# SANLAM INSURANCE RWANDA LTD v MUHIRWA

[Rwanda URUKIKO RUKURU RW'UBUCURUZI – RCOMA 00878/2021/HCC (Mutajiri, PJ.) 16 Ukuboza 2022]

*Amategeko agenga imiburanishirize y'imanza z'ubucuruzi – Kwica amasezerano – Kwica amasezerano yose bitanga uburenganzira ku ndishyi z'akababaro zishingiye ku nshingano zo gukora igisabwa zitararangira.*

**Incamake y'ikibazo:** MUHIRWA Serge yareze mu rukiko rw'Ubucuruzi arusaba gutegeka SANLAM kubahiriza amasezerano y'ubwishyingizi bw'impanuka z'abanyeshyuri yagiranye na SJITC mu nyungu ze n'indishyi zinyuranye kuko yakoze impanuka ubwo yari kuri moto avuye ku ishuri arakomereka bandikiye SANLAM INSURANCE RWANDA Ltd bayisaba gutanga indishyi zikubiye mu masezerano ntiyabyubahiriza. Urukiko rwasanze kuba impande zombi muri uru rubanza zaremeranyije ko MUHIRWA Serge agomba guhabwa 980.000FRW kuko yagize ubumuga bungana na 49%, ari zo ndishyi zikomoka ku mpanuka agomba guhabwa. Rwasanze kandi n'ubwo nta masezerano yagiranye na SANLAM INSURANCE RWANDA Ltd bidakuraho ko ayo masezerano ari we yagombaga kugirira inyungu, rutegeka SANLAM INSURANCE RWANDA Ltd kubimuhera indishyi zingana na 500.000FRW.

SANLAM INSURANCE RWANDA Ltd ntiyishimiye imikirize y'urubanza maze ijurira isaba gusuzuma niba indishyi zingana zo kutubahiriza amasezerano zahawe uregwa n'amafaranga y'ikurikiranarubanza yahawe uregwa bifite ishingiro. MUHIRWA Serge mukwiregura avuga ko impamvu z'ubujurire nta shingiro zifite kubera ko SANLAM ariyo yanze kubahiriza amaesezerano, ikabikora ikirego cyaramaze gutangwa. Agasoza asaba gusuzuma ubujurire bwuririye k'ubundi bwo kuba yaragenewe amafranga make ku kijyanye n'indishyi zo kutubahiriza amasezerano n'igihembo cy'avoka ndetse anasaba indishyi z'ikurikiranarubanza n'igihembo cy'umu avoka bitewe n'igihe amaze yishyuza umwenda ariko ikanga SANLAM kwishyura no kuba yarishyuye amafranga asumba kure ayo urukiko rwatanze. SANLAM isobanura ko atakabaye yuririra bwayo, kuko niba yarafite ikibazo cy'ibyo atemera yakabaye yaratanze ubujurire bwe nawe, niba atarabikoze rero aruko yishimiye ibyo yahawe.

**Incamake y'icyemezo:** 1. Kwica amasezerano yose bitanga uburenganzira ku ndishyi z'akababaro zishingiye ku nshingano zo gukora igisabwa zitararangira.

**Ubujurire nta shingiro bufite.**
**Nta gihindutse ku rubanza.**

**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 12, 111 na 151.

Itegeko N° 45/2011 ryo kuwa 25/11/2011 rigenga amasezerano, ingingo ya 81.

## Urubanza

# I. IMITERERE Y'URUBANZA

[1] Urubanza rwatangiye MUHIRWA Serge arega avuga ko ku wa 28/09/2017, SAHAM Assurance Rwanda Ltd yaje guhinduka SANLAM INSURANCE RWANDA Ltd yagiranye na SAINT JOSEPH INTEGRATED TECHNICAL COLLEGE (SJITC) amasezerano y'ubwishingizi yiswe POLICE D'ASSURANCE ACCIDENT SCOLAIRES, aho SANLAM INSURANCE RWANDA Ltd yishingiye impanuka zo ku mubiri abanyeshuri ba SJITC bashobora kugira bari mu bikorwa byabo by'ishuri, ni ukuvuga bari ku ishuri, bava cyangwa bajya ku ishuri, ndetse SANLAM INSURANCE RWANDA Ltd inishingira kuzishyurira abo banyeshuri ku byo bakwangiza mu mutungo wa SJITC.

