UWAMURERA vs UBUSHINJACYAHA

[Rwanda URUKIKO RW'UBUJURIRE – RPAA/ECON 00002/2023/CA (Rutazana, P.J.) 28 Werurwe 2024]

Amategeko yerekeye imiburanishirize y'imanza nshinjabyaha – Ubujurire – Kugoboka mu rubanza – Ubujurire bw'uwagobotse mu rubanza ku bushake – Kuba umuburanyi ugobokeshejwe mu rubanza ku gahato ku rwego rw'ubujurire yemerewe kujuririra urubanza yagobokeshejwemo inshuro imwe iyo hari ibyo yaciwe, kabone n'aho urubanza rwaba ruciwe ku rwego rwa nyuma, ni umwihariko Umushingamategeko yahaye umuburanyi wagobokeshejwe mu rubanza ku gahato kuko aba yashyizwe mu rubanza atabishaka, ibi ntibireba umuburanyi wagobotse mu rubanza ku bushake kuko we aba yaniyemeje gufatira urubanza yagobotsemo aho rugeze; bityo urwo rubanza rwaba rushobora kujuririrwa akaba nawe ubwo burenganzira abufite, rwaba rudashobora kujuririrwa akaba ntabwo afite.

Incamake y'ikibazo: Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Nyarugenge, Ubushinjacyaha burega uwitwa Kaganzi bumukurikiranyeho icyaha cyo kunyereza umutungo; icyo guhindura inyandiko cyangwa gukoresha inyandiko mpimbano, icyo kwinjira mu makuru abitse muri mudasobwa cyangwa mu rusobe rwa mudasobwa; icyo kudasobanura inkomoko y'umutungo n'icyaha cy'iyezandonke' ubushinjacyaha kandi bwareze uwitwa Kayitana bumukurikiranyeho icyaha cyo kunyereza umutungo, bunarega abitwa Mukagasana, Mukasafari na Ndamade bubakurikiranyeho kuba ibyitso mu cyaha cyo kunyereza umutungo. RDB yaregeye indishyi muri urwo rubanza ndetse igobokesha ku gahato IREMBO; uwitwa Muhongayire nawe yagobotse mu rubanza avuga ko umwe mu mitungo yafatiriwe ari iye. Urwo Rujkiko rwaciye urubanza rwemeza ko Kaganzi ahamwa n'icyaha cyo kunyereza umutungo, icyaha cy'iyezandonke, icyaha cyo gukora no gukoresha inyandiko mpimbano, icyaha cyo kwinjira mu makuru abitse muri mudasobwa n'icyaha cyo kudasobanura inkomoko y'umutungo, naho abandi baregwaga hamwe rusanga badahamwa n'ibyaha; Urwo Rukiko rwahanishije Kaganzi igifungo cy'imyaka icumi (10) n'ihazabu ingana na 2.390.430 USD, runategeka gusubiza RDB amafaranga yayo yanyereje angana na 478.086 USD, no kuyishyura indishyi zinyuranye; urukiko rwanemeje ko ukugoboka mu rubanza ku bushake kwakozwe na Muhongayire nta shingiro gufite, ndetse n'ukugobokeshwa mu rubanza ku IREMBO nta shingiro gufite. Urwo Rukiko kandi rwategetse ko imitungo inyuranye inyagwa ikagurishwa, amafaranga avuyemo agashyirwa mu isanduku ya Leta.

Kaganzi na Muhongayire bajuririye urubanza mu Rukiko Rukuru, uwitwa Uwamurera nawe agoboka ku bushake kuri uru rwego, agamije kugaragaza ko hari imitungo itimukanwa urukiko rwategetse ko inyagwa kandi ari iye. Urwo Rukiko rwaciye urubanza rwemeza ko ubujurire bwatanzwe bwose nta shingiro bufite, ko n'ikirego cyo kugoboka ku bushake cyatanzwe n' Uwamurera nta shingiro gifite; rwemeza ko imikirize y'urubanza rwajuririwe idahindutse.

