NDUWAYO v KAREKEZI

[Rwanda URUKIKO RW'UBUJURIRE – RCAA00018/2022/CA (Munyangeri, P.J.) 18 Ugushyingo 2022]

Itegeko rigena ububasha bw'Inkiko – Urukiko rw'Ubujurire – Ubujurire bwa kabiri – Gutsindwa ku mpamvu zimwe bigenzurwa hashingiwe ku ngingo zatumye umuburanyi ajurira, umwanzuro wazifashweho n'impamvu zashingiweho n'inkiko zombi – Ibindi ababuranyi bemerewe gusaba mu rwego rw'ubujurire, ntabwo bishingirwaho kuko biba bitarasuzumwe ku rwego rwa mbere.

Incamake y'ikibazo: Uru rubanza rukomoka ku rubanza rw'ubutane Karekezi yagiranye na Nduwayo mu gihugu cya Nigeria, aho Urukiko rwemeje ko batandukana ariko ntirwagira icyo ruvuga ku mitungo bafitanye. Nyuma yaha Karekezi yatanze ikirego mu Rukiko Rukuru, asaba ko urubanza rwaciwe n'Urukiko Rukuru rwa Lagos rurangirizwa mu Rwanda, imitungo ibanditseho bombi bakayigabana nk'uko babyemeranyijeho. Urukiko rwemeza ko imitungo bayigabana uko babyumvikanye.

Nyuma yaha na none, Nduwayo yatanze ikirego mu Rukiko Rwisumbuye rwa Gasabo, avuga ko yasanze hari indi mitungo Karekezi yiyanditseho wenyine mu gihe babanaga nk'umugabo n'umugore byemewe n'amategeko, arusaba gutegeka Karekezi ko bagabana uwo mutungo utarigeze ugaragazwa mu gihe cy'igabana ry'umutungo w'abashakanye.

Urukiko mu rubanza RC00280/2020/TGI/GSBO, rwemeje ko ikirego cya Nduwayo nta shingiro gifite, rumutegeka guha Karekezi amafaranga y'ikurikiranarubanza n'igihembo cya Avoka.

Nduwayo yajuririye Urukiko Rukuru, avuga ko Urukiko Rwisumbuye rutahaye agaciro ibimenyetso yarushyikirije, bituma rugera ku mwanzuro utari wo.

Urukiko Rukuru rwemeje mu rubanza RCA00072/2021/HC/KIG ko ubujurire bwa Nduwayo nta shingiro bufite, kuko rwasanze hari amasezerano Nduwayo na Karekezi bemeranyaho, kandi ko mbere y'uko ayemera yari afite ububasha bwo gusaba amakuru yerekeranye n'imitungo yose, ariko ko nta kimenyetso yagaragaje cyerekana ko haba harabayeho uburiganya bwatuma amasezearano y'ubwumvikane bagiranye ateshwa agaciro.

Nduwayo yajuririye icyo cyemezo mu Rukiko rw'Ubujurire, avuga ko Urukiko Rukuru rutahaye agaciro ibimenyetso yarushyikirije, bigaragaza ko Karekezi yakoze uburiganya, ahisha imwe mu mitungo ntiyagaragara mu masezerano y'ubwumvikane bwo kugabana umutungo bashakanye.

Urukiko rwabanje gusuzuma inzitizi yo kutakira ikirego yatanzwe na Karekezi avuga ko Nduwayo yatsinzwe mu nkiko zabanje ku mpamvu zimwe. Avuga ko Nduwayo mu Nkiko zose yatsinzwe no kubura ibimenyetso bigaragaza uburiganya Karekezi yamukoreye, bityo ko ikirego cye kitagomba kwakirwa.

Uwunganira Nduwayo avuga ko iyi nzitizi nta shingiro ifite, kubera ko uwo yunganira atatsinzwe mu Nkiko zombi ku mpamvu zimwe. Asobanura ko Inkiko zombi zabanje zitasuzumye ibibazo bimwe, ko rero kuba ibibazo byasuzumwe atari bimwe, impamvu zashingiweho mu gufata icyemezo zitaba zimwe kandi ko hataburanwaga uburiganya, ahubwo haburanwaga umutungo utaragaragajwe mu gihe cy'igabana. Asobanura ko mu Rukiko Rwisumbuye hasuzumwe ikibazo kimwe naho mu Rukiko Rukuru hasuzumwa ibibazo bitatu bityo ko impamvu atari zimwe kuko n'umubare w'ibibazo byasuzumwe atari umwe.

