MUKERAMIRIMO CONSTRUCTION N'ABANDI v QUALITY CONSTRUCTION N'ABANDI

[Rwanda – URUKIKO RW'UBUJURIRE– RCOMAA 00107/2022/CA CMB RCOMAA 00108/2022/CA (Nyirandabaruta, P.J., Kamere na Ngagi, J.) 25 Gicurasi 2023]

Amategeko agenga ububasha bw'inkiko – Ububasha bw'urukiko ry'Ubujurire – Ubujurire bwa kabiri – Imanza zaciwe n'inkiko zitabifitiye ububasha – Amasezerano ateganya ubukemurampaka – Gusaba gukuraho ibyemezo by'inkiko zabanje hashingiwe ku kuba uwareze yaragombaga kubanza kwiyambaza ubukemurampaka – Umuburanyi wiyambuye uburenganzira bwo kwiyambaza ubukemurampaka akaregera Urukiko, uwarezwe nawe akabyemera, nta wahindukira ngo avuge ko yaburanishijwe n'Urukiko rutabifitiye ububasha, asaba ko ubujurire bwa kabiri bwakirwa.

Incamake y'ikibazo: MUKERAMIRIMO CONSTRUCTION Ltd na CLUB HOUSE LA PALISSE HOTELS Ltd zagiranye amasezerano y'imikoranire ijyanye n'ubwubatsi, nyuma, MUKERAMIRIMO CONSTRUCTION Ltd ihereye kuri ayo masezerano, igirana andi masezerano (subcontract agreement) na QUALITY CONSTRUCTION Ltd zumvikana ku mirimo inyuranye iyi sosiyete ya nyuma yagombaga gukora ku nyubako za CLUB HOUSE LA PALISSE HOTELS Ltd, muri ayo masezerano banumvikana ko nibagirana ibibazo bazabikemura mu bwumvikane, byananirana bakiyambaza ubukemurampaka.

MUKERAMIRIMO CONSTRUCTION Ltd yagiye kandi igura bimwe mu bikoresho by'ubwubatsi ihawe na ACTIVE CM INVESTMENT. MUKERAMIRIMO CONSTRUCTION Ltd yaje kutumvikana na CLUB HOUSE LA PALISSE HOTELS Ltd, amasezerano zari zifitanye araseswa, bituma QUALITY CONSTRUCTION Ltd na ACTIVE CM INVESTMENT zishyira hamwe ziregа mu Rukiko rw'Ubucuruzi MUKERAMIRIMO CONSTRUCTION Ltd kutubahiriza amasezerano, bagobokesha ku gahato CLUB HOUSE LA PALISSE HOTELS Ltd na ZIGAMA CSS kugirango hafatirwe amafaranga iyo hotel yishyuye MUKERAMIHIGO ari kuri konti yayo iri muri ZIGAMA CSS.

Urukiko rw'Ubucuruzi rwemeje ko ikirego cya QUALITY CONSTRUCTION Ltd na ACTIVE CM INVESTMENT Ltd gifite ishingiro ariko nta shingiro gifite kuri ZIGAMA CSS na CLUB LA PALISSE HOTELS Ltd rutegeka MUKERAMIRIMO CONSTRUCTION Ltd kwishyura QUALITY CONSTRUCTION Ltd na ACTIVE CM INVESTMENT Ltd amafaranga izibereyemo ndetse n'indishyi.

MUKERAMIRIMO CONSTRUCTION Ltd yajuririye urwo rubanza mu Rukiko Rukuru rw'Ubucuruzi, QUALITY CONSTRUCTION Ltd na ACTIVE CM INVESTMENT Ltd nazo zajuririye imikirize y'urubanza rwavuzwe haruguru izo manza zombi zirahuzwa kugira ngo ziburanishirizwe hamwe mu rubanza rumwe.

Urukiko Rukuru rw'Ubucuruzi rwategetse MUKERAMIRIMO CONSTRUCTION Ltd, na CLUB HOUSE LA PALISSE HOTEL Ltd gufatanya kwishyura QUALITY CONSTRUCTION LTD na ACTIVE CM INVESTMENT Ltd umwenda n'indishyi zitandukanye.

MUKERAMIRIMO CONSTRUCTION Ltd na CLUB HOUSE LA PALISSE HOTELS Ltd zajuririye urwo rubanza mu Rukiko rw'Ubujurire zivuga ko ubujurire bwa kabiri zibushingira ku mpamvu yuko inkiko zabanje nta bubasha zari zifite bwo kuburanisha uru rubanza, kuko rwagombaga kuba rwarakemuwe mu bukemurampaka nkuko biri mu masezerano impande zombi zagiranye , zisaba gutesha agaciro ibyemezo byafashwe n'izo nkiko, Ababuranyi ku rundi ruhande batanze inzitizi

zitandukanye zigamije gusaba kutakira ubujurire bakavugako haba mu nama ntegurarubanza ababuranyi bumvikana ku bubasha bw'inkiko ndetse no ku ba mu rubanza hari harimo ababuranyi batandukanye harimo n'abadafitanye amasezerano na MUKERAMIHIGO CONSTRUCTION Ltd ntihagire utanga inzitizi y'iburabubasha bw'urukiko mu Nkiko z'ubucuruzi bakavuga ko babona ko bumvikanye ku bubasha bw'izo Nkiko.

Incamake y'icyemezo : Umuburanyi wiyambuye uburenganzira bwo kwiyambaza ubukemurampaka akaregera Urukiko, uwarezwe nawe akabyemera, nta wahindukira ngo avuge ko yaburanishijwe n'Urukiko rutabifitiye ububasha, asaba ko ubujurire bwa kabiri bwakirwa

Amategeko yifashishijwe:
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 7.
Itegeko Nº 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, Ingingo ya 52.
Iteka rya Minisitiri N°17/MOJ/AG/20 ryo ku wa 30/10/2020 rigena amafaranga atangwa mu manza z'imbonezamubano, iz'ubucuruzi, iz'umurimo, iz'ubutegetsi n'iz'inshinjabyaha, ingingo ya 2.

