FANTASTIC INVESTMENT GROUP LTD v NCBA BANK RWANDA Plc

[Rwanda URUKIKO RW'UBUJURIRE – RCOMAA 00072/2022/CA (Kamere, PJ.) 20 Mutarama 2023]

Amategeko agenga imiburanishirize y'imanza z'ubucuruzi – Ububasha bw'inkiko – Irangiza ry'urubanza – Impaka zavutse mu irangiza ry'urubanza – Impaka zavutse mu irangiza ry'urubanza zikemurwa n'urukiko rwaciye urubanza bwa nyuma.

Amategeko agenga imiburanishirize y'imanza z'ubucuruzi – Impamvu zimwe – Impamvu zimwe mu rubanza n'ibisobanuro buri Rukiko rwashingiyeho mu gufata icyemezo cyarwo rugendeye ku byabaye no ku byo amategeko ateganya, kandi ni zo zishingirwaho mu kugaragariza no gusobanurira ababuranyi icyatumye Urukiko rufata icyemezo

Incamake y'ikibazo: FANTASTIC INVESTMENT GROUP Ltd yatanze ikirego mu Rukiko rw'Ubucuruzi, irusaba kwemeza ko NCBA Bank Rwanda Plc itubahirije amasezerano y'iguriza bagiranye, isaba kuyitegeka kugaragaza ingano nyakuri y'umwenda, gukuraho inyungu z'umurengera, kwishyura indishyi z'igihombo yateje no gutanga indishyi z'ikurikiranarubanza. Isobanura ko kutubahiriza amasezerano yagiranye na NCBA Bank Rwanda Plc, FANTASTIC INVESTMENT GROUP Ltd yabitewe n'impamvu ntarengwa itunguranye yo kuba umuyobozi wayo yarafunzwe, icyorezo cya COVID-19 no kuba Restaurant FANTASTIC yavanwagamo ubwishyu yarahiye, ko ariko ibyo NCBA Bank Rwanda Plc yabirenzeho igasaba Umwanditsi Mukuru icyemezo cyo kugurisha ingwate. Urukiko rwakijije urwo rubanza, maze rwemeza ko ikirego nta shingiro gifite. Ntiyishimira imikirize y'urwo rubanza, bituma irujuririra mu Rukiko Rukuru rw'Ubucuruzi, ivuga ko ku rwego rubanza, Urukiko rutasubije ibijyanye no kwica amasezerano nk'ikibazo kigize urubanza (issue) ukwacyo, ahubwo ngo rukabivuga mu zindi ngingo. Urukiko Rukuru rw'Ubucuruzi rwakijije urwo rubanza maze rwemeza ko ubujurire bwayo nta shingiro bufite.

FANTASTIC INVESTMENT GROUP Ltd yajuririye na none mu Rukiko rw'Ubujurire ku mpamvu zo kumenya ingano y'umwenda nyakuri ibereyemo NCBA Rwanda Plc, kumenya uruhande rwishe amasezerano, kumenya niba ikwiye kugenerwa indishyi zose yari yasabye mu manza zabanje, inasaba izo kuri uru rwego rw'ubujurire bwa kabiri. NCBA Bank Rwanda Plc mbere yo kwiregura mu mizi kuri izi mpamvu z'ubujurire yatanze inzitizi yo kutakira ubujurire bwa FANTASTIC INVESTMENT GROUP Ltd ishingiye ku kuba yaratsinzwe mu nkiko zombi zabanje hashingiwe ku mpamvu zimwe, aho zose zasanze itarubahirije amasezerano y'inguzanyo yahawe, kandi gufungwa k'umuyobozi wa FANTASTIC INVESTMENT GROUP Ltd, gushya kwa RESTAURANT FANTASTIC ndetse n'icyorezo cya COVID-19 bitafatwa nk'impamvu ntarengwa itunguranye yatumye itubahiriza amasezerano maze zikemeza ko ibereyemo NCBA Bank Rwanda Plc umwenda ungana na 2.951.584.001 Frw. FANTASTIC INVESTMENT GROUP Ltd, yiregura kuri iyi nzitizi avuga ko nta shingiro ifite kuko itatsinzwe hashingiwe ku mpamvu zimwe, hagiye hashingirwa ku bintu bitandukanye mu nkiko zibanza kuri buri ngingo.

Incamake y'icyemezo: 1. **Incamake y'icyemezo:** 1. Impaka zavutse mu irangiza ry'urubanza zikemurwa n'urukiko rwaciye urubanza bwa nyuma.

2. Impamvu zimwe mu rubanza n'ibisobanuro buri Rukiko rwashingiyeho mu gufata icyemezo cyarwo rugendeye ku byabaye no ku byo amategeko ateganya, kandi ni zo zishingirwaho mu kugaragariza no gusobanurira ababuranyi icyatumye Urukiko rufata icyemezo

Ubujurire ntabwo bwakiriwe kuko butari mu bubasha bw'Urukiko rw'Ubujurire.

Amategeko yashingiweho:

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.

Itegeko nº 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'Inkiko, ingingo ya 52.

Itegeko nº 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo, ingingo ya 3.

Imanza zifashishijwe:

Urubanza rubanziriza urundi mu rubanza n° RC 00003/2018/SC; KAMATENESI Jovia v KING FAYSAL HOSPITAL rwaciwe n'Urukiko rw'Ikirenga ku wa 25/06/2018.

Urubanza nº RCOMAA 0051/14/CS; RRA v SECAM Ltd rwaciwe n'Urukiko rw'Ikirenga ku wa 04/12/2015.

Urubanza n° RCOMAA 0038/16/CS - RCOMAA 0033/2016/SC; Bank of Kigali Plc v MULISA KANA Martin rwaciwe n'Urukiko rw'Ikirenga ku wa 21/04/2017

Urubanza RCOMAA 00043/2021/CA HIGH END DEVELOPERS Ltd n'abandi v RIGHT Ltd.rwaciwe n'Urukiko rw'Ubujurire ku wa 29/12/2021

Urubanza

I. IMITERERE Y'URUBANZA

[1] Ku wa 22/11/2018, NCBA Bank Rwanda Plc (NCBA) yagiranye na FANTASTIC INVESTMENT GROUP Ltd amasezerano y'iguriza, maze ihabwa inguzanyo ingana na 2.000.000.000 Frw yari igabanyijemo ibyiciro bibiri: Commercial Mortgage Loan ingana na 1.680.000.000 Frw harimo 1.300.000.000 Frw yari agenewe kugura umwenda FANTASTIC INVESTMENT GROUP Ltd yari ifite muri GROFIN na 380.000.000 Frw yo kurangiza inyubako y'inzu y'ubucuruzi ifite UPI:1/01/06/02/32, n'ikindi cyiciro na cyo kiswe Commercial Mortgage loan ingana na 320.000.000 Frw yari agenewe kurangiza inyubako y'inzu y'ubucuruzi imaze kuvugwa. FANTASTIC INVESTMENT GROUP Ltd yongeye gusaba NCB BANK RWANDA Plc (NCBA) indi nguzanyo ingana na 134.350.000 Frw yiswe contract finance, yari igenewe gushyira mu bikorwa amasezerano ya 184.564.400 Frw FANTASTIC INVESTMENT GROUP Ltd yari yaragiranye na Prestige Service Company Ltd.