Urukiko rw'Ubujurire rwemeje mu rubanza RCAA00018/2022/CA, ko mu Nkiko zombi zabanje, Nduwayo yatsinzwe ku mpamvu nyamukuru imwe yo kuba ataragaragaje ibimenyetso bishyigikira ibisobanuro atanga ku mitungo aregera byuko Karekezi atigeze ayigaragaza mu igabana. Bityo ko

ikireko cye kidakwiye kwakirwa ngo gisumwe kuko Nduwayo yatsinzwe mu Rukiko Rwisumbuye no mu Rukiko Rukuru ku mpamvu zimwe.

Incamake y'icyemezo: 1. kuba Urukiko rwaregewe bwa mbere rwasuzuma ikibazo kimwe naho Urukiko rwajuririwe rugasuzuma ibibazo birenze kimwe, ntabwo bisobanuye ko inkiko zombi zashingiye ku mpamvu zitandukanye. Bityo ibigomba kugereranywa ni ibibazo bifitanye isano remezo byasuzumwe mu Nkiko zombi, ibibazo bishya byasuzumwe ku rwego rw'ubujurire, ntibyashyirwa mu igereranya ryo gutsindwa mu Nkiko zombi hashingiwe ku mpamvu zimwe.

2. Ibindi ababuranyi bemerewe gusaba mu rwego rw'ubujurire kuva urubanza ku rwego rwa mbere ruciwe, kimwe no kugobokesha umuburanyi mu bujurire, ntibishobora gushingirwaho hasuzumwa ko umuburanyi yatsinzwe ku mpamvu zimwe. Bityo nta wakwitwaza umwanzuro wabifashwemo ngo yumvikanishe ko atatsinzwe ku mpamvu zimwe, kuko biba bitarasuzumwe ku rwego rwa mbere, byumvikana ko nta gereranya rishobora kubikorerwaho harebwa imanza zaciwe ku nzego zombi kuko nta wugereranya ibidafitanye isano.

Inzitizi y'iburabubasha bw'Urukiko rw'Ubujurire, ifite ishingiro
Ubujurire bwa kabiri ntibwakiriwe ngo busuzumwe kuko butari mu bubasha bw'Urukiko rw'Ubujurire.

Amategeko yashingiweho:
Itegeko Nº 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'Inkiko, Ingingo ya 52
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 154 ,111

Imanza zifashishijwe:
urubanza RS/INJUST/RCOM 00002/2020/SC rwa Road Solution Pavement Product vs MAILCO Ltd rwaciwe n'Urukiko rw'Ikirenga kuwa 25/09/2020
Urubanza RS/INJUST/RCOM 00005/2020/SC rwa Banque Populaire du Rwanda Atlas Mara Plc Vs NKUSI Evariste rwaciwe n'Urukiko rw' Ikirenga ku wa 27/11/2020

Urubanza

I. IMITERERE Y'URUBANZA

[1] Ku wa 07/10/1995, Karekezi Corneille na Nduwayo Caritas bashyingiranywe mu buryo bwemewe n'amategeko, bahitamo uburyo bw'ivangamutungo rusange mu micungire y'umutungo. Mu mwaka wa 2014, Urukiko Rukuru rwa Lagos rwabahaye ubutane, ariko ntirwagira icyo ruvuga ku mitungo basangiye. Mu mwaka wa 2017, Karekezi Corneille yatanze ikirego mu Rukiko Rukuru rwo mu Rwanda, asaba ko urubanza rwaciwe n'Urukiko Rukuru rwa Lagos rurangirizwa mu Rwanda, imitungo ibanditseho bombi ikurikira : UPI : 1/03/09/03/1195 uherereye Kicukiro, UPI : 1/02/10/01/2174 uherereye Gacuriro, UPI : 1/03/04/03/1083 uherereye Kagarama, UPI: 1/02/09/03/14 uherereye Remera, UPI: 1/02/14/06/1703 Farm; First Central Itecom: Unit 2405 24th Floor Type: ES (Dubai), bakayigabana nk'uko babyemeranyijeho.