[2] Kuwa 29/03/2018, MUHIRWA Serge, wari umunyeshuri wa SJITC yakoze impanuka ubwo yari kuri moto avuye ku ishuri arakomereka. Kuwa 05/06/2021, MUHIRWA Serge yareze mu rukiko rw'Ubucuruzi arusaba gutegeka SANLAM kubahiriza amasezerano y'ubwishyingizi bw'impanuka z'abanyeshyuri yagiranye na SJITC mu nyungu ze n'indishyi zinyuranye kuko ngo bandikiye SANLAM INSURANCE RWANDA Ltd bayisaba gutanga indishyi zikubiye mu masezerano. Uwari uhagarariye MUHIRWA Serge yasabaga ko SANLAM INSURANCE itegekwa guha MUHIRWA Serge indishyi zikomoka ku mpanuka zingana na 980.000FRW n'indishyi zingana gutyo zijyanye na responsabilité civile kandi igatanga indishyi zo kutubahiriza amasezerano n'indishyi z'ibyatakajwe mu rubanza.

[3] Uwari uhagarariye SANLAM INSURANCE RWANDA Ltd yireguraraga yemera ko igomba kwishyura MUHIRWA Serge indishyi zikomoka ku mpanuka zingana na 980.000FRW, akavuga ko indishyi zijyanye na responsabilité civile nta shingiro zifite kuko zirebana n'iby'abandi MUHIRWA Serge yagombaga kwangiza, naho ku bijyanye n'indishyi z'ibyatakajwe mu rubanza avuga ko nta shingiro zifite kuko MUHIRWA Serge ariwe utaremeraga indishyi SANLAM INSURANCE RWANDA Ltd yatangaga.

[4] Urukiko mu guca urubanza mu kumenya niba SANLAM INSURANCE RWANDA Ltd yategekwa guha MUHIRWA Serge indishyi asaba zishingiye ku masezerano y'ubwishingizi yo kuwa 28/09/2017, rushingiye kuri ayo masezerano yabaye hagati ya SAHAM Assurance Rwanda Ltd yaje guhinduka SANLAM INSURANCE RWANDA Ltd na SAINT JOSEPH INTEGRATED TECHNICAL COLLEGE (SJITC), ayo masezerano ateganya ko mu gihe uwakomeretse yagize ubumuga bwa burundu, azahabwa indishyi zingana na 2.000.000FRW, yaba atagize ubumuga bwa burundu indishyi zikabarwa hagendeye ku ijanisha ry'ubumuga gukuba amafaranga yishingiwe (capital assuré) agomba guhabwa uwagize ubumuga bwa burundu. Urukiko rwasanze rero kuba impande zombi muri uru rubanza zaremeranyije ko MUHIRWA Serge agomba guhabwa 980.000FRW kuko yagize ubumuga bungana na 49%, ari zo ndishyi zikomoka ku mpanuka agomba guhabwa. Urukiko rwasanze kandi n'ubwo MUHIRWA Serge nta masezerano yagiranye na SANLAM INSURANCE RWANDA Ltd bidakuraho ko ayo masezerano ari we yagombaga kugirira inyungu, kuba rero SANLAM INSURANCE RWANDA Ltd itarayubahirije ikaba igomba kubimuhera indishyi zingana na 500.000FRW zibazwe mu bushishozi bw'urukiko. Urukiko rwategetse kandi SANLAM INSURANCE RWANDA Ltd guha MUHIRWA Serge indishyi

z’ikurikiranarubanza zingana n’amafaranga 100.000FRW, n’igihembo cya avoka kingana n’amafaranga atanu 500.000FRW.

[5] SANLAM INSURANCE RWANDA Ltd ntiyishimiye imikirize y’urubanza maze Me MUKANZIGIYE Donatille mu mwanya wayo ajurira asaba gusuzuma niba indishyi zingana na 500.000FRW zo kutubahiriza amasezerano zahawe uregwa zari zifite ishingiro, gusuzuma niba amafaranga 100.000FRW y’ikurikiranarubanza yahawe uregwa yari afite ishingiro.