Kaganzi, Muhongayire n'Uwamurera bajuririye urwo rubanza mu Rukiko rw'Ubujurire, Ubwanditsi bw'urukiko bufata icyemezo cyo kutandika ubujurire bwa Kaganzi n'ubwa Muhongayire bushingiye ku mpamvu y'uko ari ubujurire bwa kabiri kandi bukaba butujuje ibisabwa n'amategeko, naho ku bireba ubujurire bwa Uwamurera, Ubwanditsi bw'Urukiko bufata icyemezo cyo kubwandika ngo kuko ari ubwa mbere ajuriye. Ubujurire bwe bwari bugamije

kugaragaza ko Urukiko Rukuru rwategetse ko hari imitungo itimukanwa inyagwa rwirengagije ibimeyetso yatanze bigaragaza ko ari iye. Ku bijyanye n'ubu bujurire, Ubushinjacyaha bwatanze inzitizi y'iburabubasha bw'urukiko, busobanura ko Uwamurera Phoebe yajuriye ashingiye ku ngingo ya 52 y'Itegeko N° 30/2018 ryo kuwa 02/06/2018 rigena ububasha bw'Inkiko, ngo nyamara akaba atujuje ibisabwa n'iyo ngingo kuko mu rubanza yajuririye ataciwe indishyi zingana na 75.000.000 frw zivugwa muri iyo ngingo.

Urukiko rw'Ubujurire rubyibwirije, rwazamuye ikibazo kijyanye no kumenya niba ubujurire bwa Uwamurera nk'uwagobotse mu rubanza ku bushake ku rwego rw'Urukiko Rukuru, bwaragombaga kwakirwa muri uru rukiko.

Ku bijyanye niyo nzitizi, Uwamurera avuga ko Urukiko rw'Ubujurire rufite ububasha bwo gusuzuma ubujurire bwe bihuye n'ihame ry'uko umuntu afite uburenganzira bwo kujuririra icyemezo yafatiwe n'urukiko mu rukiko rwisumbuye ho (Principe de doubre degré de juridiction), kandi ko iri hame ari inkingi ya mwamba mu kugirango umuntu ahabwe ubutabera.

Ubushinjacyaha bwo buvuga ko urubanza Uwamurera Phoebe yajuririye rwaciwe n'Urukiko Rukuru ku rwego rw'ubujurire bwa mbere kandi rukaba ari urubanza nshinjabyaha kuko kuba yaragobotse ku bushake agamije kugaruza umutungo avuga ko ari uwe bidahindura kamere y'urubanza; ko hashingiwe ku biteganywa mu ngingo ya 52 y'Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'Inkiko, harebwe igihano cy'ibanze (peine principale) cyagenwe n'urukiko muri urwo rubanza, ubujurire bwe butari mu bubasha bw'urukiko rw'Ubujurire.

Incamake y'icyemezo: 1. Kuba umuburanyi ugobokeshejwe mu rubanza ku gahato ku rwego rw'ubujurire yemerewe kujuririra urubanza yagobokeshejwemo inshuro imwe iyo hari ibyo yaciwe, kabone n'aho urubanza rwaba ruciwe ku rwego rwa nyuma, ni umwihariko Umushingamategeko yahaye umuburanyi wagobokeshejwe mu rubanza ku gahato kuko aba yashyizwe mu rubanza atabishaka, ibi ntibireba umuburanyi wagobotse mu rubanza ku bushake kuko we aba yaniyemeje gufatira urubanza yagobotsemo aho rugeze; bityo urwo rubanza rwaba rushobora kujuririrwa akaba nawe ubwo burenganzira abufite, rwaba rudashobora kujuririrwa akaba ntabwo afite. Kuba mu manza nshinjabyaha igihano cy'igifungo cyagenwe aricyo cyonyine gishingirwaho mu kugena ububasha bw'Urukiko rw'Ubujurire mu rwego rw'ubujurire bwa kabiri, mu rubanza Uwamurera ajuririra igifungo cyagenwe kikaba ari imyaka 10, nta buryo na bumwe uru rubanza nshinjabyaha rwashoboraga kugera mu Rukiko rw'Ubujurire.

Ubujurire ntiburi mu bubasha bw'Urukiko.

Amategeko yashingiweho:

Itegeko N° 22/2018 ryo ku wa 29/04/2028 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, Ingingo ya mbere, n'iya 116.

Itegeko N° 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'Inkiko, ingingo ya 52.