Imanza zifashishijwe:
Urubanza RCOMA 0090 /13/ CS; PUBLICELL SARL v MTN RWANDACELL SARL rwaciwe n'Urukiko rw'ikirenga ku wa 28/03/2014.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Ku wa 17/12/2020, QUALITY CONSTRUCTION (QUALICONS) Ltd, yagiranye na MUKERAMIRIMO CONSTRUCTION Ltd amasezerano yo gukora imirimo y'ubwubatsi kuri CLUB HOUSE LA PALISSE HOTELS Ltd, irimo gusenya, gucukura, kubaka igikuta cy'amabuye, gutera ibipande, kubaka amatafari no gutunganya aho izakorera, ikaba yaragombaga kujya yishyuza kuri buri metero kibe igatanga fagitire ikishyurwa.

[2] ACTIVE CM INVESTMENT Ltd ivuga ko ibisabwe na MUKERAMIRIMO CONSTRUCTION Ltd, ku wa 04/01/2021, yatanze ibikoresho by'ubwubatsi birimo sima, "concassé" n'amabuye bifite agaciro ka 21,727,600 Frw.

[3] QUALITY CONSTRUCTION (QUALICONS) Ltd na ACTIVE CM INVESTMENT Ltd zareze MUKERAMIRIMO CONSTRUCTION Ltd na Mbaduko Jimmy uyihagarariye, mu Rukiko rw'Ubucuruzi, zirusaba kubategeka kubahiriza amasezerano bagiranye bakishyurwa imirimo bakoze n'indishyi zitandukanye, ikirego cyabo gihabwa RCOM 00554/2021/TC. Muri urwo rubanza bagobokesheje kandi ZIGAMA CSS na CLUB HOUSE LA PALISSE HOTELS Ltd kugira ngo hafatirwe amafaranga iyo hoteli yishyuye yari kuri konti ya MUKERAMIRIMO CONSTRUCTION Ltd muri ZIGAMA CSS. Rubayiza Alexis na Twagirimana Jean Claude bagobotse ku bushake muri urwo rubanza, kugira ngo ACTIVE CM INVESTMENT Ltd niyishyurwa, nayo itegekwe kubishyura umwenda ibabereyemo.

[4] Urukiko rw'Ubucuruzi rwaciye urubanza RCOM 00554/2021/TC ku wa 10/11/2021 rwemeza ko ikirego cya QUALITY CONSTRUCTION Ltd na ACTIVE CM INVESTMENT Ltd gifite ishingiro kuri MUKERAMIRIMO CONSTRUCTION Ltd na Mbaduko Jimmy, ko ari nta shingiro gifite kuri ZIGAMA CSS no kuri CLUB HOUSE LA PALISSE HOTELS Ltd; ko ikirego cya Rubayiza Alexis n'icya Twiringiyimana Jean Claude bifite ishingiro; rutegeka MUKERAMIRIMO CONSTRUCTION Ltd na Mbaduko Jimmy kwishyura QUALITY CONSTRUCTION Ltd 71,258,767 Frw no kwishyura ACTIVE CM INVESTMENT Ltd 10,291,666 Frw ndetse no kwishyura buri sosiyete 580,000 Frw y'ikurikiranarubanza n'igihembo cya Avoka.

[5] Urukiko rw'Ubucuruzi rwategetse kandi ACTIVE CM INVESTMENT Ltd kwishyura RUBAYIZA Alexis 21,311,986 Frw, Twiringiyimana Jean Claude 4,555,658 Frw ndetse no kubishyura 530,000 Frw y'igihembo cya Avoka n'ikurikiranarubanza kuri buri umwe ; runategeka ko mu gihe umwenda MUKERAMIRIMO CONSTRUCTION Ltd na Mbaduko Jimmy babereyemo ACTIVE CM INVESTIMENT Ltd waramuka wishyuwe mbere, wabanza kwishyura Rubayiza Alexis na Twiringiyimana Jean Claude ku myenda ibabereyemo. Urwo Rukiko kandi rwategetse MUKERAMIRIMO CONSTRUCTION Ltd na Mbaduko Jimmy gusubiza QUALITY CONSTRUCTION Ltd na ACTIVE CM INVESTMENT Ltd 20,000 Frw y'ingwate y'amagarama na ACTIVE CM INVESTMENT Ltd gusubiza RUBAYIZA Alexis na Twiringiyimana Jean Claude 20,000 Frw y'ingwate y'amagarama buri umwe yatanze.

[6] MUKERAMIRIMO CONSTRUCTION Ltd yajuririye urwo rubanza mu Rukiko Rukuru rw'Ubucuruzi, ubujurire bwayo bwandikwa kuri RCOMA 00794/2021/HCC, isaba urwo Rukiko kongera gusuzuma niba indishyi QUALITY CONSTRUCTION Ltd na ACTIVE CM INVESTMENT Ltd zagenewe zifite ishingiro kandi ari zo zitubahirije amasezerano bagiranye ; gusuzuma niba habaho uburyozwe bwa Mbaduko Jimmy ku mwenda uregwa sosiyete ye MUKERAMIRIMO CONSTRUCTION Ltd, inasaba kugenerwa indishyi yasabye ku rwego rwa mbere no mu bujurire.

[7] QUALITY CONSTRUCTION Ltd na ACTIVE CM INVESTMENT Ltd nazo zajuririye imikirize y'urubanza rwavuzwe haruguru, ubujurire bwazo bwandikwa kuri RCOMA 00801/2021/HCC. Izo sosiyete ubujurire bwazo bwari bushingiye ku kuba Urukiko rw'Ubucuruzi rwaranze kwemeza ko CLUB HOUSE LA PALISSE HOTELS Ltd ifatanya na MUKERAMIRIMO CONSTRUCTION Ltd ndetse na Mbaduko Jimmy mu kuryozwa umwenda ndetse n'indishyi ; kuba urwo Rukiko rwaranze kwemeza ko ZIGAMA CSS ifatanya na MUKERAMIRIMO CONSTRUCTION Ltd na Mbaduko Jimmy kuryozwa umwenda ndetse n'indishyi (responsabilité in solidum); kuba zaragenewe indishyi zo kutubahiriza amasezerano nkeya. ACTIVE CM INVESTMENT Ltd inajuririra kuba mu mwenda MUKERAMIRIMO CONSTRUCTION Ltd na Mbaduko Jimmy bategetse gufatanya kuyishyura harakuwemo umwenda wa EGE Ltd kandi yaratanze "*procuration*". QUALITY CONSTRUCTION Ltd na ACTIVE CM INVESTMENT Ltd zisoza zisaba kugenerwa amafaranga y'igihembo cya Avoka n'ay'ikurikiranarubanza mu bujurire.