[6] Uregwa mukugira icyo avuga ku mpamvu z’ubujurire, HC&ASSOCIATES LAWFIRM LTD mu mwanya we ivuga ko nta shingiro zifite kubera ko SANLAM ariyo yanze kubahiriza amaesezerano, ikabikora ikirego cyaramaze gutangwa. Isoza isaba gusuzuma ubujurire bwuririye k’ubundi bwo kuba yaragenewe amafranga make ku kijyanye n'indishyi zo kutubahiriza amasezerano n'igihembo cy'avoka ndetse anasaba indishyi z’ikurikiranarubanza n’igihembo cy’umu avoka.

[7] Muri uru rubanza hakaba hagomba gusuzumwa niba uru rubanza rwari mu bubasha bw’urukiko rw’ubucuruzi hashingiwe ku ngingo ya 81, 5° COFCJ, gusuzuma niba indishyi zo kutubahiriza amasezerano n’iz’ikurikiranarubanza zatanzwe nta shingiro, gusuzuma niba ingingo y’ubujurire bwuririye k’ubundi yakabaye itangwa bitagombeye ko urundi ruhande rujurira, igatangwa ibihe byo kujurira byararenze igomba kwakirwa no gusuzuma niba indishyi zisabwa mu bujurire zifite ishingiro.

## II. IBIBAZO BIGIZE URU RUBANZA N’ISESENGURWA RYABYO

### A. Ku birebana no gusuzuma niba uru rubanza rwari mu bubasha bw’urukiko rw’ubucuruzi hashingiwe ku ngingo ya 81, 5° COFCJ

[8] Ingingo ya 81, 5° y’itegeko N°30/2018 ryo ku wa 02/06/2018 rigena ububasha bw’inkiko iteganya ko Haseguriwe ibivugwa mu ngingo ya 27, agace ka 4o, Urukiko rw’Ubucuruzi ruburanisha mu rwego rwa mbere imanza zose z’ubucuruzi, iz’imari, iz’imisoro n’ibindi bibazo bifitanye isano nabyo byerekeye: 5° impaka zerekeye ubwishingizi havanywemo izerekeye indishyi z’impanuka zisabwa amasosiyete y’ubwishingizi n’abadafitanye amasezerano na yo.

[9] Me NDEREYIMANA André asobanura ko umucamanza yashingiye ku ngingo iaze kuvugwa, ko umucamanza mugufata iki cyemezo yasobanuye ko MUHIRWA Serge nawe ari umwe mu bagize ariya masezerano kuko ariwe afitiye inyungu (reba igika cya 14) ashingiye ku ngingo ya 117 y’itegeko rigenga amasezerano.

[10] Me MUKANZIGIYE Donatille asobanura ko icyemezo cyafashwe ku rwego rwa mbere bakisobanuyeho, ko ariko urukiko rwazasuzuma niba kitari mu bubasha bw’urukiko rwisumbuye.

## UKO URUKIKO RUBIBONA

[11] Ingingo ya 81, 5° y’itegeko N°30/2018 ryo ku wa 02/06/2018 rigena ububasha bw’inkiko iteganya ko haseguriwe ibivugwa mu ngingo ya 27, agace ka 4°, Urukiko rw’Ubucuruzi ruburanisha mu rwego rwa mbere imanza zose z’ubucuruzi, iz’imari, iz’imisoro n’ibindi bibazo

bifitanye isano nabyo byerekeye: 5° impaka zerekeye ubwishingizi havanywemo izerekeye indishyi z'impanuka zisabwa amasosiyete y'ubwishingizi n'abadafitanye amasezerano na yo;

[12] Ingingo ya 113 y'itegeko N° 45/2011 ryo kuwa 25/11/2011 rigenga amasezerano iteganya ko amasezerano agira inkurikizi ku bayagiranye gusa, ntabangamira undi wese kandi amugirira akamaro gusa mu biteganyijwe bijyanye no gusezerana ibifitiye undi akamaro.