Nta manza zifashishijwe.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Mu mwaka wa 2020 mu Kigo cya RDB (Rwanda Development Board) hakozwe ubugenzuzi bw'imbere (internal audit) hagenzurwa amafaranga yinjijwe hakoreshejwe ikoranabuhanga rya E-payment mu kugurisha abakerarugendo impushya zo gusura pariki ingagi mu mwaka w'ingengo y'imari wa 2018-2019 maze ubugenzuzi bugaragaza ko hari amafaranga yinjiye ariko atarageze kuri konti ya RDB kandi bigaragara ko impushya zo gusura ingagi zatanzwe; maze RDB isaba Urwego rw'Ubugenzacyaha kubikoraho iperereza.

[2] Nyuma y'iperereza ry'Ubugenzacyaha bwashyikirije dosiye Ubushinjacyaha, nabwo busoje iperereza ryabwo buregera Urukiko Rwisumbuye rwa Nyarugenge, burega uwitwa Kaganzi Nicholas bumukurikiranyeho icyaha cyo kunyereza umutungo; icyo guhindura inyandiko cyangwa gukoresha inyandiko mpimbano, icyo kwinjira mu makuru abitse muri mudasobwa cyangwa mu rusobe rwa mudasobwa; icyo kudasobanura inkomoko y'umutungo n'icyaha cy'iyezandonke' ubushinjacyaha kandi bwareze Kayitana Pierre bumukurikiranyeho icyaha cyo kunyereza umutungo, bunarega Mukagasana Esther, Mukasafari Marry na Ndamade Joseph bubakurikiranyeho kuba ibyitso mu cyaha cyo kunyereza umutungo. RDB yaregeye indishyi muri urwo rubanza ndetse igobokesha ku gahato IREMBO; uwitwa Muhongayire Patricie nawe yagobotse mu rubanza avuga ko umwe mu mitungo yafatiriwe ari iye.

[3] Kaganzi Nicholas n'abo baregwaga hamwe baburanye bahakana ibyaha bakurikiranyweho, ariko mu rubanza RP/ECON 00080/2019/TGI/NYGE, RP/ECON 00056/2020/TGI/NYGE na RP/ECON00116/2020/TGI/NYGE , rwaciwe ku wa 15/04/2021, Urukiko Rwisumbuye rwa Nyarugenge rwemeza Kaganzi Nicholas ahamwa n'icyaha cyo kunyereza umutungo, icyaha cy'iyezandonke, icyaha cyo gukora no gukoresha inyandiko mpimbano, icyaha cyo kwinjira mu makuru abitse muri mudasobwa n'icyaha cyo kudasobanura inkomoko y'umutungo, naho abandi baregwaga hamwe ari abere; ruhanisha KAGANZI Nicholas igifungo cy'imyaka icumi (10) n'ihazabu ingana na 2.390.430 USD, runategeka gusubiza RDB amafaranga yayo yanyereje angana na 478.086 USD, no kuyishyura 700.000 frw akubiyemo ikurikiranarubanza n'igihembo cya avoka na 20.000 frw y'ingwate y'amagarama yatanze iregera indishyi; urukiko rwanemeje ko ukugobka mu rubanza ku bushake kwakozwe na Muhongayire Patricie nta shingiro gufite, ndetse n'ukugobokeshwa mu rubanza ku IREMBO nta shingiro gufite.

[4] Urukiko kandi rwategetse ko imitungo ikurikira inyagwa ikagurishwa, amafaranga avuyemo agashyirwa mu isanduku ya Leta: inzu iri mu kibanza kibaruye kuri UPI 1/02/08/02/517, kiri mu Mudugudu w'Amahoro, Akagari ka Kimihurura, Umurenge wa Kimihurura, Akarere ka Gasabo; inzu 2 ziri mu kibanza kibaruye kuri UPI 01/02/08/02/190 kiri mu Kagari ka Kimihurura, Umurenge wa Kimihurura, Akarere ka Gasabo; ibibanza 3 bibaruye kuri UPI 01/02/14/06/55; 1/02/14/06/996; 1/02/14/06/168 biri mu Murenge wa Rusororo. Akarere ka Gasabo, imodoka yo mu bwoko bwa Voiture Toyota Corolla ifite plaque RAB 905Q n'inzu iri mu kibanza UPI 1/02/08/02/192 iherereye mu Mudugudu w'Urwego, Umurenge wa Kimihurura mu Karere Ka Gasabo; runategeka Kaganzi Nicholas gushyira mu isanduku ya Leta 38.059.548frw yishyuwe na EDCL inzu iri mu kibanza kibaruye kuri UPI 01/02/08/02/19 kiri mu Mudugudu w'Urwego, mu Kagari ka Kimihurura, mu Murenge wa Kimihurura, mu Karere ka Gasabo, akakirwa na Bitariho Jean Paul wari wahawe ububasha na Uwamurera Phoebe.