[8] Izo manza zombi zarahujwe kugira ngo ziburanishirizwe hamwe mu rubanza rumwe N° RCOMA 00794/2021/HCC-CMB RCOMA 00801/2021/HCC rwaciwe ku wa 16/09/2022, Urukiko Rukuru rw'Ubucuruzi rwemeza ko ubujurire bwatanzwe na MUKERAMIRIMO CONSTRUCTION Ltd n'ubwatanzwe na QUALITY CONSTRUCTION Ltd na ACTIVE CM INVESTMENT Ltd bufite ishingiro kuri bimwe; ko imikirize y'urubanza rwajuririwe ihindutse gusa ku ngano y'umwenda MUKERAMIRIMO CONSTRUCTION Ltd ibereyemo QUALITY CONSTRUCTION Ltd no ku ruhare rwa CLUB HOUSE LA PALISSE HOTEL Ltd muri uru rubanza.

[9] Urukiko Rukuru rw'Ubucuruzi rwategetse MUKERAMIRIMO CONSTRUCTION Ltd, MBADUKO Jimmy na CLUB HOUSE LA PALISSE HOTEL Ltd gufatanya kwishyura QUALITY CONSTRUCTION LTD umwenda wa 59,240,260 Frw hiyongereyeho 2,019,507 Frw y'inyungu, indishyi z'ubukererwe no kwica amasezerano, 580,000 Frw y'ikurikiranarubanza n'igihembo cya Avoka yo ku rwego rwa mbere, na 1,000,000 Frw yo mu bujurire na 20,000 Frw y'ingwate y'amagarama, yose hamwe akaba 62,859,767 Frw, rwazitegetse gufatanya kwishyura ACTIVE CM INVESTMENT Ltd umwenda wa 10,000,000 Frw hiyongereyeho 291,666 Frw y'inyungu, indishyi z'ubukererwe no kwica amasezerano, ndetse na 20,000 Frw y'ingwate y'amagarama. yose hamwe akaba 10,311,666 Frw. Rwategetse kandi ACTIVE CM INVESTMENT Ltd kwishyura Rubayiza Alexis 21,311,986 Frw no kwishyura Twiringiyimana Jean Claude 4,555,658Frw no kwishyura buri umwe muri bo 530,000 Frw y'igihembo cy'Avoka n'ikurikiranarubanza; runategeka ko mu gihe umwenda MUKERAMIRIMO CONSTRUCTION Ltd ibereyemo ACTIVE CM INVESTMENT Ltd waramuka wishyuwe mbere, wabanza kwishyura Rubayiza Alexis na Twiringiyimana Jean Claude ku myenda ibabereyemo; runayitegeka kubasubiza 20,000 Frw y'ingwate y'amagarama buri umwe yatanze.

[10] MUKERAMIRIMO CONSTRUCTION Ltd yajuririye urwo rubanza rwaciwe n'Urukiko Rukuru rw'Ubucuruzi muri uru Rukiko, ubujurire bwayo buhabwa RCAA 00107/2022/CA, ijurira ivuga ko ishingira ububasha bw'Urukiko rw'Ubujurire ku mpamvu yuko inkiko zabanje nta bubasha zari zifite bwo kuburanisha uru rubanza, iyo kandi ikaba ari nayo ngingo y'ubujurire, isaba uru Rukiko gutesha agaciro ibyemezo byafashwe n'izo nkiko, inasaba kugenerwa indishyi z'ikurikiranarubanza n'igihembo cya Avoka.

[11] CLUB HOUSE LA PALISSE HOTELS Ltd nayo yajuririye urwo ubanza mu Rukiko rw'Ubujurire, ubujurire bwayo buhabwa RCOMAA 00108/2022/CA, rusaba gusuzuma niba Urukiko Rukuru rw'Ubucuruzi rwari rufite ububasha bwo kuburanisha ikirego rwashyikirijwe no gusuzuma niba rutarishe amategeko, isaba kwishyurwa indishyi zo gusiragizwa mu manza, amafaranga y'igihembo cya Avoka n'ay'ingwate y'amagarama yatanze.

[12] QUALITY CONSTRUCTION Ltd, ACTIVE CM INVESTMENT Ltd, Rubayiza Alexis na Twiringiyimana Jean Claude mbere yo kwiregura kuri ubwo bujurire batanze inzitizi yo kutabwakira kubera impamvu zikurikira: kuba MUKERAMIRIMO CONSTRUCTION Ltd itaratanze ingwate y'igarama; kuba mu rubanza rujuririrwa haragenwe indishyi zitageze kuri 75,000,000 Frw; no kuba MUKERAMIRIMO CONSTRUCTION Ltd na CLUB HOUSE LA PALISSE HOTELS Ltd zaratsinzwe mu nkiko zombi zabanje hashingiwe ku mpamvu zimwe, Urukiko rw'Ubujurire rukaba nta bubasha rufite bwo kuburanisha ubujurire bwabo bwa kabiri.

[13] Urubanza rwaburanishijwe mu ruhamwe ku wa 08/05/2023, MUKERAMIRIMO CONSTRUCTION Ltd ihagarariwe na Me Nyirasuku Jeanne, CLUB HOUSE LA PALISSE HOTELS Ltd ihagarariwe na Me Sebukonoke Innocent, QUALITY CONSTRUCTION Ltd ihagarariwe n' Umuyobozi wayo Nkurikiyimfura Alexis, yunganiwe na Me Bangamwabo Octave wari unahagarariye ACTIVE CM INVESTMENT Ltd, Rubayiza Alexis yunganiwe na Me Munyamasoko Jovith wari unahagarariye Twiringiyimana Jean Claude, naho ZIGAMA CSS ihagarariwe na Me Kayigirwa Télesphore, impaka zijyibwa ku nzitizi zatanzwe, ariko mbere y'uko impaka zitangira Me Kayigirwa Télesphore yagaragarije Urukiko ko ZIGAMA CSS ahagarariye ntacyo isaba nta n'icyo ibazwa ndetse ko nta n'icyemezo yafatiwe mu rubanza rujuririrwa, asaba ko yakurwa mu rubanza. Nyuma yo kumva

icyo abandi baburanyi babivugaho, Urukiko rw'Ubujurire rwafatiye icyemezo mu ntebe, rwemeza ko ZIGAMA CSS ikuwe mu rubanza kuko nta mpamvu yatuma irugumamo.