[13] Urukiko rusanga kuba St JOSEPH INTEGRATED TECHNICAL COLLEGE yarafatiye abanyeshuri bayo ubwishingizi muri Sanlam, kuba MUHIGIRWA Serge ari umunyeshuri w'iryo shuri, bivuga ko amasezerano y'ubwishingizi yakozwe n'ikigo yigamo yakozwe mu nyungu z'abanyeshuri bose bakigamo, nawe arimwo, kuba rero ayo masezerano amufitiye inyungu, igihe cyose yakora impanuka bigaragara ko iri mu byishingiwe, kuba yarega ashingiye ku masezerano yakozwe mu nyungu ze, ikirego kikaba kiri mu bubasha bw'urukiko rw'ubucuruzi.

**B. Kubirebana no gusuzuma niba indishyi zo kutubahiriza amasezerano n'izikurikirana rubanza zahawe uregwa zitari zifite ishingiro**

[14] Me MUKANZIGIYE Germaine asobanura ko kuri iyi ngingo y'indishyi zingana na 500.000 FRW zahawe uregwa zo kutubahiriza amasezerano, SANLAM AG Plc isanga nta shingiro zifite, zitari zikwiye gutangwa; kuko nk'uko yabisobanuye ntabwo SANLAM AG Plc yinangiye kutubahiriza amasezerano (gutanga indishyi zishingiye mu masezerano) ahubwo yagerageje uburyo bwose kugirango uregwa yishyurwe ntabyo gukururana mu manza ariko we aba aribyo ahitamo kubera gusaba ikiguzi cy'urubanza. Bityo rero izi ndishyi umucamanza ntitubona ahantu yazikomoye na cyane ko n'uregwa ubwe yiyemeraraga ko indishyi zijyanye n'impanuka yagize yazihabwa uko zabazwe na SANLAM AG Plc n'ubwo ibaruwa ibemerera kuzibaha bayibonye batinze; ariko nanone bagahabwa ikiguzi cy'urubanza (igihembo cy'avoka) kuko bahawe indishyi basabaga bararangije gutanga ikirego. Aha rero asanga umucamanza ntaho yari guhera ategeka SANLAM AG Plc gutanga izi ndishyi zo kutubahiriza amasezerano zingana kuriya kandi zari zamaze kumvikanwaho no mu gihe kandi yari amaze kumugenera n'igihembo cy'avoka kubera imirimo yakoze kandi akaba ari nabyo bifuzaga mu iburanisha ndetse no mu ibaruwa banditse yo kuwa 20/10/2021 kuko aricyo cyari gisigaye nka sujet de débat.

[15] Asoza avuga amafaranga 100.000FRW y'ikurikirarubanza yahawe uregwa, nayo asanga nta shingiro atari akwiye gutangwa kuko ukurikirana urubanza ari avoka kandi yabiherewe igihembo. Avuga ko hakwibazwa igihe urubanza rubaa urubanza, ko iyo ikirego kigeze murukiko aribwo aba ari urubanza, ko rero icyo gihe avoka ariwe ugomba kurukurikirana.

[16] Me NDEREYIMANA André yiregura ko indishyi urukiko rwatanze zifite ishingiro, kuberako n'indishyi zo kutubahiriza amasezerano kandi koko ntiyayubahirije, ahubwo MUHIRWA asabwa yaragenewe indishyi z'urukiko. Avuga ko yandikiwe ngo yishyure ikinangira. Amategeko ashingirwaho n'ingingo ya 81 y'itegeko rigenga amasezerano.

[17] Asoza avuga ko aya mafranga y'ikurikiranarubanza yatanzwe n'urukiko rw'ubucuruzi afite ingaruka (impact) k'ubuzima bwabo kuberako atagaragza icyo yakoze. Amafranga rero akaba ahubwo yakongerwa kuberako batubahirije amasezerano kandi akaba ariwe nyiri ubukwe wabaye nyirabayazana w'ibi byose byo kwica amasezerano. Avuga ko amafaranga y'ikurikiranarubanza atandukanye n'igihembo cya avoka, kuko umuburanyi nawe agira ibyo atakaza akurikirana urubanza rwe, nko guhamagara, kujya gusinyisha urundi ruhande.