[2] Ku wa 30/07/2019 habayeho ivugururwa ry'amasezerano yo ku wa 22/11/2018, maze umwenda mushya uba 2.191.350.000 Frw. Ku wa 23/12/2019 hongera kubaho ivugururwa ry'amasezerano, maze umwenda mushya uba 2.306.864.775 Frw, ugizwe n'inguzanyo ya mbere ya Commercial Mortgage Loan ingana na 1.680.000.000 Frw yashyizwe kuri 1.768.548.963 Frw, inguzanyo ya kabiri na yo ya Commercial Mortgage Loan yanganaga na 373.095.414 Frw ishyirwa kuri 395.471.219 Frw, naho inguzanyo ya Contract Finance ingana na 134.350.00 Frw ishyirwa

kuri 142.844.593 Frw. Kuri izo nguzanyo zose hatanzwe ingwate zitandukanye zirimo inzu y'ubucuruzi ya FANTASTIC INVESTMENT GROUP Ltd iri mu kibanza gifite UPI: 1/01/06/02/32 giherereye mu Murenge wa Muhima, Akarere ka Nyarugenge. Muri ayo masezerano avuguruye yo ku wa 23/12/2019, FANTASTIC INVESTMENT GROUP Ltd yiyemeje kuzajya inyuza amafaranga yose ava mu bucuruzi bwayo muri NCBA Bank Rwanda PLC, iniyemeza kuzaba yarangije kubaka inyubako yasabiye inguzanyo mu gihe kitarengeje amezi atatu uhereye igihe amasezerano yashyiriweho umukono, ibi byombi itabyubahiriza bigafatwa ko itubahirije amasezerano ndetse bigaha NCBA Bank Rwanda Plc uburenganzira bwo gusesa igihe cyo gusonerwa kwishyura umwenda (moratorium period) kandi igahita inasaba kwishyurwa inguzanyo zose.

[3] Ku wa 17/02/2020 no ku wa 17/03/2020, NCBA Bank Rwanda Plc (NCBA) yahaye FANTASTIC INVESTMENT GROUP Ltd integuza, iyibutsa kubahiriza inshingano zayo zo kunyuza amafaranga yose ava mu bucuruzi bwayo muri iyo banki nk'uko babyumvikanye, ndetse ku wa 01/06/2020, iyiha integuza ya nyuma iyimenyesha ko nitishyura mu minsi 30 izatangira gahunda yo kugurisha ingwate yayihaye.

[4] Ku wa 23/10/2020, FANTASTIC INVESTMENT GROUP Ltd yatanze ikirego mu Rukiko rw'Ubucuruzi, gihabwa nº RCOM 01668/2020/TC irusaba kwemeza ko NCBA Bank Rwanda Plc itubahirije amasezerano, kuyitegeka kugaragaza ingano nyakuri y'umwenda, gukuraho inyungu z'umurengera, kwishyura indishyi z'igihombo yateje no gutanga indishyi z'ikurikiranarubanza. Isobanura ko kutubahiriza amasezerano yagiranye na NCBA Bank Rwanda Plc, FANTASTIC INVESTMENT GROUP Ltd yabitewe n'impamvu ntarengwa itunguranye yo kuba umuyobozi wayo yarafunzwe, icyorezo cya COVID-19 no kuba Restaurant FANTASTIC yavanwagamo ubwishyu yarahiye, ko ariko ibyo NCBA Bank Rwanda Plc yabirenzeho igasaba Umwanditsi Mukuru icyemezo cyo kugurisha ingwate, kandi yari yaranakoze uburiganya (mauvaise foi) bwo gutegura amasezerano ikajya kuyasinyisha Umuyobozi wayo kuri Gereza kandi izi neza ko igihe yari arimo kitamwemereraga gukurikirana inyubako yari yasabiwe inguzanyo. Ikindi ngo ni uko NCBA Bank Rwanda Plc itigeze ishyira kuri konti yayo inguzanyo ya 134.350.000 Frw ngo ikoreshwe icyo yari yasabiwe, ko ahubwo iyo banki yayikoresheje ibindi bitari byumvikanyweho n'impande zombi, ibyo bikaba bifatwa nko kutubahiriza amasezerano, ndetse ko iyo nguzanyo itakabaye ibarirwa mu myenda yishyuzwa, kuko itayihawe, ndetse ko ibarirwa inyungu z'umurengera. Bityo ko yishyuzwa umwenda utari wo ahubwo igasaba ko wabarwa kugeza ku itariki ya 01/06/2020 NCBA Bank Rwanda Plc yasheseho amasezerano, ikanasaba guhabwa indishyi zitandukanye.

[5] NCBA Bank Rwanda Plc ivuga ko gufungwa k'umuyobozi wa FANTASTIC INVESTMENT GROUP Ltd, gushya kwa Restaurant Fantastic ndetse n'icyorezo cya COVID-19 bitafatwa nk'impamvu ntarengwa itunguranye yatumye itubahiriza amasezerano, kuko iryo fungwa ridahagarika kwishyura umwenda, kubera ko iyo Umuyobozi adahari asimburwa n'undi, ko kandi iyo restaurant atari yo umwenda wari ushingiyeho ku buryo gushya kwayo byafatwa nk'impamvu ntarengwa itunguranye. Ivuga kandi ko n'icyorezo cya COVID -19 kitaba urwitwazo rwo kutubahiriza amasezerano, ngo kuko na mbere yayo FANTASTIC INVESTMENT GROUP Ltd itayubahirizaga, kandi ko yari isonewe kwishyura umwenda kugeza mu mpera z'ukwezi kwa gatandatu.

[6] Ku bijyanye n'umwenda wa 134.350.000 Frw, ivuga ko wari inguzanyo yo mu bwoko bw'inguzanyo ya overdraft, ko kandi washyizwe kuri konti ya FANTASTIC INVESTMENT GROUP Ltd, ariko ku busabe bwayo igakoreshwa mu kwishyura ibirarane by'imyenda yari iyibereyemo, ngo kuko imodoka yagombaga kugura ikoresheje iyo nguzanyo yaziguze mu mafaranga yayo. Ikindi ngo ni uko ubwo FANTASTIC INVESTMENT GROUP Ltd yasabaga ivugururwa ry'imyenda, iyo nguzanyo na yo yayishyizemo, ndetse ko yanagaragaye mu masezerano yo ku wa 23/12/2019 yashyizweho umukono n'impande zombi, no mu zindi nyandiko yashyizeho umukono. Ko rero nta nyungu z'umurengera FANTASTIC INVESTMENT GROUP Ltd yaciwe, kandi ko inguzanyo ya 134.350.000 Frw yashyirwa mu mwenda wishyuzwa, kandi inyungu zigakomeza kubarwa na nyuma yo ku wa 01/06/2020. Mu gusoza isaba indishyi zitandukanye.