[2] Nduwayo Caritas avuga ko mu nyandiko yo ku wa 31/01/2019 yiswe "Post Judgement Settlement Agreement" bumvikanye ko Nduwayo Caritas ahawe imitungo afatanyije n'abana, ko ariko iyo ubirebye usanga ahubwo ashinzwe kubacungira iyo mitungo igizwe na:

-Three-bedroom apartmet at House n˚ 227-Estate 2020, Gacuriro-Nyarutarama-Kigali (UPI: 1/02/10/01/2174);

-Three-bedroom apartment at plot n˚ 6023, Nyakabanda-Kicukiro-Kigali (UPI: 1/02/09/03/1195);

- Farm located at Kararuhuka Village, Mbandazi Cell, Rusororo Sector, Gasabo District, Kigali City (UPI: 1/02/14/06/1703).

[3] Nyuma yo kugabana, Nduwayo Caritas avuga ko yasanze hari indi mitungo Karekezi Corneille yiyanditseho wenyine mu gihe babanaga nk'umugabo n'umugore byemewe n'amategeko igizwe na: UPI: 1/01/09/03/402, uherereye mu Kiyovu; UPI: 1/02/13/02/237, uherereye Nyarutarama-Remera; UPI: 1/03/03/ 01/01/1080, uherereye Gikondo-Rebero; UPI: 1/01/09/03/197, uherereye mu Kiyovu, aregera Urukiko Rwisumbuye rwa Gasabo, arusaba gutegeka Karekezi Corneille ko bagabana uwo mutungo utarigeze ugaragazwa mu gihe cy'igabana ry'umutungo w'abashakanye.

[4] Mu rubanza RC00280/2020/TGI/GSBO rwaciwe ku wa 19/02/2021, Urukiko Rwisumbuye rwa Gasabo rwemeje ko ikirego cyatanzwe na Nduwayo Caritas nta shingiro gifite, rumutegeka guha Karekezi Corneille 500.000Frw akubiyemo amafaranga y'ikurikiranarubanza n'igihembo cya Avoka no kumusubiza ingwate y'amagarama yatanze arega.

[5] Nduwayo Caritas yajuririye Urukiko Rukuru, avuga ko Urukiko Rwisumbuye rwa Gasabo rutahaye agaciro ibimenyetso rwashyikirijwe, bituma rugera ku mwanzuro utari wo. Mu rubanza n˚ RCA00072/2021/HC/KIG rwaciwe ku wa 08/04/2022, Urukiko Rukuru rwemeje ko ubujurire bwa Nduwayo Caritas nta shingiro bufite, kuko rwasanze hari amasezerano Nduwayo Caritas na Karekezi Corneille bemeranyaho, kandi ko mbere y'uko ayemera yari afite ububasha bwo gusaba amakuru yerekeranye n'imitungo yose, ariko ko nta kimenyetso yagaragaje cyerekana ko haba harabayeho uburiganya bwatuma amasezearano y'ubwumvikane bagiranye ateshwa agaciro, ruvuga ko ubujurire bwuririye ku bundi bwatanzwe na Karekezi Corneille nta shingiro bufite, ko urubanza RC00280/2020/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ku wa 19/02/2021 rudahindutse.

[6] Ku wa 07/05/2022, Nduwayo Caritas yajuririye icyo cyemezo mu Rukiko rw'Ubujurire, urubanza ruhabwa RCAA00018/2022/CA, avuga ko Urukiko Rukuru rutahaye agaciro ibimenyetso yarushyikirije, bigaragaza ko Karekezi Corneille yakoze uburiganya, ahisha imwe mu mitungo ntiyagaragara mu masezerano y'ubwumvikane, anasaba indishyi.

[7] Urubanza rwaburanishijwe mu ruhame ku wa 02/11/2022, Nduwayo Caritas yunganiwe na Me Bahati Vedaste, Karekezi Corneille ahagarariwe na Me Masumbuko Nde Emile, kuri uwo munsi haburanishwa ku nzitizi y'iburabubasha bw'uru Rukiko yatanzwe n'uruhande rwa Karekezi Corneille.

II. IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO

1.Kumenya niba NDUWAYO Caritas yaratsinzwe mu Nkiko zombi zabanje hashingiwe ku mpamvu zimwe

[8] Me Masumbuko Nde Emile uhagarariye Karekezi Corneille, avuga ko ubujurire bwa Nduwayo Caritas butagomba kwakirwa, kubera ko yatsinzwe mu Nkiko zombi zabanje hashingiwe ku mpamvu zimwe. Asobanura ko mu rubanza RC00280/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ku wa 19/02/2021, ndetse no mu rubanza RCA00072/2021/HC/KIG rujuririrwa, Nduwayo Caritas yatsinzwe no kubura ibimenyetso bigaragaza uburiganya Karekezi Corneille yamukoreye, ko izo Nkiko zombi zashingiye ku ngingo ya 12 y'itegeko N˚ 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi no ku ngingo

ya 3 y'itegeko N° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo zikemeza ko atsinzwe.