## UKO URUKIKO RUBIBONA

[18] Ingingo ya 12 y’itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y’imanza z’imbonezamubano, iz’ubucuruzi, iz’umurimo n’iz’ubutegetsi nk’uko ryahinduwe kandi ryujujwe kugeza ubu, iteganya ko Urega agomba kugaragaza ibimenyetso by’ibyo aregera. Iyo abibuze, uwarezwe aratsinda. Naho uvuga ko atagitegetswe gukora icyo yategekwaga gukora cyagaragajwe n’ibimenyetso agomba kugaragaza impamvu zakimukuyeho. Iyo abiburiye ibimenyetso, uwo baburana aramutsinda.

[19] Ingingo ya 81 y’itegeko N° 45/2011 ryo kuwa 25/11/2011 rigenga amasezerano iteganya ko kwica amasezerano yose bitanga uburenganzira ku ndishyi z’akababaro zishingiye ku nshingano zo gukora igisabwa zitararangira.

[20] Urukiko rusanga ikibazo cy’uwajuriye gishingiye ku ndishyi zo kutubahiriza amasezerano zingana n’amafaranga 500,000 ndetse n’indishyi z’ikurikiranarubanza n’igihembo cya avoka, avuga ko zitagombaga gutangwa kandi SANLAM AG Plc itaranze kubahiriza amasezerano (gutanga indishyi zishingiye mu masezerano) ahubwo yageragejе uburyo bwose kugirango uregwa yishyurwe ntabyo gukururana mu manza ariko we aba aribyo ahitamo kubera gusaba ikiguzi cy’urubanza, bitahabwa ishingiro kuko kuba Me MUKANZIGIYE avuga ko SANLAM itanze kubahiriza amasezerano ko ahubwo amakosa ari aya MUHIGIRWA wanze kwishyurwa, agahitamo kurega, ariko akaba atagaragaza ibimenyetso bidashidikanywaho ko koko MUHIGIRWA Serge yanze ubwishyu, uko kubura ibimenyetso bikaba bituma urubanza rutinda uwo aburanira nk’uko biteganywa n’ingingo ya 12 y’itegeko N° 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru.

[21] Urukiko rusanga nta makossa urukiko rwakoze mu gutegeka ko MUHIRWA Serge yishyurwa ziriya ndishyi kuko kuba rwarasobanuye ko kuwa 27/04/2018, SAINT JOSEPH INTEGRATED TECHNICAL COLLEGE (SJITC) yabanje kwandikira SAHAM Assurance Rwanda Ltd yaje guhinduka SANLAM INSURANCE RWANDA Ltd, iyisaba kwishyura MUHIRWA Serge ntiyasubiza, Me HABYARIMANA Christine nawe ayandikira kuwa 01/03/2019, ntiyasubiza, ahubwo kuwa 31/08/2021, SANLAM INSURANCE RWANDA Ltd iba aribwo isubiza mu gihe ikirego cyatanzwe kuwa 05/06/2021, kuba rero SANLAM yarashubije ikirego cyaramaze gutangwa, ikaba yaragombaga kubyishyurira indishyi zo kutubahiriza amasezerano ndetse n’ibyagiye ku rubanza nk’uko biteganywa n’ingingo z’amategeko zavuzwe haruguru.

**B. Kubirebana no gusuzuma niba ingingo y’ubujurire bwuririye k’ubundi yakabaye itangwa bitagombeye ko urundi ruhande rujurira**

[22] Ingingo yo gusuzuma ubujurire bwuririye k’ubundi bwo kuba yaragenewe amafaranga make ku kijyanye n'indishyi zo kutubahiriza amasezerano n'igihembo cy'avoka yatazwe kuwa 08/02/2022 02:57 mugihe urubanza rujurirwa rwasomwe kuwa 29/11/2021. Me NDEREYIMANA André asobanura ko kuba baratanze ubujurire bwuririye k’ubundi byatewe n’uko SANLAM yajuriye, ko iyo itajurira nabo batarikujurira.

[23] Me MUKANZIGIYE asobanura ko niba yajuriye mugenzi we atakabaye yuririra kubwe, kuko niba yarafite ikibazo cy’ibyo atemera yakabaye yaratanze ubujurire bwe nawe, niba atarabikoze rero aruko yishimiye ibyo yahawe.