[14] Nyuma yo kubona impamvu abajuriye bashingiraho ububasha bw'Urukiko rw'Ubujurire muri uru rubanza no kubona inzitizi zatanzwe n'abaregwa, Urukiko rwasanze hagomba gusuzuma ibi bikurikira :

- Gusuzuma niba nta ngwate y'igarama MUKERAMIRIMO CONSTRUCTION Ltd yatanze ijurira ku buryo ubujurire bwayo butakwakirwa ;
- Gusuzuma niba inkiko zabanje zaraciye urubanza zidafite ububasha ku buryo byaba impamvu ituma ubujurire bwa kabiri bwatanzwe na MUKERAMIRIMO CONSTRUCTION Ltd n'ubwatanzwe na CLUB HOUSE LA PALISSE HOTELS Ltd bwakirwa mu bubasha bw'Urukiko rw'Ubujurire ;
- Gusuzuma niba ubujurire bwa kabiri budakwiye kwakirwa muri uru Rukiko kuko mu rubanza rujuririrwa hagenwe indishyi zitageze kuri 75,000,000 Frw ;
- Gusuzuma niba MUKERAMIRIMO CONSTRUCTION Ltd na CLUB HOUSE LA PALISSE HOTELS Ltd zaratsinzwe mu nkiko zombi zabanje hashingiwe ku mpamvu zimwe.

II. IBIBAZO BIRI MU RUBANZA N'ISESENGURA RYABYO

1. Kumenya niba MUKERAMIRIMO CONSTRUCTION Ltd itaratanze ingwate y'igarama, ubujurire bwayo bukaba budakwiye kwakirwa

[15] Me Bangamwabo Octave, wunganira Nkurikiyimfura Alexis uhagarariye QUALITY CONSTRUCTION Ltd akanahagararira ACTIVE CM INVESTMENT Ltd, yatanga inzitizi yo kutakira ubujurire bwatanzwe na MUKERAMIRIMO CONSTRUCTION Ltd kubera kudatanga ingwate y'igarama, avuga ko muri IECMS bigaragara ko uwatanze igarama ari Mbaduko Jimmy ufite indangamuntu Nº 119888014786172, nubwo handitse ko iryo garama ari irya MUKERAMIRIMO CONSTRUCTION Ltd. Akomeza avuga ko hatanzwe igarama rimwe rya Mbaduko Jmmy nyamara we atarajuriye, ko kuba MUKERAMIRIMO CONSTRUCTION Ltd yari ifite TN n'imyirondoro yayo ntabe ari yo yandikwa hakandikwa amazina na nomero y'indangamuntu bya Mbaduko Jimmy bivuze ko MUKERAMIRIMO CONSTRUCTION Ltd itajuriye.

[16] Me Nyirasuku Jeanne, uhagarariye MUKERAMIRIMO CONSTRUCTION Ltd na Mbaduko Jimmy, yiregura kuri iyi nzitizi avuga ko nta shingiro ifite, kuko muri IECMS mu gice cya *GENERAL* ndetse no mu cya *COURT FEES* bigaragara ko ari MUKERAMIRIMO CONSTRUCTION Ltd yajuriye, kandi ko kuba handitsemo indangamuntu ya Mbaduko Jimmy na e-mail ye nta tegeko ribibuza, ko icya ngombwa ari uko igarama ryatanzwe; ko kuba Mbaduko Jimmy uhagaririye iyo sosiyete nk'umunyamigabane rukumbi wayo ari we wishyuye amafaranga y'ingwate y'amagarama akoresheje telephone ye ari nk' uko byari gukorwa na "*Agent*" mu izina ry'umuburanyi MUKERAMIRIMO CONSTRUCTION Ltd.

[17] Me Sebukonoke Innocent, uhagarariye CLUB HOUSE LA PALISSE Hotes Ltd, avuga ko bo basanga ari MUKERAMIRIMO CONSTRUCTION Ltd yajuriye igatanga n'igarama.

[18] Rubayiza Alexis na Me Munyamasoko Jovith umwunganira, akanahagararira Twiringiyimana Jean Claude, bavuga ko mu Rukiko rubanza Mbaduko Jimmy na MUKERAMIRIMO Construction Ltd bari ababuranyi, ko bishoboka ko yatanze igarama ariko ntajurire, ariko mu myanzuro bakavuga ko ari MUKERAMIRIMO CONSTRUCTION Ltd yajuriye, nyamara ko iyo iza kuba ariyo yajuriye hari kugaragara TIN number na e-mail byayo.

UKO URUKIKO RUBIBONA

[19] Ingingo ya 7 y'Itegeko Nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi nk'uko ryahinduwe kugeza ubu iteganya ko urega afite inshingano zikurikira : "1° gutanga ingwate y'amagarama, uretse igihe itegeko ribiteganya ukundi".

[20] Ingingo ya 2 y'Iteka rya Minisitiri N°17/MOJ/AG/20 ryo ku wa 30/10/2020 rigena amafaranga atangwa mu manza z'imbonezamubano, iz'ubucuruzi, iz'umurimo, iz'ubutegetsi n'iz'inshinjabyaha iteganya ko mu Rukiko rw'Ubujurire ingwate y'amagarama ari amafaranga y'u Rwanda ibihumbi mirongo itanu (50,000Frw).

[21] Dosiye y'urubanza muri IECMS, ahanditse "*Court fees*", igaragaza ko MUKERAMIRIMO CONSTRUCTIONS Ltd (Payee), yishyuye 50.000 Frw nk'ikiguzi cya serivisi ya *Court fees* (amagarama)[1]. Igaragaza kandi muri "*General information*" ko uwatanze ubujurire (Appelant) ari MBADUKO Jimmy, wabikoze *on behalf of MUKERAMIRIMO CONSTRUCTION Ltd.*

[22] Urukiko rw'Ubujurire rurasanga kuba Mbaduko Jimmy, nk'uhagarariye MUKERAMIRIMO CONSTRUCTION Ltd, yarayitangiye ubujurire akanayitangira igaragama kandi bikandikwa ko igarama ritanzwe na MUKERAMIRIMO CONSTRUCTION Ltd yajuriye nk'uko IECMS ibigaragaza, ntaho binyuranyije n'amategeko, kuko ingwate y'igarama yishyuwe kandi ikandikwa ku mazina yayo ari nayo muburanyi muri uru rubanza, inzitizi yo kutakira ubujurire bwayo ku mpamvu yuko butagombaga kwandikwa nta ngwate y'amagarama yishyuye, ikaba nta shingiro ifite.

