuel avuga ko kuba umucamanza yaravuze ko Byiringiro Samuel yari inshuti y'umuryango ku buryo yari azi ko Ruhumuriza Richard

afite umugore bigaragaza kugenekereza, Urukiko rurasanga ayo magambo cyangwa ubwo busesenguzi, atari bwo bwashingiweho mu gufata umwanzuro rusange ku kibazo cyasuzumwaga cyo kumenya agaciro k'ibisobanuro byatanzwe na Nyirabihogo Aline ku bimenyetso n'imiburanire bya Ruhumuriza Richard.

[43] Urukiko rw'Ubujurire rurasanga, nta kibazo cyo kugenekereza kiri mu rubanza rujuririrwa, kuko ikibazo nyamukuru cyasuzumwaga, cyarebanaga n'ihinduranyamutungo Nyirabihogo Aline avuga ko ryakorewe ku mitungo yari asangiye na Ruhumuriza Richard, atabigizemo uruhare kandi mu gihe cyo gushyingirwa barahisemo uburyo bwo gucunga umutungo bw'ivangamutungo rusange. Bityo, iyi ngingo y'ubujurire ikaba nta shingiro ihawe.

Kumenya itegeko rikwiye gushingirwaho mu gusuzuma agaciro k'amasezerano yo ku wa 15/07/2017 y'ubugure bw'imitungo ibaruye kuri UPI: 1/02/14/03/1017, UPI: 1/02/14/03/1025 na UPI: 5/07/10/05/4075

[44] Me Sebusandi Moses avuga ko Urukiko Rukuru rwashingiye ku ngingo ya 23 y'itegeko N°27/2021 ryo ku wa 10/06/2021 rigenga ubutaka, iteganya ko ″Amasezerano yemewe ari ayakorewe imbere ya Noteri w'ubutaka wemewe na Leta″, rwirengagije ko iryo tegeko ritariho mu gihe ayo masezerano yakorwaga, kandi ko itegeko ryakoreshwaga ritabiteganyaga, runavuga ko ubugure bwabaye mu gihe Ruhumuriza Richard na Nyirabihogo Aline babanaga, kuko ari bwo habaye ihererekanya ry'ubutaka, rwirengagije ko amasezerano yakozwe mbere yo gushyingirwa, agakorerwa imbere ya Noteri n'imbere y'ubuyobozi bw'inzego z'ibanze.

[45] Asobanura ko ihinduranyamutungo (mutation) ryakozwe mbere y'itangazwa ry'itegeko riteganya ko amasezerano y'ubugure bw'ubutaka akorerwa imbere ya Noteri w'ubutaka, ko rimwe ryakozwe ku wa 11/06/2020, irindi rikorwa ku wa 01/03/2020, mu gihe amasezerano y'ubugure yabaye mu bihe bitandukanye, aho amwe yabaye ku wa 15/07/2017, andi akaba ku wa 30/08/2018, bityo ko uwo mutungo wagurishijwe wari uwa Ruhumuriza Richard 100%, kandi akaba yarawugurishije mbere y'uko ashyingiranwa na Nyirabihogo Aline. Asaba Urukiko rw'Ubujurire kwemeza ko nta burenganzira Nyirabihogo Aline yari afite kuri uwo mutungo kuko bashyingiranywe waragurishijwe, kandi ko kuba aba mu nzu y'i Nyamata ayibamo kubera ko yishyura ubukode, na ho ko umutungo uherereye i Kabuga rwihaniza Jonas yawugurishije undi muntu, uwo muntu na we akaba yarawugurishije, uwufite ubu akaba ari we uhabwa amafaranga y'ubukode.

[46] Me Rugeyo Jean avuga ko amasezerano y'ubugure yemewe ari ayo ku wa 15/07/2017, kandi ko nta wigeze ayavuguruza cyangwa ngo ayateshe agaciro, na ho amasezerano yo ku wa 30/08/2018 Urukiko ruvuga ko yakorewe imbere ya Noteri atari amasezerano y'ubugure, ahubwo ari ay'ihererekanya ry'uburenganzira ku mutungo, kandi ko n'ubwo yombi atavuguruzanya, Urukiko rwakoze ikosa ruvuga ko afite agaciro ari ay'ihererekanya ry'umutungo utimukanwa kuruta ay'ubugure, ndetse rukaba rutarigeze runagaragaza aho Nyirabihogo Aline akomora iyo mitungo ku buryo yagombaga kugira uruhare mu ihinduranyamutungo ryayo kandi itamwanditseho.