[24] MUHIRWA Serge yajuriye avuga ko urebye igihe MUHIRWA amaze yishyuza umwenda SANLAM izi neza ko iwugomba ariko ikanga kwishyura no kuba muhirwa yarishyuye amafranga asumba kure ayo urukiko rwatanze, asaba ko yakongererwa indishyi zingana na 1,000,000FRW.

[25] SANLAM AG PLC yiregura ko ibijyanye n'ubujurire bwuririye ku bundi bwatanzwe n'urega, Sanlam AG Plc isanga nta shingiro bufite nk'uko twabisobanuye mu migendekere y'urubanza ndetse no mu mpamvu z'ubujurire nyirizina.

## UKO URUKIKO RUBIBONA

[26] Ingingo ya 151 y’itegeko N° 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, iteganya ko Uregwa mu bujurire akora umwanzuro mu buryo bumwe n’uwajuriye. Umwanzuro wo kwiregura usubiza kuri buri kibazo hakurikijwe urutonde rw’ibibazo byagaragajwe n’uwajuriye n’ibyo asaba urukiko.

[27] Urukiko rusanga kuba ubujurire bwuririye kubundi ari ubukorwa n’uregwa mu bujurire asubiza mu buryo bw’imyanzuro ingingo z’uwamureze mu bujurire, arinabwo nawe aboneraho akaba yagira ibyo amusaba, uwuririye k’ubujurire bwundi akaba atagomba kuzana muri ubwo bujurire ingingo y’ubujurire yihariye cyangwa ye bwite yakabaye yarajuririye ukwayo ngo abe yaza ayisabatanga mu bujurire bw’uwo batsindanywe mu rwego rwa mbere.

[28] Urukiko rusanga kuba mu rubanza rujuririrwa MUHIRWA Serge yari arurimwo nk’urega ndetse agatsinda, mugihe atishimiye ingano y’indishyi avuga ubu, akaba ataragombaga gutegereza ko SANLAM ijurira kugira yuririre k’ubujurire bwayo nawe abone kugaragaza ibyo atishimiye. Rusanga MUHIRWA Serge ataragombaga gutegereza ko uwo baburana ajurira kugira nawe abone kuririra k’ubujurire bwe asaba ibyo yarifitiye uburenganzira bwo kujuriria kuko mu bujurire atakabayeaizana ibyo atishimiye k’urubanza, ahubwo yakabaye akora umwanzuro wo kwiregura usubiza kuri buri kibazo hakurikijwe urutonde rw’ibibazo byagaragajwe n’uwajuriye n’ibyo asaba urukiko nk’uko biteganywa n’ingingo ya 151 y’itegeko No 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, aho kuzana ingingo ze nshya z’ubujurire. Ibyo yakabaye asaba mu bujurire bw’uririye k’ubundi akaba ari ukwiregura k’uregwa ku kirego cy’iremezo (by’umvikane k’ubujurire bw’iremezo) cyangwa ibifitanye isano nabwo nk’uko bikorwa ku kirego kiregera kwiregura, indishyi z’ibyo yatakaje k’urubanza nk’uko biteganywa n’ingingo ya 110 n’iya 152 z’itegeko No 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru.

[29] Rusanga kandi rushingiye ku biteganywa n’ingingo ya 154 y’itegeko No 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, iteganya ko ku rwego rw’ubujurire ntihashobora gutangirwa ikirego gishya keretse kuregera guhwanya imyenda, cyangwa gutanga ikirego cyo kwiregura ku kirego cy’ibanze cyatanzwe mu rukiko rw’ubujurire, ko icyakora, ababuranyi bashobora kwaka inyungu, ibyishyuwe ku bukode n’ibindi bintu by’inyongera byabonetse kuva aho urubanza rwaciriwe n’indishyi z’igihombo umuburanyi yagize kuva urubanza ruciwe, iyi ngingo isobanura neza ibigomba kuba bikubiye mu bujurire, byumvikanisha ko n’ibigomba kuba bikubiye mu bujurire bwuririye k’ubundi bitagomba kurenga imbibe z’icyajuririwe ngo hatangwemwo ibindi birego byakabaye byarajuririwe ukwabyo, nk’uko biteganywa n’ingingo ya 156 y’itegeko No 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru.