2. Kumenye niba inkiko zabanje nta bubasha zari zifite bwo kuburanisha uru rubanza

[23] Me Nyirasuku Jeanne, uhagarariye MUKERAMIRIMO CONSTRUCTION Ltd na Mbaduko Jimmy, avuga ko inkiko zibanza zitari zemerewe kuburanisha uru rubanza kuko byari binyuranye n'amategeko n'amasezerano ikiburanwa cyari gishingiyeho aho bari bemeranyijwe kuko mu masezerano yo ku wa 17/12/2020 (*subcontract agreement*), MUKERAMIRIMO CONSTRUCTION Ltd yagiranye na QUALITY CONSTRUCTION Ltd bumvikanye uburyo bwo gukemura impaka (*dispute resolution*) mu ngingo yayo ya 9[2], iteganya ko nihaba amakimbirane bazabanza kubikemura mu bwumvikane, byakwanga hakiyambazwa ubukemurampaka.

[24] Me Nyirasuku Jeanne avuga ko bisunze ingingo ya 158 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 iyo urukiko rwajuririwe rusanze urubanza rwararegewe mu rwego rwa

[1] IECMS Case no. RCOMAA 00107/2022/CA, Court fees.

[2] Article 9: all matters concerning the breach of this agreement shall be settled amicably by both parties before being submitted to the competent arbitration in accordance with Rwandan law.

mbere mu buryo budakurikije amategeko cyangwa rwararegeye urukiko rudafite ububasha, nyamara urwo rukiko rukaba rwarafashe icyemezo cyo kurwakira kandi rutaragombaga kurwakira, urukiko rwajuririrwe rwakira ubwo bujurire, rukagaragaza ko urwo rubanza rwajuririwe rwari rwararegewe urukiko rwa mbere mu buryo bunyuranyije n'amategeko rugatesha agaciro ibyemezo byose byashingiye kuri iryo kosa, ubifitemo inyungu akaba yakongera agatanga ikirego bundi bushya, asaba Urukiko rw'Ubujurire kwakira ubujurire bwabo ahagarariye, rugatesha agaciro ibyemezo byose byafashwe n'inkiko zabanje.

[25] Me Sebukonoke Innocent, uhagarariye CLUB HOUSE LA PALISSE HOTELS Ltd, nawe avuga ko Urukiko Rukuru rw'Ubucuruzi rutari rufite ububasha bwo kuburanisha urubanza rujuririrwa, ko ingingo ya 9 y'amasezerano (ayo ku wa 17/12/2020) yavugaga ko bazakemura ibibazo bagirana biyashingiyeho mu bwumvikane, bananiranwa bakiyambaza ubukemurampaka, bityo ko ubujurire bwabo bukwiriye kwakirwa, ibyemezo byafashwe n'urwo Rukiko bigateshwa agaciro.

[26] Me Bangamwabo Octave, avuga ko Urukiko rw'Ubujurire rwavuze kuri QUALITY CONSTRUCTION Ltd gusa kandi ko ari nayo MUKERAMIRIMO CONSTRUCTION Ltd yari yavuzeho gusa ajurira ndetse anagaragaza amasezerano bari bagiranye ari nayo Urukiko rwahereyeho rwakira ikirego ruvuga ko muri ayo masezerano harimo ingingo *(clause*) ivuga ko baziyambaza ubukemurampaka, nyamara ko ibyo bitari kugenderwaho kuko ingingo abajuriye bashingiraho ya 158 y'Itegeko N^{O} 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru ibyo ivuga bisuzumwa mu bujurire bwa mbere, ubu akaba ari ubujurire bwa kabiri, ibyo bikaba bivuze ko birengagiza ko habayeho inama ntegurarubanza aho ababuranyi bumvikanaga ku byerekeye ububasha bw'inkiko.

[27] Me Bangamwabo Octave avuga kandi ko kuburanishwa n'inkiko byanatewe n'uko mu rubanza harimo ababuranyi batandukanye badafitanye amasezerano na MUKERAMIRIMO CONSTRUCTION Ltd, bituma bose bumvikana ko baburanira mu nkiko z'ubucuruzi, kandi ko yaba ku rwego rwa mbere ndetse n'urwa kabiri nta muntu wigeze atanga inzitizi (y'iburabubasha bw'urukiko), kuko bari barumvikanye ku bubasha bw'inkiko.

[28] Avuga ko ACTIVE CM INVESTIEMENT Ltd ihagarariwe na Uwamahro Claudine, nta masezerano ifitanye na MUKERAMIRIMO CONSTRUCTION Ltd, ko ahubwo hagendewe ku nyandiko z'imikoranire uwaregwaga atigeze ahakana, agatsindwa hagendewe kuri izo nyandiko, ko rero Urukiko rw'Ubujurire rutagombaga guceceka ku bireba ACTIVE CM INVESTIMENT Ltd, ko rwagombaga gufuta umwanzuro wo kutakira ikirego ku biyireba, cyane ko ACTIVE CM INVESTIMENT Ltd yanatsindiye amafaranga atageze kuri 75,000,000 Frw, ko rero iki kirego kitakwakirwa.

[29] Me Munyamasoko Jovith avuga ko ubu bujurire Ubwanditsi bw'Urukiko butari kubwandika, kandi ko Urukiko nirusanga bwaragombaga kwandikwa rwazavuga ko nta shingiro bufite kuko ikibazo cy'uko inkiko nta bubasha zari zifite bwo kuburanisha uru rubanza kitigeze kigibwaho impaka mu nkiko, ikindi ko impande zose zemeje imishinga y'inama ntegurarubanza n'ibizasumwa n'Urukiko, ikindi kandi ikirego kikaba cyaratanzwe n'abasangiye inyungu mu rubanza babiri ndetse ko uru rubanza rwanagobokeshejwemo ku gahato runagobokwamo ku bushake abantu badafite aho bahuriye n'ayo masezerano y'ubukemurampaka.