[5] Urwo rubanza Kaganzi Nicholas na Muhongayire Patricie barujuririye mu Rukiko Rukuru, Uwamurera Phoebe nawe agoboka ku bushake kuri uru rwego, agamije kugaragaza ko imitungo itimukanwa ibaruye kuri UPI: 1/02/08/02/19, UPI: 1/02/08/02/517 na 1/02/08/02/190 urukiko rwategetse ko inyagwa ari iye.

[6] Mu rubanza RPA/ECON 00084,86/2021/HC/KIG rwaciwe n'Urukiko Rukuru rwemeje ko ubujurire bwatanzwe na Kaganzi Nicholas ndetse n'ubwa Muhongayire Patricie nta shingiro bufite, ko n'ikirego cyo kugoboka ku bushake cyatanzwe na Uwamurera Phoebe nta shingiro gifite; rwemeza ko imikirize y'urubanza rwajuririwe idahindutse.

[7] Kaganzi Nicholas, Muhongayire Patricie N'uwamurera Phoebe bajuririye urwo rubanza mu Rukiko rw'Ubujurire, Ubwanditsi bw'urukiko bufata icyemezo cyo kutandika ubujurire bwa Kaganzi Nicholas n'ubwa Muhongayire Patricie bushingiye ku mpamvu y'uko ari ubujurire bwa kabiri kandi bukaba butujuje ibisabwa n'amategeko, naho ku bireba ubujurire bwa Uwamurera Phoebe Ubwanditsi bw'Urukiko bufata icyemezo cyo kubwandika ngo kuko ari ubwa mbere ajuriye.

[8] Ubujurire bwa Uwamurera Phoebe muri uru rukiko bugamije kugaragaza ko Urukiko Rukuru rwategetse ko imitungo itimukanwa ibaruye kuri UPI: 1/02/08/02/19, UPI: 1/02/08/02/517 na 1/02/08/02/190 inyagwa rwirengagije ibimeyetso yatanze bigaragaza ko ari iye.

[9] Mbere yo kwiregura mu mizi y'urubanza, Ubushinjacyaha bwatanze inzitizi y'iburabubasha bw'urukiko, busobanura ko Uwamurera Phoebe yajuriye ashingiye ku ngingo ya 52 y'Itegeko No 30/2018 ryo kuwa 02/06/2018 rigena ububasha bw'Inkiko, ngo nyamara akaba atujuje ibisabwa n'iyo ngingo kuko mu rubanza yajuririye ataciwe indishyi zingana na 75.000.000 frw zivugwa muri iyo ngingo cyangwa ngo zibe zaragenwemo n'urukiko nyuma y'impaka hagati y'ababuranyi ku gaciro k'ikiburanwa; ikindi kandi akaba atajurira ashingiye kuri iyo ngingo iteganya ubujurire bwa kabiri mu gihe we yabaye umuburanyi bwa mbere mu Rukiko Rukuru; ndetse nk'uwagobotse ku bushake mu rubanza akaba adafite uburenganzira bwo kujuririra urubanza nshinjabyaha kuko atari mu bavugwa mu ngingo ya 180 y'Itegeko No 027/2019 ryo ku wa 19/09/2019 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, iteganya uburenganzira bwo kujurira bufitwe n'uwahamwe n'icyaha, utegetswe kuriha indishyi, uwaregeye indishyi cyangwa abahawe indishyi batasabye ku byerekeye indishyi gusa ndetse Ubushinjacyaha.

[10] Me Komezusenge Déogratias uhagarariye Uwamurera Phoebe nawe yatanze inzitizi igamije gusaba urukiko kuba ruhagaritse kuburanisha uru rubanza, hagategerezwa ko urubanza ruri mu Rukiko Rukuru rukomoka ku kirego cyatanzwe na Kaganzi Nicholas mu Rukiko Rukuru asaba gusubirishamo ingingo nshya urubanza RPA/ECON 00084,86/2021/HC/KIG ruburanishwa, ibi binashyigikirwa na Kaganzi Nicholas.