[7] Ku wa 19/07/2021, Urukiko rw'Ubucuruzi rwakijije urwo rubanza, maze rwemeza ko ikirego nta shingiro gifite, ko FANTASTIC INVESTMENT GROUP Ltd ari yo itarubahirije amasezerano yagiranye na NCBA Bank Rwanda Plc, ko kandi uko kutayubahiriza kutaturutse ku mpamvu ntarengwa itunguranye, ko nta nyungu z'umurengera NCBA Bank Rwanda Plc yaciye FANTASTIC INVESTMENT GROUP Ltd, kandi ko ibereyemo NCBA Bank Rwanda Plc umwenda ungana na 2.951.584.001 Frw. Rutegeka FANTASTIC INVESTMENT GROUP Ltd kwishyura NCBA Bank Rwanda Plc umwenda iyibereyemo ungana na 2.951.584.001 Frw, kuyiha indishyi z'ikurikiranarubanza zingana na 300.000 Frw, n'igihembo cya Avoka kingana na 500.000 Frw, no gusubiza NCBA Bank Rwanda Plc igihembo yishyuye inzobere kingana na 28.620.000 Frw. Rutegeka kandi ko ingwate y'amagarama FANTASTIC INVESTMENT GROUP Ltd yatanze irega ingana na 20.000 Frw, iguma mu Isanduku ya Leta kuko ihwanye n'ibyakozwe byose muri uru rubanza.

[8] FANTASTIC INVESTMENT GROUP Ltd ntiyishimiye imikirize y'urwo rubanza, bituma irujuririra mu Rukiko Rukuru rw'Ubucuruzi, ubujurire bwayo buhabwa nº RCOMA 00577/2022/HCC, ivuga ko ku rwego rubanza, Urukiko rutasubije ibijyanye no kwica amasezerano nk'ikibazo kigize urubanza (issue) ukwacyo, ahubwo ngo rukabivuga mu zindi ngingo. Asaba ko hasuzumwa bundi bushya niba NCBA itarishe amasezerano. Ivuga ko kuba ubucuruzi bwakorwaga na FANTASTIC INVESTMENT GROUP Ltd ari Restaurant Fantastic ariko ikaza gushya, ndetse ba nyir'inyubako yakoreragamo bakemeza ko nta bucuruzi buzongera gukorerwa muri iyo nyubako kubera ko bagiye kuyubaka bundi bushya, kuba nyiri sosiyete ari na we Muyobozi wayo umwe rukumbi yarafunzwe, no kuba harabayeho icyorezo cya COVID-19 yangije imikorere yose kuko kugeza n'ubu Restaurant yakorwaga na Fantastic itarakomorerwa, bityo ko izo ari inkomyi zatumye amasezerano atubahirizwa ngo ubwishyu butangwe. Ikindi kandi ngo ni uko inyandiko Urukiko rwashingiyeho rwemeza ingano y'umwenda atari iz'ukuri, ko isaba ko zakongera gusuzumwa. Isaba kandi Urukiko gusuzuma niba amategeko Urukiko rwashingiyeho n'isesengura (interpretation) rwakoze byafatwa nk'ukuri kwashingirwaho. Mu gusoza, isaba guhabwa indishyi zitandukanye.

[9] NCBA Bank Rwanda Plc yiregura ivuga ko ubujurire bwa FANTASTIC INVESTMENT GROUP nta shingiro bufite, ngo kuko nk'uko bigaragara mu rubanza rujuririrwa, ingingo irebana no kumenya uwishe amasezerano yasuzumwe nk'uko bigaragara mu bika bya 28–37, ndetse n'ibirebana n'inkomyi ivuga ko ari zo zatumye itubahiriza amasezerano, nta gaciro zigomba guhabwa kuko nta gishya kirimo. Ivuga kandi ko inyandiko zose Urukiko rwashingiyeho zakozwe

n’umuyobozi wa FANTASTIC INVESTMENT GROUP Ltd zifite agaciro kazo kose, kuko nta Rukiko rurazigatesha. Isoza isaba ko yahabwa indishyi zitandukanye.

[10] Urukiko Rukuru rw’Ubucuruzi rwasuzumye ibibazo bijyanye no kumenya niba kwica amasezerano kwa NCBA Bank Rwanda Plc byarasuzumwe mu zindi ngingo zigize urubanza atari ingingo yihariye, byatuma byongera gusuzumwa bundi bushya mu ngingo yihariye, kumenya niba ifungwa ry’umuyobozi wa sosiyete, ishya rya restaurant hamwe na Covid-19 byafatwa nk’inkomyi ituma amasezerano atubahirizwa, kumenya niba isesengura ry’amategeko yakozwe ku rwego rubanza atari ukuri, kumenya niba hasuzumwa bundi bushya ingano y’umwenda uregerwa, no kumenya ishingiro ry’indishyi zisabwa muri uru rubanza.

[11] Ku wa 13/05/2022, Urukiko Rukuru rw’Ubucuruzi rwakijije urwo rubanza maze rwemeza ko ubujurire bwa FANTASTIC INVESTMENT GROUP Ltd nta shingiro bufite, ko FANTASTIC INVESTMENT GROUP Ltd igomba guha NCBA Bank Rwanda Plc indishyi z’ibyatakarijwe muri urwo rubanza kuri urwo rwego rw’ubujurire zingana na 500.000 Frw y’igihembo cya Avoka na 100.000 Frw y’ikurikiranarubanza, yose hamwe akaba 600.000 Frw. Rutegeka ko hagumyeho imikirize y’urubanza RCOM 01668/2020/TC rwaciwe n’Urukiko rw’Ubucuruzi ku wa 19/07/2021 uretse indishyi zimaze kuvugwa haruguru ziyongera ku zagenwe ku rwego rubanza. Rutegeka kandi ko amafaranga 40.000 Frw FANTASTIC INVESTMENT GROUP Ltd yatanzeho ingwate y’amagarama ijurira, ahwanye n’ibyakozwe byose muri urwo rubanza.

[12] Ku wa 08/06/2022, FANTASTIC INVESTMENT GROUP Ltd yajuririye urubanza RCOMA 00577/2022/HCC mu Rukiko rw’Ubujurire, ubujurire bwayo buhabwa nº RCOMAA 00072/2022/CA, ku mpamvu zo kumenya ingano y’umwenda nyakuri ibereyemo NCBA Rwanda Plc, kumenya uruhande rwishe amasezerano, kumenya niba ikwiye kugenerwa indishyi zose yari yasabye mu manza zabanje, inasaba izo kuri uru rwego rw’ubujurire bwa kabiri.