UKO URUKIKO RUBIBONA

[30] Impaka kuri iyi ngingo y'urubanza zishingiye ku kumenya niba ikibazo QUALITY CONSTRUCTION Ltd na ACTIVE CM INVESTMENT Ltd bafitanye na MUKERAMIRIMO CONSTRUCTION Ltd na Mbaduka Jimmy, cyatumye CLUB HOUSE LA PALISSE HOTESLS Ltd igobokeshwa mu rubanza ndetse na Rubayiza Alexis na Twiringiyimana Jean Claude bakarugobokamo ku bushake, inkiko zabanje nta bubasha zari zifite bwo kukiburanisha, harebwe ko ingingo ya 9 y'amasezerano QUALITY CONSTRUCTIONS Ltd yagiranye na MUKERAMIRIMO CONSTRUCTION Ltd ku wa 17/12/2020 yateganyaga ko impaka zizavuka zishingiye kuri ayo masezerano bazazikemura mu bwumvikane bananiranwa hakiyambazwa ubukemurampaka, niba kandi kuba icyo kibazo cyarajyanywe mu nkiko zagiciriyego imanza, byatuma icyo kibazo kitakirwa ngo kiburanishwe mu bujurire bwa kabiri (2) n'Urukiko rw'Ubujurire ku mpamvu yuko urubanza rujuririrwa rwaciwe n'inkiko zitabifitiye ububasha, nk'uko biteganywa n'ingingo ya 52, igika cya 2, 3º, y'Itegeko N^O 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko. Mu magambo magufi, ni ukumenya niba kuba urubanza rujuririrwa rwaraciwe n'inkiko zisanwze kandi mu masezerano MUKERAMIRIMO CONSTRUCTION Ltd yagiranye na QUALITY CONSTRUCTION Ltd hateganyijwe Ubukemurampaka bihagije kugira ngo hemezwe ko urwo rubanza rwaciwe n'inkiko zitabifitiye ububasha.

[31] Ku byerekeye ububasha bw'Urukiko rw'Ubujurire, ingingo ya 52, igika cya 2, 3º, y'Itegeko no 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko iteganya ibikurikira : "Urukiko rw'Ubujurire rufite kandi 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 : 3° zashingiye ku itegeko ritariho, ingingo z'amategeko zitakiriho cyangwa zaciwe n'urukiko rutabifitiye ububasha".

[32] Ku byerekeye ikirego cyaregewe inkiko kandi hari amasezerano ateganya ubukemurampaka, Urukiko rw'Ikirenga mu rubanza RCOMA 0090 /13/ CS rwaciwe ku wa 28/03/2014, rwasanze kuba mu masezerano ababuranyi bagiranye baribujije kuburanishwa n'Urukiko Rukuru rw'Ubucuruzi itegeko ribateganyiriza, ubwo bubasha bakabuha Ubukemurampaka ku bwumvikane bwabo, bari bagaragaje ko babona ko ubwo bubasha atari ndemyagihugu, ko rero nta cyabuza ko nyuma y'uko ubwo bubasha batabugizeho ikibazo mu iburanisha ry'ibanze, bakomeza kuburanira mu nkiko[3]. Urukiko rw'Ikirenga rwasanze kandi kuba ingingo ya 10 y'Itegeko N° 005/2008 ryo kuwa 14/02/2008 ryerekeye ubukemurampaka n'ubwunzi mu bibazo by'ubucuruzi iteganya ko Urukiko rwaregewe ikirego cyerekeye ikibazo kijyanye n'amasezerano y'ubukemurampaka rucyohereza mu bukemurampaka ari uko hari umuburanyi ubisabye, bivuze ko ububasha bw'Ubukemurampaka atari ndemyagihugu, rubiheraho rwanzura ko iby'uko ikibazo cy'ababuranyi cyagombaga gukemurwa hakurikijwe inzira y'ubukemurampaka nk'uko PUBLICELL ibivuga nta shingiro bufite.

[33] Ku byerekeye uru rubanza, dosiye y'urubanza igaragaza amasezerano yo ku wa 17/12/2020 yiswe *Subcontract agreement*, MUKERAMIRIMO CONSTRUCTION Ltd ihagarariwe na Mbaduko Jimmy yagiranye na QUALITY CONSTRACTION (QUALICONS) Ltd ihagarariwe na Nkurikiyimfura Alexis, aho ingingo yayo ya 9 ivuga ibyerekeranye no gukemura impaka (despute resolution) igira iti: "*All matters concerning the breach of this agreement shall be settled amicably by both parties before being submitted to the competent arbitration in accordance with Rwandan law*", bivuze ko impaka zose zishingiye ku kutubahirizwa kw'aya masezerano abayagiranye bazazikemura mu bwumvikane bitashoboka zikiyambaza ubukemurampaka.

---

[3] Urubanza nº RCOMA 0090 /13/ CS rwaciwe ku wa 28/03/ 2014 haburana PUBLICELL SARL na MTN RWANDACELLSARL, igika cya 10, 3.

[34] Nk'uko Me Bangamwabo Octave abivuga ndetse bikanagarazwa na dosiye y'urubanza mu Rukiko rw'Ubucuruzi, atanga ikirego cya QUALITY CONSTRUCTION Ltd na ACTIVE IM INVESTMENT Ltd yabitangiye rimwe ku ngwate imwe y'igaragama, yisunze ingingo ya 33[4] y'Itegeko N^{O} 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, QUALITY CONSTRUCTION Ltd irega MUKERAMIRIMO CONSTRUCTION Ltd n'Umuyobozi wayo Mbaduko Jimmy kutubahiriza amasezerano, yirengagije ko ayo masezerano ateganya uko ibibazo byose bagirana biyashingiyeho bigomba gukemurwa mu bwumvikane byananirana bakiyambaza ubukemurampaka, igobokesha CLUB HOUSE LA PALISSE HOTELS Ltd.

[35] Muri urwo Rukiko rw'Ubucuruzi, haba mu myanzuro yayo, mu Nama ntegurarubanza cyangwa mu iburanisha mu mizi, MUKERAMIRIMO CONSTRUCTION Ltd na Mbaduko Jimmy bireguye ku byo baregwa, nta na hamwe bigaragara ko bigeze basaba Urukiko rw'Ubucuruzi kohereza icyo kirego mu bukemurampaka, no mu Rukiko Rukuru rw'Ubucuruzi ntabyo basabye.