[47] Nyirabihogo Aline avuga ko imitungo iburanwa ayikomora ku ishyingirwa rye na Ruhumuriza Richard, ko umutungo uri i Nyamata ari wo yashakiyemo kandi ko n'uyu munsi awutuyemo, na ho iy'i Rusororo bakaba barayikodeshaga kandi ko kugeza ubu ikiri iyabo.

[48] Me Mukunzi Jean Marie Vianney avuga ko amasezerano yombi avugwa atavugisha ukuri, kubera ko Ruhumuriza Richard yayakoze mu buryo bwo kurigisa imitungo yari asangiye na Nyirabihogo Aline, abifashijwemo na Rwihaniza Jonas na Byiringiro Samuel, kandi ko amasezerano yakorewe imbere ya Noteri w'ubutaka ari yo Nyirabihogo Aline ashingiraho agaragaza ko ayakozwe mbere atari kumubuza gukora ihererekanyamutungo, ku buryo atari kuyamenyeshwa kandi icyo gihe yarabanaga na Ruhumuriza Richard nk'umugore n'umugabo bashyingiranywe.

[49] Me Tuyisenge Tito Théogēne avuga ko amasezerano y'ubugure yo muri 2017 amaze kuba, uwaguze yahise agira uburenganzira kuri uwo mutungo, uwagurishije na we asigarana inshingano zo gukoresha ihinduranyamutungo, ko ihererekanya ry'ubutaka ritandukanye n'amasezerano y'ubugure, akaba asanga mu gutesha agaciro amasezerano y'ubugure, umucamanza yaraciriye urubanza ku kitararegewe.

[50] Akomeza avuga ko Iteka rya Minisitiri rivuga ku ihererekanya ry'ubutaka ritagombaga gusubira inyuma ngo rikoreshwe, kubera ko ryabayeho amasezerano y'ubugure yaramaze gukorwa, akaba nta mpamvu yatuma ayo masezerano ateshwa agaciro mu gihe impande zombi zari zarangije kumvikana na Ruhumuriza Richard wagurishije nta buriganya, kandi ko uwo mutungo utakiri mu maboko ya Rwihaniza Jonas.

UKO URUKIKO RUBIBONA

[51] Ku birebana n'ibivugwa na Rwihaniza Jonas na Byiringiro Samuel ko Urukiko Rukuru rwashingiye ku ngingo ya 23 y'itegeko N˚27/2021 ryo ku wa 10/06/2021 rigenga ubutaka ritariho mu gihe habaga igurisha ry'imitungo iburanwa, Urukiko rurasanga bashaka kuvugisha Urukiko Rukuru ibyo rutavuze, kuko muri kopi y'urubanza rujuririrwa nta na hamwe hagaragara ko iryo tegeko ryo mu mwaka wa 2021 ryashingiweho.

[52] Nk'uko byasobanuwe mu bibazo byasesenguwe mu bujurire bwatanzwe na Ruhumuriza Richard, uru Rukiko rurasanga, Urukiko Rukuru rwarifashishije urubanza RS/INJUST/RC 00010/2029/SC, rwaciwe n'Urukiko rw'Ikirenga rwatanze umurongo hisunzwe ingingo ya 34 y'Iteka rya Minisitiri N˚ 002/2008 ryo ku wa 01/04/2008 rigena uburyo bw'iyandikishwa ry'ubutaka ryavuzwe mu bika bibanza, hagamijwe gukemura impaka zo kumenya amasezerano y'ubugure afite agaciro hagati y'ayakorewe imbere ya Noteri n'atarakorewe imbere ye.