[13] NCBA Bank Rwanda Plc mbere yo kwiregura mu mizi kuri izi mpamvu z’ubujurire yatanze inzitizi yo kutakira ubujurire bwa FANTASTIC INVESTMENT GROUP Ltd ishingiye ku kuba yaratsinzwe mu nkiko zombi zabanje hashingiwe ku mpamvu zimwe, aho zose zasanze itarubahirije amasezerano y’inguzanyo yahawe, kandi gufungwa k’umuyobozi wa FANTASTIC INVESTMENT GROUP Ltd, gushya kwa RESTAURANT FANTASTIC ndetse n’icyorezo cya COVID-19 bitafatwa nk’impamvu ntarengwa itunguranye yatumye itubahiriza amasezerano maze zikemeza ko ibereyemo NCBA Bank Rwanda Plc umwenda ungana na 2.951.584.001 Frw, zikayitegeka kuwishyura ndetse zose zigasanga igomba kuyiha indishyi zishingiye ku kuba itarubahirije amasezerano y’inguzanyo, no kuba yarayishoye mu manza.

[14] Iburanisha ry’urubanza ryashyizwe ku wa 04/01/2023, NCBA Bank Rwanda Plc ihagarariwe na Me MUTANGANA Jean Bosco na Me KAREMERA Frank, naho FANTASTIC INVESTMENT GROUP Ltd ihagarariwe na NKURIKIYIMFURA Jean Paul atunganiwe na Avoka BAYISABE Iréné usanzwe aburanira iyo sosiyete kuko yari ari mu kiruhuko cy’uburwayi, bituma iburanisha ry’urubanza ryimurirwa ku wundi munsi.

[15] Ku wa 09/01/2023 urubanza rwaburanishijwe FANTASTIC INVESTMENT GROUP Ltd, ihagarariwe na Me BAYISABE Iréné naho NCBA Bank Rwanda Plc ihagarariwe n’Abavoka bari mu iburanisha rya mbere, hasuzumwa inzitizi yatanzwe y’iburabubasha bw’Urukiko kubera gutsindwa hashingiwe ku mpamvu zimwe mu nkiko zombi zabanje, ndetse n’ikibazo cy’ibyagenze

ku rubanza mu gihe urubanza rwaba ruhagarariye aha. Isomwa ry'icyemezo cy'Urukiko ryashyizwe ku wa 20/01/2023, ari nacyo gihe urubanza rusomeweho.

II. IBIBAZO BIGIZE URU RUBANZA N'ISESENGURWA RYABYO

➢ **Gusuzuma niba ubujurire bwatanzwe na FANTASTIC INVESTMENT GROUP Ltd butari mu bubasha bw'uru Rukiko rw'Ubujurire kubera gutsindwa ku mpamvu zimwe mu nkiko zombi zabanje**

[16] Abahagarariye NCBA Bank Rwanda Plc, bashingiye ku biteganywa n'ingingo ya 52, igika cya 3 y'Itegeko n°30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'Inkiko, basaba Urukiko rw'Ubujurire kutakira ubujurire bwatanzwe na FANTASTIC INVESTMENT GROUP Ltd kubera ko ingingo z'ubujurire zayo uko ari eshatu (3) zaburanishijwe mu Nkiko zombi zabanje kandi ikazitsindwaho hashingiwe ku mpamvu zimwe.

[17] Basobanura ko ingingo zasuzumwe muri izo Nkiko ari iyerekeranye no kumenya ingano y'umwenda, mu rubanza RCOM 01668/2020/TC iboneka kuva ku rupapuro rwa 19 kugeza ku rwa 21 zarwo, FANTASTIC INVESTMENT GROUP Ltd itsindwa n'uko Urukiko rwasanze nyuma y'integuza ya nyuma kandi hashingiwe ku mabaruwa yo ku wa 15/07/2020, 29/07/2020, 11/08/2020 ndetse no ku nama yo ku wa 19/08/2020 yabaye hagati y'impande zombi, zarakomeje kugirana ibiganiro kandi zemeranwa ku ngano y'umwenda, ibi bikagaragara mu bika bya 38 – 72 & 79 by'urubanza aho Urukiko rushingiye ku bimenyetso bya historique z'imyenda biri muri dosiye byatanzwe na NCBA Bank Rwanda Plc, inyandiko yayo yo ku wa 18/11/2020, isobanura inkomoko y'umwenda n'uko wabazwe kugeza kuri iyo tariki, runashingira kuri raporo y'inzobere GPO Partners, rwabonye ko FANTASTIC INVESTMENT GROUP Ltd iyibereyemo umwenda wose hamwe ugera kuri 2.951.584.001 Frw.

[18] Abahagarariye NCBA BANK PLC bavuga ko mu rubanza RCOMA 00577/2021/HCC kuri iyo ngingo y'ingano y'umwenda, mu gika cya 62 & 63 Urukiko rwongeye kwemeza ko umwenda wa 134.350.000 Frw watanzwe, rushingiye nanone kuri raporo y'abahanga, rwongera gusuzuma ibyerekeranye n'amasezerano yose y'umwenda n'uko yagiye avugururwa, rusanga umwenda wose ungana na 2.306.864.775 Frw nk'uko bigaragazwa n'amasezerano yo ku wa 23/12/2019 rwemeza ko umwenda ugomba kwishyurwa ari 2.951.584.001 Frw nk'uko wari wemejwe n'Urukiko rubanza, ariko kuri uwo mwenda wari uhari ubwo wavugururwaga bwanyuma hiyongreyeho inyungu zakomeje kubarwa, kandi ko atari umurengera kuko zitigeze zirenga umwenda remezo.

[19] Ku ngingo ya kabiri y'ubujurire yerekeranye no kwemeza ko NCBA Bank Plc ari yo yishe amasezerano, abayihagarariye bavuga ko mu rubanza RCOM 01668/2020/TC no mu rubanza RCOMA 00577/2021/HCC FANTASTIC INVESTMENT GROUP Ltd yaburanye yemera ko itubahirije amasezerano y'iguriza, ariko igasobanura ko kutayubahiriza byatewe n'impamvu ntarengwa itunguranye yo gufungwa kw'Umuyobozi Mukuru wayo, gushya kwa restaurant Fantastic yavagamo ubwishyu, ndetse n'icyorezo cya Covid 19. Mu rukiko rubanza mu gika cya 29 Urukiko rushingiye ku ngingo ya 24 y'Itegeko n° 007/2021 ryo ku wa 05/02/2021 rigenga amasosiyete y'ubucuruzi, rwemeje ko isosiyete ishinzwe hakurikijwe iryo Tegeko igira ubuzima gatozi butandukanye n'ubw'abanyamigabane bayo, ko iba yihariye ku giti cyayo kandi igira uburenganzira n'inshingano bitandukanye n'iby'abanyamigabane cyangwa abanyamuryango

bayo. Rusanga ifungwa ry'Umuyobozi mukuru ritari gutuma Fantastic Investment Group Ltd idakomeza ibikorwa byayo, kandi n'uwitwa Nelson RUTAMBUKA yari yarahawe ububasha bwo gukomeza ibikorwa by'iyo sosiyete birimo gusinya ku masezerano n'inyandiko zose bijyanye, gukurikirana amakonti yayo ifite muri NCBA Bank, no gusinya no kwemeza ibikorwa ibyo ari byo byose kuri ayo makonti.