[36] Urukiko rurasanga nk'uko Urukiko rw'Ikirenga rwabibonye mu rubanza RCOMA 0090/13/CS rwaciwe ku wa 28/03/2014 rwavuzwe haruguru, kuba QUALITY CONSTRUCTION Ltd yarahisemo kwiyambura uburenganzira bwo kwiyambaza ubukemurampaka ikaregera inkiko, MUKERAMIRIMO CONSTRUCTION Ltd na Mbaduko Jimmy nabo bari basanzwe bazi ayo masezerano bagahitamo kudasaba Urukiko kubohereza mu Bukemurampaka, bivuze ko nabo bahisemo kwiyambura ubwo burenganzira bwo kwiyambaza ubukemurampaka.

[37] Rurasanga na none kuba izo mpande zombi zarahisemo guhindura ibyo zari zarasezeranye mbere zikemeranya kuburanishwa n'inkiko, zikumvikana no ku kiburanwa mu nama ntegurarubanza, bivuze ko zahisemo mu buryo buteruye (tacitement) guhindura amasezerano zari zagiranye mbere ku byerekeranye n'uburyo bwo gukemura amakimbirane ashingiye ku masezerano bagiranye ku wa 17/12/2020, zigahitamo noneho kuburanishwa n'inkiko, bityo zikaba rero muri zo (QUALITY CONSTRUCTION Ltd yareze na MUKERAMIRIMO CONSTRUCTION Ltd) nta wahindukira ngo avuge ko yaburanishijwe n'Urukiko rutabifitiye ububasha.

[38] Urukiko rurasanga ku byerekeye ACTIVE CM CONSTRUCTION, nta cyari kuyibuza kurega MUKERAMIRIMO CONSTRUCTION Ltd mu nkiko z'ubucuruzi mu gihe isanga hari uburenganzira bwayo yifuza kugaruza bushingiye ku bikorwa by'ubucuruzi bakoranye, cyane cyane ko nta masezerano zagiranye ateganya uburyo ibibazo bahura nabyo byakemuka.

[39] Rurasanga na none ibyo CLUB HOUSE LA PALISSE HOTELS ivuga ko Urukiko Rukuru rwishe amategeko kuko rwirengagije ingingo ya 9 y'amasezerano yavuzwe yo ku wa 17/12/2020 iteganya gukemura amakimbirane binyuze mu bukemurampaka, nta shingiro byahabwa, kuko ayo masezerano atayireba, bityo akaba ari nta cyari kubuza QUALITY CONSTRUCTION Ltd na ACTIVE CM INVESTMENT Ltd kuyigobokesha mu rubanza mu gihe zibona ari ngombwa.

---

[4] Iyo abasangiye inyungu mu rubanza ari benshi, barega cyangwa baregwa, buri wese ku bimureba afite uburenganzira n'inshingano by'umuburanyi. Icyakora abasangiye inyungu mu rubanza batanga ibirego byabo mu mwanzuro umwe, bagatanga ingwate y'amagarama imwe.
Ibivugwa mu gika cya mbere cy'iyi ngingo binareba abazungura cyangwa abibumbiye hamwe baregera mu rubanza rumwe ikirego kimwe.
Uregwa umutungo asangiye n'abandi, afite inshingano zo kugaragaza abandi bawusangiye. Iyo ikiburanwa gisangiwe n'abantu benshi, urega afite inshingano zo kubagobokesha.

[40] Urukiko rurasanga kuba mu kujurira kwabo, abahagarariye MUKERAMIRIMO CONSTRUCTION Ltd na CLUB HOUSE LA PALISSE HOTES Ltd bavuga ko ububasha bw'Urukiko rw'Ubujurire bwo kuburanisha ubujurire bwazo babushingira ku ngingo ya 52, igika cya 2, 3o, y'Itegeko no 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, iteganya ko: "Urukiko rw'Ubujurire rufite kandi 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: 3° zashingiye ku itegeko ritariho, ingingo z'amategeko zitakiriho cyangwa zaciwe n'urukiko rutabifitiye ububasha", bikaba byagaragajwe ko Urukiko rw'Ubucuruzi n'Urukiko Rukuru rw'Ubucuruzi zari zifite ububasha kubera ko impande zombi zabyumvikanyeho, bivuze ko ubujurire bwa MUKERAMIRIMO CONSTRUCTION Ltd n'ubwa CLUB HOUSE LA PALISSE HOTES Ltd budashobora kwakirwa mu bubasha bw'uru Rukiko, dore ko nta n'ahandi abahagarariye izo sosiyete berekanye hashingirwa ububasha bwarwo.

[41] Rurasanga rero mu gihe ubujurire bwatanzwe na MUKERAMIRIMO CONSTRUCTION Ltd n'ubwatanzwe na CLUB HOUSE LA PALISSE HOTELS Ltd butakiriwe kuko butari mu bubasha bw'uru Rukiko kubera ko rwasanze impamvu imwe rukumbi bashingiraho ububasha bwarwo, ari nayo ibahesha uburenganzira bwo kuzana ubujurire bwabo muri uru Rukiko, nta shingiro ifite, bitakiri ngombwa gusuzuma izindi nzitizi zatanzwe n'abaregwa mu bujurire, nazo zari zigamije kwerekana ko ikirego cyabo kidakwiriye kwakirwa mu bubasha bw'uru Rukiko.

3. Ibyerekeye amafaranga y'igihembo cya Avoka n'ay'ikurikiranarubanza

[42] Me Nyirasuku Jeanne uhagarariye MUKERAMIRIMO CONSTRUCTION Ltd, asaba Urukiko rw'Ubujurire gutegeka QUALITY CONSTRUCTION Ltd kwishyura MUKERAMIRIMO CONSTRUCTION Ltd 2.000.000 Frw y'ikurikiranarubanzanza, n'igihembo cya Avoka kuva mu nkiko zibanza kugeza kuri uru rwego.