[9] Akomeza avuga ko mu gika cya 7 cy'urubanza RC00280/2021/GSBO, Urukiko Rwisumbuye rwa Gasabo rwasobanuye ko nta kimenyetso gifatika kigaragaza ko mu gihe cy'igabana iyo mitungo itari izwi, ku buryo itakoreweho ubwumvikane. Na ho mu gika cya 23 cy'urubanzan RCA00072/2021/HC/KIG, Urukiko Rukuru rusobanura ko nta kimenyetso cy'uburiganya bwaba bwarakozwe na Karekezi Corneille, Nduwayo Caritas agaragaza, ko rero iyi mpamvu yo kuba yaratsinzwe bitewe no kubura ibimenyetso bigaragaza uburiganya bwa Karekezi Corneille, ari impamvu yo kutakira ubujurire bwa kabiri.

[10] Me Bahati Vedaste wunganira Nduwayo Caritas avuga ko iyi nzitizi nta shingiro ifite, kubera ko uwo yunganira atatsinzwe mu Nkiko zombi hashingiwe ku mpamvu zimwe. Asobanura ko Inkiko zombi zabanje zitasuzumye ibibazo bimwe, ko rero kuba ibibazo byasuzumwe atari bimwe, impamvu zashingiweho mu gufata icyemezo zitaba zimwe kandi ko hataburanwaga uburiganya, ahubwo haburanwaga umutungo utaragaragajwe mu gihe cy'igabana.

[11] Akomeza asobanura ko mu rubanza RC00280/TGI/GSBO, Urukiko Rwisumbuye rwa Gasabo rwasuzumye ikibazo kimwe kirebana no "kumenya niba hari imitungo yanditse kuri Karekezi Corneille itaragiye mu bigabanywa ikaba ikwiye kugabanywa ku buryo bungana", ko ariko mu rubanza RCA00072/2021/HC/KIG, hasuzumwe ibibazo bitatu birimo icyo kumenya niba Urukiko rwarirengagije agaciro k'ibimenyetso rwashyikirijwe, bigatuma rugera ku mwanzuro utari wo, kumenya niba Nduwayo Caritas yahabwa indishyi, no kumenya niba Karekezi Corneille akwiye guhabwa indishyi.

[12] Me Bahati Vedaste avuga kandi ko mu gika cya 6 n'icya 7 by'urubanza rwaciwe n'Urukiko Rwisumbuye rwa Gasabo, Urukiko rwabonye ko mbere y'uko Nduwayo Caritas na Karekezi Corneille bumvikana uburyo bazagabana, nta barura ry'umutungo ryakozwe kandi ko umucamanza yashingiye ku ngingo ya 8 y'itegeko ryerekeye imicungire y'umutungo w'abashakanye, impano n'izungura no ku ngingo ya 12 y'itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi. Na ho mu gika cya 21 cy'urubanza rujuririrwa, mu gusuzuma ikibazo rwibajije, Urukiko Rukuru rwasanze kuba mu gihe cy'igabana nta wigeze agaragaza ko hari impungenge ku mitungo runaka, bivuze ko bari bayiziranyeho, kuko batigeze bagaragaza imitungo Nduwayo Caritas ahereraho n'iyo Karekezi Corneille ahereraho, mu gika cya 22, Urukiko Rukuru rukaba rwarasesenguye ibirebana n'amasezerano y'ubwumvikane (Post Judgement Settlement Agreement), ruvuga ko nta mpamvu yatuma ayo masezerano ateshwa agaciro, rushingiye ku ngingo ya 592 CCL III, kandi ko mu rubanza rujuririrwa, Urukiko Rukuru rwasuzumye ingingo irebana n'indishyi Nduwayo Caritas yasabye, rusanga nta zo akwiye, kuko ikirego cye nta shingiro cyahawe, ndetse runasanga indishyi Karekezi Corneille asaba atagomba kuzihabwa, kuko Nduwayo Caritas yari afite uburenganzira bwo kurega, ariko ko mu rubanza RC00280/2020/TGI/GSBO, ikibazo cy'indishyi kitasuzumwe.