[53] Hashingiwe ku bisobanuro bitanzwe, Urukiko rurasanga urubanza RS/INJUST/RC00010/2019/SC rwatanze umurongo rushingiye ku Iteka rya Minisitiri ryavuzwe haruguru, rwari mu mwanya mwiza wo kwifashishwa mu gukemura ikibazo cyasuzumwaga., impamvu y'ubujurire yatanzwe na Byiringiro Samuel na Rwihaniza Jonas, ikaba nta shingiro ifite.

Kumenya ishingiro ry'indishyi n'amafaranga y'ibyagiye ku rubanza

[54] Me Sebusandi Moses asaba Urukiko rw'Ubujurire gutegeka Nyirabihogo Aline na Ruhumuriza Richard guha Rwihaniza Jonas na Byiringiro Samuel amafaranga y'ikurikirarubanza n'ay'igihembo cya Avoka angana na 1.500.000Frw kuri buri wese, yose hamwe akaba 3.000.000Frw. Na ho ku mafaranga asabwa na Nyirabihogo Aline, avuga ko nta shingiro afite kubera ko ari we washoye Rwihaniza Jonas na Byiringiro Samuel mu manza abagobokesha.

[55] Me Rugeyo Jean avuga ko amafaranga y'ikurikirarubanza n'ay'igihembo cya Avoka Rwihaniza Jonas na Byiringiro Samuel basaba adakwiye kubazwa Ruhumuriza Richard, ko ahubwo akwiye kubazwa Nyirabihogo Aline wakuruye imanza, cyane ko ari na we wabagobokesheje.

[56] Me Mukunzi Jean Marie Vianney avuga ko amafaranga y'ikurikirarubanza n'ay'igihembo cya Avoka Rwihaniza Jonas na Byiringiro Samuel basaba nta yo bakwiye guhabwa, kuko Nyirabihogo Aline yatanze ikirego bitewe n'amakosa yakozwe na Ruhumuriza Richard abifashijwemo na Rwihaniza Jonas na Byiringiro Samuel, asaba ahubwo ko Rwihaniza Jonas na Byiringiro Samuel bategekwa guha uwo yunganira 3.000.000 Frw akubiyemo indishyi z'akababaro zingana na 1.000.000Frw, amafaranga y'ikurikiranarubanza angana na 500.000Frw na 1.000.000Frw y'igihembo cya Avoka.

UKO URUKIKO RUBIBONA

[57] Ingingo ya 111 y'itegeko Nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ko "Ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikiye ku kirego cy'iremezo kigamije kwishyuza ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishwa rimwe n'ikirego cy'iremezo. Gishobora kandi kwakirwa kikaburanishwa n'iyo ikirego cy'iremezo cyaba kitakiriwe."

[58] Urukiko rurasanga, indishyi z'akababaro Nyirabihogo Aline yifuza guhabwa na Rwihaniza Jonas na Byiringiro Samuel atagomba kuzihabwa kuko nta bisobanuro byazo atanga, ahubwo bagomba kumuha amafaranga y'ikurikiranarubanza n'igihembo cya Avoka, ariko kuko ayo yasabye ari ikirenga, rukaba rumugeneye 500.000Frw y'igihembo cya Avoka na 200.000Frw y'ikurikiranarubanza, yose hamwe akaba 700.000Frw.

III. ICYEMEZO CY'URUKIKO

[59] Rwemeje ko ubujurire bwatanzwe na Ruhumuriza Richard, nta shingiro bufite.

[60] Rwemeje ko ubujurire bwatanzwe na Rwihaniza Jonas na Byiringiro Samuel, nta shingiro bufite.

[61] Rwemeje ko urubanza RCA00161/2021/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 31/03/2022 ruhamyeho.

[62] Rutegetse Rwihaniza Jonas na Byiringiro Samuel guha Nyirabihogo Aline 700.000Frw akubiyemo 200.000Frw y'ikurikiranarubanza na 500.000Frw y'igihembo cya Avoka.

[63] Ruvuze ko amafaranga y'ingwate y'amagarama yatanzwe na Ruhumuriza Richard, Rwihaniza Jonas na Byiringiro Samuel bajurira, ahwanye n'ibyakozwe mu rubanza.