[43] Me Bangamwabo Octave, wunganira Nkurikiyimfura Alexis uhagarariye QUALITY CONSTRUCTION Ltd akanahagararira ACTIVE CM INVESTMENT Ltd, yiregura kuri ibyo MUKERAMIRIMO CONSTRUCTION Ltd isaba avuga ko nta shingiro bifite, kuko mu kirego cyayo ivuga ko Inkiko ari zo zayirenganyije zanga kwiyambura ububasha, bityo ko zitatangwa n'abatarayirenganyije, ko ahubwo MUKERAMIRIMO CONSTRUCTION Ltd ari yo igomba kuzitanga, kuko itigeze itanga inzitizi ngo inkiko zange kuzisuzuma. Asaba ahubwo gutegeka MUKERAMIRIMO CONSTRUCTION Ltd guha ACTIVE CM INVESTMENT Ltd 2000.000 Frw y'igihembo cya Avoka na 500.000 Frw y'ikurikiranarubanza. Naho Nkurikiyimfura Alexis asaba Urukiko gutegeka MUKERAMIRIMO CONSTRUCTION Ltd guha QUALITY CONSTRUCTION Ltd 2.000.000 Frw y'igihembo cya Avoka na 500.000 Frw y'ikurikiranarubanza, yose hamwe akaba 2.500.000 Frw.

[44] Me Nyirasuku Jeanne, uhagarariye MUKERAMIRIMO CONSTRUCTION Ltd yiregura kuri ayo mafaranga y'igihembo cya Avoka n'ay'ikurikiranarubanza yasabwe na QUALITY CONSTRUCTION Ltd na ACTIVE CM INVESTMENT Ltd, avuga ko ibyo izo sosiyete zisaba nta shingiro bifte kuko ari zo zaregeye inkiko zitabiiftiye ububasha.

[45] Me Sebukonoke Innocent uhagarariye CLUB HOUSE LA PALISSE HOTELS Ltd, avuga ko QUALITY CONSTRACTION Ltd na ACTIVE CM INVESTMENT Ltd zirengagije ibikubiye mu masezerano zagiranye na MUKERAMIRIMO CONSTRUCTION Ltd ziyirega nta masezerano zagiranye, ndetse ziregera Urukiko rutabifitiye ububasha, ziyisiragiza mu manza z'amaherere bituma

yiyambaza umunyamategeko wo kuyiburanira, asaba Urukiko gutegeka QUALITY CONSTRACTION Ltd na ACTIVE CM INVESTMENT Ltd kuyiha 1.000.000 Frw y'igihembo cya Avocat, 2.000.000 Frw yo gusiragizwa mu nkiko no kuyisubiza 50.000 Frw y'ingwate y'amagarama.

[46] Ku byo CLUB HOUSE LA PALISSE HOTELS Ltd isaba, Me Bangamwabo Octave uhagarariye QUALITY CONSTRUCTION LTD na ACTIVE CM INVESTMENT LTD**,** avuga ko ibyo isaba bitashoboka kuko utsinzwe ari we wishyura, ko ahubwo ari yo igomba kuryozwa indishyi.

[47] Me Munyamasoko Jovith, uhagarariye Twiringiyimana Jean Claude akunganira Rubayiza Alexis, asaba urukiko rw'ubujurire gutegeka abajuriye kwishyura Rubayiza Alexis na Twiringiyimana Jean Claude 2.000.000 Frw y'igihembo cya Avoka, kuri buri wese, kubera gukomeza gutinza urubanza ikamuhombya bigatuma atakariza mafaranga muri uru rubanza, yanga kwemera ibyemezo byafashwe n'inkiko zabanje, bigatuma batinda kubona ibyo batsindiye, ikajurira bwa kabiri yirenganigije ibiteganywa n'ingingo ya 158 y'Itegeko Nº 22/2018 ryo ku wa 29/04/2018 ryibukijwe haruguru kuko ibyo isaba yakabaye yarabisabye ku rwego rw'ubujurire bwa mbere.

[48] Me Nyirasuku Jeanne, uhagarariye MUKERAMIRIMO CONSTRUCTION Ltd yiregura ku mafaranga Twiringiyimana Jean Claude na Rubayiza Alexis basaba avuga ko nta shingiro, kuko kuba MUKERAMIRIMO CONSTRUCTION Ltd yarajuriye ari uburenganzira yemererwa n'amategeko.

[49] Kuri izo ndishyi Twiringiyimana Jean Claude na Rubayiza Alexis basaba, Me SEbukonoke Innocent Uhagarariye CLUB HOUSE LA PALISSE HOTELS Ltd nawe avuga ko nta shingiro ryayo.

UKO URUKIKO RUBIBONA

[50] 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 ibikurikira : 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.

[51] Urukiko rurasanga amafaranga y'igihembo cya Avoka n'ay'ikurikiranarubanza MUKERAMIRIMO CONSTRUCTION Ltd isaba, ndetse n'asabwa na CLUB HOUSE LA PALISSE HOTELS Ltd batayahabwa kuko batsindwa n'urubanza.

[52] Urukiko rurasanga amafaranga QUALITY CONSTRUCTION Ltd na ACTIVE CM INVESTMENT Ltd zisaba ziyakwiye kuko zishyuye Avoka wo gukurikirana urubanza rwazo no kuziburanira, ariko kuko 2000.000Frw y'igihembo cya Avoka na 500.000 Frw y'ikurikiranarubanza buri imwe izaba akaba ari menshi kandi nta bimenyetso byerekana ko ariyo zakoresheje, mu bushishozi bw'Urukiko buri imwe ikaba yahabwa 500.000 Frw y'igihembo cya Avoka na 200.000 Frw y'ikurikiranarubanza.

[53] Urukiko rurasanga amafaranga y'igihembo cya Avoka n'ay'ikurikiranarubanza Twiringiyimana Jean Claude na Rubayiza Alexis baka MUKERAMIRIMO CONSTRUCTION Ltd batayahabwa kuko bagobotse mu rubanza ku bushake bwabo atariyo yabagobokesheje, ikaba itabazwa ibyo batakaje ku rubanza bajemo bagamije kugira ngo inyungu zabo zitazabangamirwa.

III. ICYEMEZO CY'URUKIKO

[54] Rwemeje ko ubujurire bwatanzwe na MUKERAMIRIMO CONSTRUCTION Ltd n'ubwatanzwe na CLUB HOUSE LA PALISSE HOTELS Ltd butakiriwe kuko butari mu bubasha bw'uru Rukiko ;

[55] Rutegetse MUKERAMIRIMO CONSTRUCTION Ltd kwishyura QUALITY CONSTRUCTION Ltd na ACTIVE CM INVESTMENT Ltd, buri wese 500.000 Frw y'igihembo cya Avoka na 200.000Frw y'ikurikiranarubanza kuri uru rwego ;

[56] Ruvuze ko ingwate y'amagarama abajuriye batanze ahwanye n'ibyakozwe mu rubanza