[11] Iburanisha mu ruhame ryabaye ku wa 12/03/2024 no ku wa 22/03/2024 22/03/2023, Ubushinjacyaha buhagarariwe na Ninahazwa Roselyne, Umushinjacyaha ku Rwego rw'Igihugu, Uwamurera Phoebe ahagarariwe na Me Komezusenge Déogratias, naho RDB ititabye ariko yaramenyeshejwe umunsi w'iburanisha mu buryo bukurikije amategeko kuko mu iburanisha ryabanje yari ihagarariwe kandi ikaba ihujwe n'urubanza muri IECMS. Urubanza kandi rwaburanishijwe hari Kaganzi Nicholas yunganiwe na Me Bisamaza Remezo, hari na Muhongayire Patricie ahagarariwe na Me Nkurunziza Jean Damascène, bombi bakaba

bararuhamagajwemo nk'abarubayemo ababuranyi ku rwego rubanza n'ubwo ubujurire bwabo butakiriwe, kugira ngo mu gihe bibaye ngombwa urukiko rube rwagira ibisobanuro rubasabba cyangwa nabo babe bagira ibisobanuro batanga bagamije kurengera inyungu zabo.

[12] Urukiko rwabanje gusuzuma ikibazo rwabajije ababuranyi rubyibwirije, kijyanye no kumenya niba ubujurire bwa Uwamurera Phoebe nk'uwagobotse mu rubanza ku bushake ku rwego rw'Urukiko Rukuru, bwaragombaga kwakirwa muri uru rukiko.

II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA

Kumenya niba ubujurire bwa Uwamurera Phoebe nk'uwagobotse mu rubanza ku bushake ku rwego rw'Urukiko Rukuru, bwaragombaga kwakirwa muri uru rukiko.

[13] Me Komezusenge Déogratias avuga ko Uwamurera Phoebe ahagarariye yagobotse mu rubanza rugeze mu Rukiko Rukuru, bityo ubujurire bwe bukaba buri mu bubasha bw'uru rukiko kuko ari ubwa mbere ajuriye kandi amategeko akaba abimwemera. Asobanura ko kuvuga ko ubujurire bwa Uwamurera Phoebe butari mu bubasha bw'Urukiko rw'Ubujurire byaba binyuranyije n'amahame akomeye ateganywa n'Itegeko nshinga ndetse n'amategeko mpuzamahanga u Rwanda rwasinye, mu bijyanye no gutanga ubutabera buboneye, ndetse no kuba abantu bareshya imbere y'amategeko.

[14] Me Komezusenge Déogratias avuga ko ingingo ya 52 y'Itegeko No 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'Inkiko iteganya ko Urukiko rw'Ubujurire rufite ububasha bwo kuburanisha mu rwego rw'ubujurire bwa mbere, imanza zaciwe mu rwego rwa mbere n'Urukiko Rukuru, Urukiko Rukuru rw'Ubucuruzi n'Urukiko Rukuru rwa Gisirikare; ko ikibazo cy'umutungo wa Uwamurera Phoebe wafatiriwe cyagiweho impaka bwa mbere mu Rukiko Rukuru kuko aribwo yari yinjiye mu rubanza arugobotsemo, bityo akaba afite uburenganzira bwo kujuririra icyemezo cyafashwe kugirango Urukiko rw'Uburire rukosore amakosa yakozwe n'Urukiko Rukuru.

[15] Asobanura ko kuba Urukiko rw'Ubujurire rufite ububasha bwo gusuzuma ubujurire bwa Uwamurera Phoebe bihuye n'ihame ry'uko umuntu afite uburenganzira bwo kujuririra icyemezo yafatiwe n'urukiko mu rukiko rwisumbuye ho (Principe de doubre degré de juridiction), kandi ko iri hame ari inkingi ya mwamba mu kugirango umuntu ahabwe ubutabera buboneye nk'uko byemezwa n'abahanga mu mategeko (SOLUS (H) et PERROT (R), Doit judiciaire privé, Introduction aux notions fondamentales, organisation judiciaire. Cité par ROETS, P174), aho bahamya ko iyo urubanza ruciwe, ari ngobwa ko habaho ko rwakongera gusuzumwa mu bujurire n'urukiko rwisumbuyeho kugirango niba ari amakosa yakozwe akosorwe, cyangwa uwarenganyije ku rwego rwa mbere ahabwe amahirwe yo kurenganurwa.