[13] Avuga kandi ko mu gusuzuma niba umuburanyi yaratsinzwe mu Nkiko zombi hashingiwe ku mpamvu zimwe, harebwa igitekerezo cy'umucamanza cyangwa amategeko yakoreshejwe n'ibimenyetso, ko hatarebwa ijambo rimwe ryakoreshejwe n'izo Nkiko zombi.

UKO URUKIKO RUBIBONA

[14] Ingingo ya 52, igika cya 2 y'itegeko Nº 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'Inkiko iteganya ko "Urukiko rw'Ubujurire ruburanisha mu rwego rw'ubujurire bwa kabiri imanza zaciwe n'Urukiko Rukuru, Urukiko Rukuru rw'Ubucuruzi n'Urukiko Rukuru rwa Gisirikare iyo zujuje

ibiteganywa n'iyo ngingo, ariko mu gika cya gatatu cy'iyo ngingo igateganya ko "Icyakora kandi ubujurire bwa kabiri ntibushobora kwakirwa ku manza z'ababuranye bemera ibyo baregwa cyangwa ku muburanyi watsinzwe mu Nkiko zombi hashingiwe ku mpamvu zimwe".

[15] Urukiko rurasanga, nk'uko byagiye bisobanurwa mu manza zinyuranye zaciwe n'Urukiko rw'Ikirenga[1], zagaragaje ko mu gusuzuma niba umuburanyi yaratsinzwe mu Nkiko zombi zabanje hashingiwe ku mpamvu zimwe, harebwa icyaburanwaga n'imitekerereze ya buri Rukiko (raisonnement juridique) mu kugaragaza impamvu zashingiweho kugira ngo rugere ku cyemezo rwafashe, hitawe ku kureba niba ingingo zaburanywe mbere ari zo zagarutsweho mu bujurire kandi ko Inkiko zombi zazishubijeho mu buryo bumwe. Impamvu zigomba gutandukanywa n'icyemezo cy'Urukiko, kuko impamvu ari yo ishingirwaho mu kugaragariza no gusobanurira ababuranyi icyatumye Urukiko rufata icyemezo.

[16] Ikibazo gisa n'iki cyasuzumwe kandi mu rubanza RS/INJUST/RCOM 00005/2020/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 27/11/2020, aho rwatanze umurongo ukurikira:" Mu igenzura ko ingingo zaburanwe mbere ari na zo zaburanwe mu bujurire, hagomba kwitabwa ku isano remezo iri hagati y'imanza zombi kandi iyo mpamvu ikaba igaragarira mu mpamvu z'ubujurire n'umwanzuro urubanza ku rwego rwa kabiri rwazifasheho[2] […]".

[17] Urukiko rw'Ikirenga rwanasobanuye ko" […] gutsindwa ku mpamvu zimwe bigenzurwa hashingiwe ku ngingo zatumye umuburanyi ajurira, umwanzuro wazifashweho n'impamvu zashingiweho n'inkiko zombi, bivuze ko ibindi ababuranyi bemerewe gusaba mu rwego rw'ubujurire nk'uko biteganywa n'ingingo ya 154 y'itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi nk'inyungu, ibyishyuwe ku bukode n'ibindi bintu by'inyongera n'ibindi bintu byabonetse nk'indishyi z'igihombo umuburanyi yagize kuva urubanza ku rwego rwa mbere ruciwe, kimwe no kugobokesha umuburanyi mu bujurire, bidashobora gushingirwaho hasuzumwa ko umuburanyi yatsinzwe ku mpamvu zimwe, ko rero nta n'uwakwitwaza umwanzuro wabifashwemo ashaka kumvikanisha ko atatsinzwe ku mpamvu zimwe, kuko ibyo biba bitarasuzumwe ku rwego rwa mbere, akaba rero nta gereranya rishobora kubikorerwaho harebwa imanza zaciwe ku nzego zombi kuko nta we ugereranya ibidafitanye isano[3]".