[20] Bakomeza bavuga ko mu rubanza RCOMA 00577/2021/HCC**,** aho mu bika bya 37, 39 na 40 na 41 byarwo, Urukiko Rukuru rw'Ubucuruzi, na rwo rwashingiye kuri iyo ngingo ya 24 y'Itegeko n° 007/2021 yagaragajwe hejuru, rwongeraho n'iya 146 runifashisha n'inyandiko z'abahanga mu kwemeza ko *"ntaho Urukiko rwahera rubifata nk'impamvu ntarengwa itunguranye yatuma hatabaho kubahiriza amasezerano kuko nk'uko bivugwa n'abahanga mu mategeko ko impamvu ntarengwa itunguranye igizwe n'ibikorwa bidatewe na nyir'ubwite kandi ko mu busanzwe biba byarateganyijwe*", ugufungwa kwa NKURIKIYIMFURA Jean Paul kutashoboraga kuba imkomyi ku bikorwa bya sosiyete cyane ko yasimbuwe na RUTAMBUKA Nelson.

[21] Ku ngingo ya gatatu yerekeye ugushya kwa restaurant Fantastic yavagamo ubwishyu, abahagarariye NCBA Bank Plc basobanura ko mu gika cya 30 cy'urubanza RCOM 01668/2020/TC, Urukiko rw'Ubucuruzi rwemeje ko gushya kwa Restaurant Fantastic urega avuga ko yavagamo ubwishyu, bitaba inkomyi itunguranye kuko mu masezerano yose y'umwenda bagiranye, ni ukuvuga ayo ku wa 22/11/2018, 30/07/2019 no ku wa 23/12/2019, nta na hamwe Restaurant Fantastic yigeze iba ishingiro ry'amasezerano, ko ahubwo mu masezerano yo ku wa 23/12/2019, icyari cyumvikanyweho n'impande zombi ari uko amafaranga yose ava mu bucuruzi bwa Fantastic Investment Group Ltd, yagombaga kunyuzwa kuri konti yayo iri muri NCBA Bank. Ko kandi Urukiko rwasanze nta kigaragaza ko iyi restaurant yahiye mbere y'uko Fantastic Investment Group Ltd itangira kunanirwa kubahiriza inshingano zayo, nk'uko bigaragazwa n'ibaruwa yo ku wa 17/02/2020, NCBA Bank Rwanda Plc yayandikiye iyimenyesha ko itubahiriza amasezerano.

[22] Bakomeza bavuga ko mu rubanza RCOMA 00577/2021/HCC ibimaze kuvugwa byagarutsweho mu gika cya 42 cy'urubanza aho rwo rwemeje ko mu masezerano akomokaho umwenda uburanwa nta hagaragara ko ubwishyu bwawo bwagombaga kuva mu bucuruzi bwa Restaurant Fantastic. Bityo ugushya kwayo kutaba inkomyi ituma amasezerano atubahirizwa kandi nta sano bifitanye.

[23] Ku birebana n'inkomyi y'icyorezo cya Covid 19, abahagarariye NCBA BANK Plc bavuga ko mu rubanza RCOM 01668/2020/TC mu gika cya 31 no mu cya 32, Urukiko rwasesenguye ibyerekeye inkomyi y'icyorezo cya Covid 19 kugira ngo rumenye niba mbere y'iyaduka ryacyo mu Rwanda ku wa 14/03/2020 na *lockdown* yakurikiyeho guhera ku wa 21/03/2020, Fantastic Investment Group Ltd yarubahirizaga amasezerano avuguruye y'umwenda yo ku wa 23/12/2019 cyane cyane ingingo yayo ya 3 agace ka "b", kayitegekaga kunyuza amafaranga yose y'ubucuruzi bwayo kuri konti yayo muri NCBA Bank Rwanda Plc, maze rusanga mu gace ka "d" k'ingingo ya 3 y'ayo masezerano karateganyaga ko kunanirwa kunyuza amafaranga ava mu bucuruzi bwa Fantastic Investment Group kuri konti zayo muri NCBA Bank, cyangwa kunanirwa kurangiza inyubako yatangiwe inguzanyo mu gihe cy'amezi 3 yagombaga kurangira ku wa 31/03/2020, bifatwa nko kutubahiriza amasezerano kandi bigaha NCBA uburenganzira bwo gusesa igihe cyo gusonerwa kwishyura umwenda ndetse no gusaba ko inguzanyo zose zishyurwa. Mu gika cya 33

Urukiko rw'Ubucuruzi rwemeza ko ku byerekeranye no kunyuza amafaranga ava mu bucuruzi bwa Fantastic Investment Group Ltd kuri konti zayo muri NCBA Bank Rwanda Plc, Fantastic Investment Group Ltd itabyubahirije kandi ikaba itagomba kwitwaza icyorezo cya Covid 19 nk'inkomyi ntaregwa itunguranye, kuko integuza ku kwica amasezerano zo ku wa 17/02/2020 no ku wa 17/03/2020 zari zaratanzwe mbere y'uko icyorezo cya Covid1 9 cyaduka. Ariko ko rwasanze ibyerekeranye no kurangiza inyubako, icyorezo cya Covid 19 cyarabaye igihe ntarengwa Fantastic Investment Group Ltd yari yarahawe kitararangira, ari inkomyi ku kurangiza inzu gusa.

[24] Bakomeza bavuga ko mu rubanza RCOMA 00577/2021/HCC ibyo byagarutsweho mu gika cya 43, aho na rwo rwagarutse ku itariki ya 14/03/2020 Covid-19 yadukiyeho, no ku itariki ya 21/03/2020 *lockdown* yatangiriyeho, maze rukemeza ko kuba hari integuza zitandukanye zigizwe n'iyo ku wa 17/02/2020 n'iyo ku wa 17/03/2020 Fantastic Investment Group Ltd yahawe na NCBA Bank Rwanda Plc, zijyanye no kutubahiriza amasezerano akomokaho umwenda mbere y'uko Covid 19 igera mu Rwanda, ndetse imirimo yose igikorwa bisanzwe hatarabaho "*guma mu rugo*", byumvikanisha ko itagira icyo cyorezo inkomyi yatumye itubahiriza amasezerano kandi na mbere hose itarayubahirizaga.