[16] Ashingira kandi ku ngingo ya 29 y'Itegeko Nshinga iteganya ko" Buri muntu wese afite uburenganzira ku butabera buboneye''; ku rubanza n° RS/INCONST/SPEC 00003/2019/SC[1] rwasobanuye uburenganzira ku butabera buboneye; ku ngingo ya 14, igika cya 1 n'icya 5, y'Amasezerano Mpuzamahanga yerekeye uburenganzira mu by'imbonezamubano no mu bya

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[1] RS/INCONST/SPEC 00003/2019/SC haburana Me Kabasinga Florida rwaciwe n'Urukiko rw'Ikirenga kuwa 4/12/2019, ku rupapuro rwa 4 n'urwa 5.

politiki avuga ko igaragaza uburenganzira bwo kuburanira imbere y'urukiko rubifitiye ububasha n'uburenganzira bwo kujurira nka bimwe mu bigize uburenganzira ku butabera buboneye' no ku rubanza N° RS/INCONST/SPEC 00004/2020/SC rwashimangiye ko kujuririra icyemezo nibura incuro imwe ari uburenganzira ntavogerwa, umuburanyi adashobora kuvutswa.

[17] Uhagarariye Ubushinjacyaha avuga ko urubanza Uwamurera Phoebe yajuririye rwaciwe n'Urukiko Rukuru ku rwego rw'ubujurire bwa mbere kandi rukaba ari urubanza nshinjabyaha kuko kuba yaragobotse ku bushake agamije kugaruza umutungo avuga ko ari uwe bidahindura kamere y'urubanza; ko hashingiwe ku biteganywa mu ngingo ya 52 y'Itegeko No 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'Inkiko, harebwe igihano cy'ibanze (peine principale) cyagenwe n'urukiko muri urwo rubanza, ubujurire bwe butari mu bubasha bw'urukiko rw'Ubujurire.

UKO URUKIKO RUBIBONA

[18] Impaka muri uru rubanza zishingiye ku kumenya niba ubujurire bwa Uwamurera Phoebe nk'uwagobotse ku bushake ku rwego rw'Urukiko Rukuru, bwaragombaga kwakirwa muri uru rukiko.

[19] Ingingo ya mbere y'Itegeko No 22/2018 ryo ku wa 29/04/2028 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi igira iti: "Iri tegeko rigenga imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi. Ni na ryo rigenga imiburanishirize y'izindi manza mu gihe nta yandi mategeko yihariye agenga iyo miburanishirize keretse mu gihe ibiteganywa n'iri tegeko bidashobora gukoreshwa mu zindi manza."

[20] Naho ingingo ya 116 nayo y'iryo tegeko, igateganya ko kabone n'aho urubanza rwaba ruciwe ku rwego rwa nyuma, umuburanyi ugobokeshejwe ku gahato ku rwego rw'ubujurire yemerewe kujuririra urubanza yagobokeshejwemo inshuro imwe iyo hari ibyo yaciwe.

[21] Uru rubanza rukomoka ku bujurire bwatanzwe na Uwamurera Phoebe kuri uru rwego, ajuririra urubanza RPA/ECON 00084,86/2021/HC/KIG rwaciwe n'Urukiko Rukuru, aho yari yagobotse ku bushake muri urwo rukiko, mu rubanza Ubushinjacyaha bwaregagamo Kaganzi Nicholas, akurikiranyweho ibyaha binyuranye byavuzwe haruguru, na Muhongerwa Patricie akaba yararugobotsemo ku bushake ku rwego rwa mbere avuga ko agamije kugaruza umutungo we wafatiriwe. Muri urwo rubanza Kaganzi Nicholas akaba yarahamijwe icyaha cyo kunyereza umutungo, icyaha cy'iyezandonke, icyaha cyo gukora no gukoresha inyandiko mpimbano, icyaha cyo kwinjira mu makuru abitse muri mudasobwa n'icyaha cyo kudasobanura inkomoko y'umutungo, ahanishwa igifungo cy'imyaka icumi (10) n'ihazabu ingana na 2.390.430 USD.