[18] Imikirize y'urubanza RC00280/2020/TGI/GSBO rwaciwe ku wa 19/02/2021, igaragaza ko mu gusuzuma ikibazo kirebana no kumenya niba imitungo yanditse kuri Karekezi Corneille itaragiye mu bigabanywa ikaba ikwiye kugabanywa ku buryo bungana, Urukiko Rwisumbuye rwa Gasabo rwasanze mu nyandiko y'ubwumvikane Karekezi Corneille yagiranye na Nduwayo Caritas ku wa 18/12/2017, haragaragajwemo umutungo wimukanwa n'utimukanwa ugomba guherera kuri Nduwayo Caritas wenyine, amafaranga yo kumutunga n'uburyo abana bazakomeza kurihirirwa amashuri na se, ntihagaragazwa imitungo Karekezi Corneille ahererereyeho, rusanga rero nta kimenyetso gifatika kigaragaza ko iyo mitungo itari izwi mu gihe cy'igabana kuko bemeranyijwe ku byo Nduwayo Caritas agomba guhabwa, ntibagira icyo bavuga ku byo Karekezi Corneille yasigaranye.

[19] Mu rubanza RCA00072/2021/HC/KIG rujuririrwa, Urukiko Rukuru rwasuzumye ikibazo kirebana no kumenya niba Urukiko rubanza rwarirengagije agaciro k'ibimenyetso rwashyikirijwe, bituma rugera ku mwanzuro utari wo, rusanga kuba abunganira Nduwayo Caritas ari bo bateguye amasezerano yaje kwemeranywaho na Karekezi Corneille kandi bigaragara ko yari afite uburenganzira bwo gusaba amakuru yose ikigo cy'ubutaka, akaba nta kimenyetso agaragaza cy'uburiganya bwaba bwarakozwe na Karekezi Corneille ku buryo byafatwa nk'uburiganya, byatuma amasezerano bagiranye

[1] urubanza RS/INJUST/RCOM 00002/2020/SC rwaciwe ku wa 25/09/2020, hagati ya Road Solution Pavement Product na MAILCO Ltd.
[2]Reba urubanza RS/INJUST/RCOM 00005/2020/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 27/11/2020, hagati ya Banque Populaire du Rwanda Atlas Mara Plc Vs NKUSI Evariste, igika cya 28
[3]Idem, igika cya 29

yateshwa agaciro cyangwa yasubirwamo, rwanzura ko ibyo Nduwayo Caritas asaba atabihabwa nk'uko byemejwe n'Urukiko rubanza.

[20] Urukiko Rukuru rwasuzumye kandi ikibazo cy'indishyi zasabwaga n'ababuranyi bombi, Nduwayo Caritas ntiyazigenerwa kubera ko ubujurire bwe nta shingiro bwahawe, na Karekezi Corneille ntiyazigenerwa hashingiwe ku kuba nta kimenyetso yagaragaje cyemeza ko hari ibyo Nduwayo Caritas yamwangirije.

[21] Urukiko rw'Ubujurire rurasanga, ku rwego rwa mbere, Nduwayo Caritas yaratsinzwe no kuba nta bimenyetso bifatika yagaragaje byemeza ko umutungo aregera atari uwahererejwe kuri Karekezi Corneille, cyane ko mu nyandiko y'ubwumvikane, batagaragajemo umutungo uhererejwe kuri Karekezi Corneille.

[22] Urukiko rw'Ubujurire rurasanga, ku rwego rw'ubujurire bwa mbere, Nduwayo Caritas na bwo yaratsinzwe hashingiwe ku mpamvu yo kuba atarashoboye kugaragaza ibimenyetso byashingirwaho hemezwa ko hari uburiganya bwaba bwarakozwe na Karekezi Corneille, aha ukurikije ubusesenguzi bwakozwe n'Urukiko Rukuru, ijambo uburiganya rikaba ryumvikanisha imyitwarire ya Karekezi Corneille yo kuba yarahishe Nduwayo Caritas umutungo wanditse ku mazina ye wenyine, kugira ngo na yo abe yayigiraho uburenganzira mu gihe cy'igabana.

[23] Urukiko rw'Ubujurire rurasanga mu Nkiko zombi zabanje, Nduwayo Caritas yaratsinzwe ku mpamvu nyamukuru imwe yo kuba ataragaragaje ibimenyetso bishyigikira ibisobanuro atanga ku mitungo aregera byuko Karekezi atigeze ayigaragaza mu igabana.