[25] Uhagarariye FANTASTIC INVESTMENT GROUP Ltd mu myanzuro ye, yiregura kuri iyi nzitizi avuga ko nta shingiro ifite kuko itatsinzwe hashingiwe ku mpamvu zimwe. Avuga ko ku byerekeye inkomyi zitigobotorwa FANTASTIC INVESTMENT GROUP Ltd yahuye na zo nk'icyorezo cya COVID 19, mu rubanza RCOM 01668/2020/TC mu gika cya 33, Urukiko rw'Ubucuruzi rwemeje ko icyorezo cya Covid 19 cyafatwa nk'impamvu cyangwa inkomyi itigobotorwa yatuma amasezerano atubahirizwa uko bikwiye ku ruhande rwa Fantastic Investment Group Ltd, ariko ko ari yo yonyine yakwemerwa. Mu rubanza RCOMA 00577/2021/HCC ho avuga ko mu gika cya 43, Urukiko Rukuru rw'Ubucuruzi rwavuze ko covid 19 ari yo nkomyi ntarengwa yonyine yemewe, ko izindi zose zatanzwe na Fantastic Investment Group Ltd nta shingiro zifite.

[26] Uhagarariye FANTASTIC INVESTMENT GROUP Ltd avuga ko ku mpamvu yo gufungwa k'Umuyobozi Mukuru wa Fantastic Investment Group Ltd kandi ari na we munyamigabane rukumbi, mu rubanza RCOM 01668/2020/TC, Urukiko rw'Ubucuruzi rwatesheje agaciro iyi ngingo ruvuga ko umunyamigabane atandukanye na Company, rushingiye ku ngingo ya 24 no ku ya 144 y'Itegeko rigenga amasosiyete; naho mu rubanza RCOMA 00577/2021/HCC Urukiko Rukuru rw'Ubucuruzi rwatesheje agaciro iyi ngingo rushingiye kuri procuration yahawe uwitwa RUTAMBUKA Nelson, rushingiye ku ngingo ya 24 n'iya 146.

[27] Uhagarariye FANTASTIC INVESTMENT GROUP Ltd avuga ko ku bijyanye n'inkongi y'umuriro yibasiye ubucuruzi bwa Fantastic Investment Group Ltd, mu rubanza RCOM 01668/2020/TC**,** mu gika cya 30, Urukiko rw'Ubucuruzi rwavuze ko ubwo bucuruzi ntaho buhuriye n'amasezerano y'umwenda FANTASTIC INVESTMENT GROUP Ltd yagiranye na NCBA Bank Plc, bityo ko ugushya kwayo bitafatwa nk'impamvu ntarengwa itunguranye; naho mu rubanza RCOMA 00577/2021/HCC**,** mu gika cya 41 Urukiko Rukuru rw'Ubucuruzi rwemeza ko inkongi y'umuriro ifatwa nka kimwe muri acts of God ndetse ko ari inkomyi. (cas de force majeur).

[28] Uhagarariye FANTASTIC INVESTMENT GROUP Ltd avuga ko ku ngingo y'uburyo umwenda wagiye usesengurwa mu rubanza RCOM 01668/2020/TC Urukiko rw'Ubucuruzi rwategetse ko hashyirwaho inzobere zo kubara umwenda kugeza ku munsi w'urubanza, naho mu

rubanza RCOMA 00577/2021/HCC Urukiko Rukuru rw'Ubucuruzi ruvuga ko ingingo ya 112 agace ka 1 n'aka 2 y'Itegeko nº 47/2017 rigenga imitunganyirize y'imirimo y'amabanki, iteganya ko mu kwishyuza imyenda banki itagomba kurenza umubare w'amafaranga ntarengwa akurikira: Umwenda shingiro utarishyuwe igihe inguzanyo yageraga mu rwego rwo kutishyurwa n'inyungu zitarenze umwenda shingiro igihe inguzanyo yageraga mu rwego rwo kutishyurwa hakurikijwe amasezerano banki ifitanye n'uyifitiye umwenda.

UKO URUKIKO RUBIBONA

[29] Ikibazo cyo kumenya niba impamvu zashingiweho FANTASTIC INVESTMENT GROUP Ltd itsindwa ku rwego rwa mbere n'urwa kabiri ari zimwe, kigomba gusuzumwa hasesengurwa imikirize y'urubanza kuri izo nzego zombi, ingingo z'ingenzi zasuzumwe, impamvu buri Rukiko rwashingiyeho kugira ngo rugere ku cyemezo, byaramuka bigaragaye ko ari zimwe, ubujurire bwayo bwa kabiri ntibube buri mu bubasha bw'Urukiko rw'Ubujurire.

[30] 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, mu gika cya gatatu cy'iyo ngingo igateganya ibikurikira: "*Icyakora kandi ubujurire bwa kabiri ntibushora kwakirwa ku manza z'ababuranye bemera ibyo baregwa, cyangwa ku muburanyi watsinzwe mu Nkiko zombi hashingiwe ku mpamvu zimwe*".

[31] Ingingo ya 3 y'Itegeko n° 15/2004 ryo ku wa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo (J.O no spécial du 19/07/2004) iteganya ibikurikira: **"***Buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana. Umucamanza ashobora nyamara gutegeka umuburanyi wese gutanga gihamya y'ibimenyetso afite".*

[32] Ku bijyanye n'ibisobanuro by'impamvu zimwe, zumvikana nk'ibisobanuro buri Rukiko rwashingiyeho mu gufata icyemezo cyarwo rugendeye ku byabaye no ku byo amategeko ateganya, kandi ni zo zishingirwaho mu kugaragariza no gusobanurira ababuranyi icyatumye Urukiko rufata icyemezo, akaba ari na zo ziherwaho ababuranyi basuzuma niba imiburanire yabo yarasesenguwe n'Urukiko, bitewe n'uko buri cyemezo cy'Urukiko kigomba kuba cyasobanuriwe impamvu[1].

[33] Urukiko rw'Ubujurire rurasanga imikirize y'urubanza nº RCOM 01668/2020/TC n'iy'urubanza nº RCOMA 00577/2021/HCC zigereranywa igaragaza ko inkiko zombi zaruciye ku nzego ebyiri zikurikirana zasesenguye ibibazo bitatu y'ingenzi bijyanye no: kumenya niba ukutubahiriza amasezerano kwa FANTASTIC INVESTMENT GROUP Ltd kwaratewe n'impamvu ntarengwa itunguranye bityo NCBA Bank Rwanda Plc ikaba itaragombaga gutangiza imihango yo kwishyuza FANTASTIC INVESTMENT GROUP Ltd, kumenya niba FANTASTIC INVESTMENT GROUP Ltd itarahawe inguzanyo yemerewe mu masezerano yo ku wa

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[1] Reba igika cya 22 cy'urubanza no RCOMAA 0051/14/CS hagati ya RRA na SECAM Ltd rwaciwe n'Urukiko rw'Ikirenga ku wa 04/12/2015 n'igika cya 21 cy'urubanza n° RCOMAA 0038/16/CS - RCOMAA 0033/2016/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 21/04/2017 hagati ya Bank of Kigali Plc na MULISA KANA Martin. Reba igika cya 21 mu rubanza RCOMAA 00043/2021/CA rwaciwe ku wa 29/12/2021 haburana HIGH END DEVELOPERS Ltd / MURERWA Annet, ODUOR EDGAR DICKSON OMALA OTIENO na RIGHT Ltd.