[22] Urukiko rurasanga ibyerekeye kugoboka ku bushake no kugobokeshwa ku gahato mu manza nshinjabyaha ntaho byateganyijwe mu Itegeko ryerekeye imiburanishirize y'imanza nshinjabyaha, bityo hashingiwe ku biteganywa mu ngingo ya mbere y'Itegeko No 22/2018 yavuzwe haruguru, mu gusuzuma iki kibazo hakaba hashingirwa ku biteganywa mu Itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi.

[23] Urukiko rurasanga ibiteganyijwe mu ngingo ya 116 yavuzwe haruguru, by'uko umuburanyi ugobokeshejwe mu rubanza ku gahato ku rwego rw'ubujurire yemerewe kujuririra urubanza yagobokeshejwemo inshuro imwe iyo hari ibyo yaciwe, kabone n'aho urubanza rwaba ruciwe ku rwego rwa nyuma, byumvikanisha ko uyu ari umwihariko Umushingamategeko yahaye umuburanyi wagobokeshejwe mu rubanza ku gahato kuko nk'uko byumvikana aba yashyizwe mu rubanza atabishaka, mu gihe rero agize ibyo acibwa akaba yemerewe kujurira inshuro imwe; uyu mwihariko ukanumvisha ko ibi bitareba umuburanyi wagobotse mu rubanza ku bushake kuko we aba yaniyemeje gufatira urubanza yagobotsemo aho rugeze; bityo urwo rubanza rwaba rushobora kujuririrwa akaba nawe ubwo burenganzira abufite, rwaba rudashobora kujuririrwa nawe akaba ntabwo afite[2].

[24] Ku bireba Uwamurera Phoebe, Urukiko rurasanga urubanza yajuririye ari inshinjabyaha kuko kuba yararugobotsemo akurikiranye imitungo avuga ko ari iye bitarwambura kamere yarwo y'inshinjabyaha, kandi nk'uko byasobanuwe kuko yarugobotsemo ku bushake, no kubimureba rukaba rwaraciwe ku rwego rw'ubujurire bwa mbere nk'uko bimeze ku bandi baburanyi barurimo; bityo rero mu gusuzuma niba ubujurire bwe bwujuje ibisabwa hakaba hagomba gushingirwa ku ngingo ya 52 y'Itegeko ryavuzwe haruguru rigena ububasha bw'inkiko iteganya mu gace kayo ka 9 ko mu manza nshinjabyaha, Urukiko rw'Ubujurire rufite ububasha bwo kuburanisha mu rwego rw'ubujurire bwa kabiri imanza zaciwe n'Urukiko Rukuru, Urukiko Rukuru rw'Ubucuruzi n'Urukiko Rukuru rwa Gisirikare, iyo izo manza zagenwemo igifungo kingana nibura n'imyaka cumi n'itanu (15); kandi ko mu manza nshinjabyaha igihano cy'igifungo cyagenwe ari cyo cyonyine gishingirwaho mu kugena ububasha bw'Urukiko rw'Ubujurire.

[25] Uru rukiko rurasanga ku birebana n'uru rubanza, igifungo cyagenwemo kingana n'imyaka 10 bityo rero hakaba nta buryo na bumwe uru rubanza nshinjabyaha rwashoboraga kugera mu Rukiko rw'Ubujurire.

[26] Hashingiwe ku bisobanuro byose byatanzwe mu bika bibanziriza iki, ubujurire bwa Uwamurera Phoebe bukaba butari mu bubasha bw'uru rukiko, bityo bukaba butagomba kwakirwa.

III. ICYEMEZO CY'URUKIKO

[27] Rwemeje ko ubujurire bwa Uwamurera Phoebe butari mu bubasha bw'uru rukiko bityo bukaba butagomba kwakirwa.

[28] Rutegetse ko amagarama yatanzwe ahwanye n'ibyakozwe.

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[2] Uyu kandi ni nawo murongo watanzwe mu Cyemezo No 004/PRES/CA/2024/CIV cya Perezida w'Urukiko rw'Ubujurire cyo ku wa 12/03/2024 mu rubanza Indamutsa Arsène yaburanaga na Kabano Patrick, Madamu Patricie na Ngenzi Jean Alain, ahasobanuwe ko ibiteganyijwe mu ngingo ya 116 al 2 CPCCSA ari umwihariko wahawe abagobokeshejwe ku gahato kuko baba bashyizwe mu rubanza batabishaka, naho ugobotse mu rubanza ku bushake akaba aniyemeje gufatira urubanza yagobotsemo aho rugeze.