[24] Urukiko rw'Ubujurire rurasanga, aho uhagarariye uwunganira Nduwayo Caritas avuga ko Urukiko Rwisumbuye rwa Gasabo rwasuzumye ikibazo kimwe gusa na ho Urukiko Rukuru rugasuzuma ibibazo bigera kuri bitatu, ko rero hadashobora kuvugwa ko uwo yunganira yatsinzwe mu Nkiko zombi hashingiwe ku mpamvu zimwe mu gihe umubare w'ibibazo byasuzumwe muri izo Nkiko zombi utangana, nta shingiro byahabwa, kubera ko nk'uko byasobanuwe mu rubanza rwatanze umurongo rwavuzwe haruguru, hagomba kugereranywa ibibazo bifitanye isano remezo byasuzumwe mu Nkiko zombi, ibibazo bishya byasuzumwe ku rwego rw'ubujurire, ntibyashyirwa mu igereranya ryo gutsindwa mu Nkiko zombi hashingiwe ku mpamvu zimwe.

[25] Urukiko rw'Ubujurire rurasanga, hashingiwe ku biteganywa n'ingingo ya 52, igika cya 3 y'itegeko Nº 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'Inkiko ryavuzwe haruguru n'ibisobanuro byatanzwe, ubujurire bwatanzwe na Nduwayo Caritas butagomba kwakirwa kuko butari mu bubasha bwarwo.

[26] Urukiko rw'Ubujurire rurasanga atari ngombwa gusuzuma inzitizi y'iburabubasha bw'Urukiko rw'Ubujurire ishingiye ku gaciro k'ikiburanwa, kubera ko ikumirwa n'inzitizi yo gutsindwa mu Nkiko zombi zabanje hashingiwe ku mpamvu zimwe ihawe ishingiro.

2.Kumenya ishingiro ry'amafaranga y'ikurikiranarubanza n'igihembo cya Avoka

[27] Me Bahati Vedaste asaba Urukiko rw'Ubujurire gutegeka Karekezi Corneille guha Nduwayo Caritas amafaranga y'ikurikiranarubanza angana na 3.000.000Frw n'igihembo cya Avoka kingana na 2.000.000Frw. Avuga ko amafaranga y'igihembo cya Avoka Karekezi Corneille asaba nta shingiro afite, kubera ko Nduwayo Caritas afite uburenganzira bwo gukurikirana umutungo afiteho uburenganzira, kandi ko Karekezi Corneille adakwiye gusaba amafaranga y'ikurikiranarubanza mu gihe afite Avoka urukurikirana.

[28] Me Masumbuko Nde Emile avuga ko amafaranga y'ikurikiranarubanza n'igihemno cya Avoka Nduwayo Caritas asaba, nta shingiro afite, kubera ko ubujurire bwe butagomba kwakirwa hashingiwe

ku kuba yaratsinzwe mu Nkiko ebyiri zabanje, hashingiwe ku mpamvu zimwe, asanga ahubwo ari we ukwiye guha Karekezi Corneille amafaranga y'ikurikiranarubanza angana na 10.000.000Frw n'igihembo cya Avoka kingana na 3.000.000Frw, akayatanga n'ubwo ubujurire bwe bwaba butakiriwe.

UKO URUKIKO RUBIBONA

[29] 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."

[30] Urukiko rw'Ubujurire rurasanga amafaranga y'ikurikiranarubanza n'igihembo cya Avoka Nduwayo Caritas asaba adakwiye kuyagenerwa, kubera ko ubujurire bwe butakiriwe, naho ayo Karekezi Corneille asaba afite ishingiro, kubera ko bigaragara ko yashatse Avoka unakurikirana urubanza, ariko kubera ko ayo asaba ari ikirenga kandi urubanza rugarukiye ku isuzuma ry'iyakira ry'ubujurire, mu bushishozi bwarwo, rukaba rumugeneye 200.000Frw y'ikurikiranarubanza na 500.000Frw y'igihembo cya Avoka, yose hamwe akaba 700.000Frw kuri uru rwego.

III. ICYEMEZO CY'URUKIKO

[31] Rwemeje ko inzitizi y'iburabubasha bw'Urukiko rw'Ubujurire yatanzwe na Karekezi Corneille, ifite ishingiro.

[32] Rwemeje ko ubujurire bwatanzwe na Nduwayo Caritas butakiriwe, kuko butari mu bubasha bw'Urukiko rw'Ubujurire.

[33] Rutegetse Nduwayo Caritas guha Karekezi Corneille 700.000Frw akubiyemo amafaranga y'ikurikiranarubanza n'igihembo cya Avoka kuri uru rwego.

[34] Rutegetse ko amafaranga y'ingwate y'amagarama yatanzwe na Nduwayo Caritas ajurira, ahwanye n'ibyakozwe mu rubanza.