30/07/2019 ingana na 134.350.000 Frw bityo iyo nguzanyo ikaba yavanwa mu mwenda NCBA Bank Rwanda Plc iyishyuza, no kumenya ingano y'umwenda FANTASTIC INVESTMENT GROUP LTD ibereyemo NCBA Bank Rwanda Plc.

[34] Ku kibazo cyo kumenya niba ukutubahiriza amasezerano kwa FANTASTIC INVESTMENT GROUP Ltd kwaratewe n'impamvu ntarengwa itunguranye bityo NCBA Bank Rwanda Plc ikaba itaragombaga gutangiza imihango yo kwishyuza FANTASTIC INVESTMENT GROUP Ltd, Urukiko rw'ubucuruzi mu bika bya 27-29, rushingiye ku ngingo ya 24 y'Itegeko n° 007/2021 ryo ku wa 05/02/2021 rigenga amasosiyete y'ubucuruzi iteganya ko "*isosiyete ishinzwe hakurikijwe iryo tegeko igira ubuzima gatozi butandukanye n'ubw'abanyamigabane bayo. Isosiyete ishinzwe hakurikijwe iryo tegeko iba yihariye ku giti cyayo kandi ikagira uburenganzira n'inshingano bitandukanye n'iby'abanyamigabane cyangwa abanyamuryango bayo*, n'ingingo ya 144 y'Itegeko rimaze kuvugwa, no ku kuba uwitwa RUTAMBUKA Nelson yarahawe ububasha bwo gusinya amasezerano y'inguzanyo n'inyandiko zose bijyanye mu izina no mu mwanya wa FANTASTIC INVESTMENT GROUP Ltd, rwagaragaje ko FANTASTIC INVESTMENT GROUP Ltd itsindwa n'uko ifungwa rya NKURIKIYIMFURA Jean Paul umuyobozi mukuru wayo, ritagomba gufatwa nk'impamvu ntarengwa itunguranye yatumye FANTASTIC INVESTMENT GROUP Ltd itubahiriza amasezerano.

[35] Ku ngingo yasuzumwe mu Rukiko rw'Ubucuruzi yerekeranye no kumenya niba ifungwa ry'umuyobozi wa sosiyete, ishya rya *restautant* hamwe na COVID-19 byafatwa nk'inkomyi ituma amasezerano atubahirizwa, mu bika bya 37-43 Urukiko Rukuru rw'Ubucuruzi, na rwo rushingiye ku ngingo ya 24 & 146 z'Itegeko ryavuzwe hejuru, rubona ko kuba umuyobozi wa FANTASTIC INVESTMENT GROUP Ltd yarashoboraga kwirinda icyatuma acyekwaho icyaha cyatumye afungwa, ntabwo ifungwa rye ryafatwa nk'impamvu ntarengwa itunguranye, nk'uko byemejwe ku rwego rubanza, rubona kandi ishya rya restaurant ritaba inkomyi yo kubahiriza amasezerano itavuzwemo. Ku kibazo cya Covid 19, rubona ko kuba hari integuza zitandukanye zigizwe n'iyo ku wa 17/02/2020 no ku wa 17/03/2020 FANTASTIC INVESTMENT GROUP Ltd yahawe na NCBA zijyanye no kutubahiriza amasezerano akomokaho umwenda uburanwa mbere y'uko Covid-19 igera mu Rwanda ndetse imirimo yose igikorwa bisanzwe kuko hatari hakabayeho "Guma mu rugo", bityo bigaragara ko FANTASTIC INVESTMENT GROUP Ltd itsindwa no kuba itaruubahirije amasezerano impande zombi zagiranye itanubahirizaga mbere y'icyorezo, ko icyo cyorezo kitaba inkomyi yatuma inshingano yari ifite ziyakomokaho. Bityo rero ibivugwa na FANTASTIC INVESTMENT GROUP Ltd by'inkomyi zayibujije kubahiriza amasezerano yagiranye na NCBA, bikaba bitarahawe ishingiro mu buryo bumwe ku nzego zombi zabanje.

[36] Ku ngingo yo kumenya niba FANTASTIC INVESTMENT GROUP Ltd itarahawe inguzanyo yemerewe mu masezerano yo ku wa 30/07/2019, ingana na 134.350.000 Frw, bityo iyo nguzanyo ikaba yavanwa mu mwenda NCBA Bank Rwanda Plc yishyuza FANTASTIC INVESTMENT GROUP Ltd, Urukiko rw'Ubucuruzi mu bika bya 62-72, rushingiye ku biteganywa n'ingingo ya 64 y'Itegeko rigenga amasezerano, no ku ngingo ya 108 y'itegeko rigenga ibimenyetso mu manza n'itangwa ryabyo, rwasanze FANTASTIC INVESTMENT GROUP Ltd yarahawe inguzanyo yemerewe mu masezerano yo ku wa 30/07/2019, ingana na 134.350.000 Frw, iyo nguzanyo ikaba igomba kubarirwa mu mwenda NCBA Bank Rwanda Plc yishyuza FANTASTIC INVESTMENT GROUP Ltd.

[37] Iyo ngingo kandi yongeye gusuzumwa mu Rukiko Rukuru rw'Ubucuruzi, mu gika cya 24, rusanga ibaruwa yo ku wa 02/12/2019 yanditswe n'uwajuriye yavugaga ko afite ibirarane mu kwishyura by'amezi atatu, agasaba ko habaho kuvugurura umwenda ndetse n'amafaranga yagombaga kwishyurwa guhera mu kwezi kwa 12/2019 kugeza mu kwa 02/2020, na yo akongerwa ku mwenda igaragaza amasezerano yo kuvugurura umwenda yo ku wa 23/12/2019 yakozwe nyuma y'iyo baruwa ivuzwe haruguru yerekana ko umwenda wose wabaye 2.306.864.775 Frw. Itsindwa n'uko ayo masezerano yashyizweho umukono na NKURIKIYIMFURA Jean Paul nk'umuyobozi wa FANTASTIC INVESTMENT GROUP Ltd, hari inguzanyo ya 2.000.000.000 Frw mu masezerano yo ku wa 22/11/2018 hamwe n'indi ya 2.191.350.000 Frw mu masezerano yo ku wa 31/07/2019 kandi byasobanurwaga na FANTASTIC INVESTMENT GROUP Ltd.