[30] Rusanga ubujurire bwa MUHIRWA Serge bwuririye kubwa SANLAM butagomba kwakirwa kuko kuba atarishimiye imikirize y'urubanza ariko ntajurire, ndetse n'igihe yuririye akabikora ibihe byo kujurira bitenywa n'ingingo ya 148 y'itegeko No 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru byararenze kuko urubanza rujuririrwa rwasomwe kuwa 29/11/2021, ingingo isaba indishyi itangwa kuwa kuwa 08/02/2022 02:57, ibi bikaba binyuranye ndetse n'ibyemejwe n'Urukiko rw'ikirenga mu rubanza RCOMAA 00071/2017/CS, rwaciwe kuwa 26/10/2018 hagati ya BRD Ltd na MBUTO Aimable, aho rwasobanuye ko ingingo y'ubujurire itanzwe nyuma y'ibihe by'ubujurire biteganywa n'itegeko itakirwa ngo isuzume, bityo ubujurire bwa MUHIRWA Serge bwuririye kubwa SANLAM busaba kongerererwa amafranga y'indishyi zo kutubahiriza amasezerano bukaba butakiriwe.

**C. Kubirebana no gusuzuma niba indishyi z'ikurikiranarubanza n'igihembo cy'avoka no gushorwa mu manza zisabwa na MUHIRWA Serge**

[31] Me NDEREYIMANA André asobanura asaba gutegela SANLAM gutanga igihembo cy'avoka ku rwego rw'ubujurire kingana na 500, 000 FRW hamwe na frais de procedure zingana na 200 000 FRW.

[32] Me MUKANZIGIYE yiregura ko ibijyanye n'ubujurire bwuririye ku bundi bwatanzwe n'urega, Sanlam AG Plc isanga nta shingiro bufite nk'uko twabisobanuye munmigendekere y'urubanza ndetse no mu mpamvu z'ubujurire nyirizina.

## UKO URUKIKO RUBIBONA

[33] 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 nkuko ryahinduwe kandi ryujujwe kugeza ubu iteganya ko "*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*".

[34] Urukiko rusanga ndishyi zisabwa na MUHIRWA Serge zifite ishingiro kuko kuba SANLAM yarakomeje kumushora mu manza z'amaherere akagira ibyo atakaza mu kuburana nko kwishyura avoka, akaba agomba kwirengera igihombo byamuje, ariyo mpamvu hashingiwe ku ngingo ya 111 y'itegeko No 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, igomba kumwishyura ibihumbi Magana arindwi (700,000 FRW) y'indishyi z'ikurikiranarubanza n'igihembo cy'umu avoka zasabwe kuko ziri mu kigero kigereranyije.

## III. ICYEMEZO CY'URUKIKO

[35] Rwemeje ko ubujurire bwa SANLAM INSURANCE RWANDA Ltd nta shingiro bufite.

[36] Rwemeje ko nta gihindutse ku rubanza RCOM 00740/2021/TC.

[37] Rutegetse ko ibyategetswe muri urwo rubanza bishyirwa mu bikorwa aribyo ko, rutegetse SANLAM INSURANCE RWANDA Ltd guha MUHIRWA Serge indishyi zo kutubahiriza amasezerano zingana n'amafaranga ibihumbi magana atanu (500.000Frw), indishyi

z'ikurikiranarubanza zingana n'amafaranga ibihumbi ijana (100.000Frw), n'igihembo cya avoka kingana n'amafaranga ibihumbi magana atanu (500.000Frw); ko rutegetse SANLAM INSURANCE RWANDA Ltd gusubiza MUHIRWA Serge ingwate y'amagarama yatanze arega ingana n'amafaranga y'u Rwanda ibihumbi makumyabiri (20.000Frw), itayatanga mu gihe giteganwa n'amategeko agakurwa mu byayo ku ngufu za Leta.

[38] Rutegetse SANLAM INSURANCE RWANDA Ltd kwishyura MUHIRWA Serge indishyi zo z'ikurikiranarubanza n'igihembo cy'umu avoka zingana n'amafaranga ibihumbi Magana arindwi (700,000 FRW) mu bujurire.

[39] Rutegetse ko amafaranga 40,000 y'amagarama SANLAM INSURANCE RWANDA Ltd yishyuye ijurira aherera ku isanduku ya Leta.