[38] Ku ngingo yo kumenya ingano y'umwenda FANTASTIC INVESTMENT GROUP Ltd ibereyemo NCBA Bank Rwanda Plc, Urukiko rw'Ubucuruzi mu bika bya 77 na 81, rushingiye ku biteganywa n'ingingo ya 64 y'Itegeko rigenga amasezerano, rwasanze itsindwa n'uko hari ibimenyetso bya historique z'imyenda biri muri dosiye, nk'inyandiko yo ku wa 18/11/2020, isobanura inkomoko y'umwenda n'uko wabazwe kugeza kuri iyo tariki, na raporo y'inzobere GPO Partners igaragaza ko kugeza tariki ya 21/06/2021 umwenda wose FANTASTIC INVESTMENT GROUP Ltd ibereyemo NCBA Bank Rwanda Plc ungana na 2.951.584.001 Frw.

[39] Iyo ngingo yongeye gusuzumwa mu bujurire, Urukiko Rukuru rw'Ubucuruzi mu bika bya 59-62 rushingiye ku biteganywa n'ingingo ya 76 y'Itegeko ry'ibimenyetso mu manza n'itangwa ryabyo, n'ingingo ya 112 agace ka 1 n'aka 2 y'Itegeko nº 47/2017 ryo ku wa 23/9/2017 rigena imitunganyirize y'imirimo y'amabanki iteganya ko mu kwishyuza imyenda itishyurwa, banki itagomba kurenza umubare w'amafaranga ntarengwa akurikira: 1° umwenda shingiro utarishyuwe igihe inguzanyo yageraga mu rwego rwo kutishyurwa; 2° inyungu zitarenze umwenda shingiro igihe inguzanyo yageraga mu rwego rwo kutishyurwa hakurikijwe amasezerano banki ifitanye n'uyifitiye umwenda. FANTASTIC INVESTMENT GROUP Ltd ikaba itsindwa n'uko Urukiko na rwo rwasanze ubwo umwenda wavugururwaga bwa nyuma, inguzanyo yose yanganaga na 2.306.864.775 Frw nk'uko bigaragazwa n'amasezerano yo ku wa 23/12/2019 no ku rwego rubanza haremejwe umwenda wose uwajuriye agomba kwishyura ungana na 2.951.584.001 FRW, byumvikanisha ko inyungu zirenga kuri uwo mwenda wari uhari ubwo wavugururwaga bwa nyuma zitawusumba.

[40] Urukiko rw'Ubujurire rurasanga ku nzego zombi zibanza inkiko zombi zarasobanuye kimwe impamvu z'ugutsindwa kwa FANTASTIC INVESTMENT GROUP Ltd kuri ibyo bibazo byasuzumwe byerekeranye no kumenya niba ukutubahiriza amasezerano kwa FANTASTIC INVESTMENT GROUP Ltd kwaratewe n'impamvu ntarengwa itunguranye, bityo NCBA Bank Rwanda Plc ikaba itaragombaga gutangiza imihango yo kwishyuza FANTASTIC INVESTMENT GROUP Ltd, kumenya niba FANTASTIC INVESTMENT GROUP Ltd itarahawe inguzanyo yemerewe mu masezerano yo ku wa 30/07/2019 ingana na 134.350.000 Frw, bityo iyo nguzanyo ikaba yavanwa mu mwenda NCBA Bank Rwanda Plc yishyuza FANTASTIC INVESTMENT GROUP Ltd no kumenya ingano y'umwenda FANTASTIC INVESTMENT GROUP Ltd ibereyemo NCBA Bank Rwanda Plc.

[41] Urukiko rw'Ubujurire rurasanga kandi FANTASTIC INVESTMENT GROUP Ltd, uretse kuvuga gusa ko itatsinzwe ku mpamvu zimwe itarashoboye kugaragariza Urukiko ko imiterekerereze y'umucamanza wo ku rwego rwa mbere iyiganisha ku gutsindwa ku ngingo

zaburanwe itandukanye n'iy'uwo ku rwego rwa kabiri, bityo ubu bujurire yatanze bukaba butagomba kwakirwa ngo busuzumwe hakurikijwe ibiteganywa n'iyo ngingo ya 52 igika cya 3 y'Itegeko rigena ububasha bw'inkiko yibukijwe haruguru.

- **Ibijyanye n'amafaranga y'indishyi, ikurikiranarubanza n'ay'igihembo cya Avoka asabwa n'ababuranyi**

[42] Abahagarariye mu rubanza NCBA Bank Rwanda Plc, bashingiye ku ngingo 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, basaba Urukiko rw'Ubujurire gutegeka FANTASTIC INVESTMENT GROUP Ltd kwishyura NCBA Bank Rwanda Plc amafaranga y'u Rwanda angana na 5.000.000 Frw akubiyemo ay'igihembo cya Avoka angana na 3.500.000 Frw na 1.500.000 Frw y'ikurikiranarubanza.

[43] Me BAYISABE Irené, uhagarariye FANTASTIC INVESTMENT GROUP Ltd, avuga ko Urukiko ruramutse rusanze hari amafaranga y'ibyagenze ku rubanza rugomba kugenera uregwa, hakurikizwa igiciro gikubiye mu biciro mbonera bigenerwa Abavoka cya 500.000 Frw hatitawe ku bwinshi bw'Abavoka, kuko nta na details bagaragaje kandi nta kindi batakaje kuri uru rubanza, uretse kuza mu Rukiko nk'uko n'uwajuriye yarujemo.

UKO URUKIKO RUBIBONA

[44] Ingingo ya 111y'Itegeko n° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ibi bikurikira: "*Ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikira ku kirego cy'iremezo kigamije kwishyuza ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishirizwa rimwe n'ikirego cy'iremezo. Gishobora kandi kwakirwa kikanaburanishwa n'iyo ikirego cy'iremezo cyaba kitakiriwe*".

[45] Hakurikijwe ibiteganywa n'iyo ngingo kandi ikirego kikaba kitakiriwe kuko kitari mu bubasha bw'Urukiko nk'uko bimaze gusobanurwa haruguru, Urukiko rurasanga uwarezwe agomba kugenerwa indishyi zigenwe mu bushishozi bw'Urukiko kuko izo asaba ari umurengera, bityo FANTASTIC INVESTMENT GROUP Ltd ikaba igomba kwishyura NCBA Bank Rwanda Plc amafaranga ibihumbi magana atanu (500.000 Frw) y'igihembo cya Avoka n'ibihumbi ijana (100.000 Frw) y'ikurikiranarubanza kuri uru rwego yiyongera ku byategetswe mu rubanza rwajuririwe.

III. ICYEMEZO CY'URUKIKO

[46] Rwemeje ko ubujurire bwatanzwe na FANTASTIC INVESTMENT GROUP Ltd butakiriwe kuko butari mu bubasha bw'Urukiko rw'Ubujurire;

[47] Rutegetse FANTASTIC INVESTMENT GROUP Ltd kwishyura NCBA Bank Rwanda Plc 500.000 Frw y'igihembo cya Avoka na 100.000 Frw y'ikurikiranarubanza kuri uru rwego;

[48] Ruvuze ko amafaranga FANTASTIC INVESTMENT GROUP Ltd yatanzeho ingwate y'amagarama y'uru rubanza ahwanye n'ibyarukozwemo.