SUGIRA v POWER FAMILY Ltd N'UNDI

[Rwanda URUKIKO RUKURU – RCA 00077/2021/HC/RWG (Nyirabagande, P.J.) 17 Ugushyingo 2022]

Amategeko agenga imanza z'imbonezamubano – Uburyozwe – Uburyozwe bukomoka ku kintu – Iyo amasezerano y'ubwishingizi yagennye indishyi zidakwiye ku mpanuka umukozi yagirira mu kazi, nta cyabuza umukozi wagize impanuka gukurikirana umukoresha akamwishyura ikinyuranyo.

Imiterere y'ikibazo: uru rubanza rwatangiye Sugira arega Power Famly Na Muberangeyo mu Rukiko Rwisumbuye rwa Ngoma asaba indishyi zitandukanye kuko yari umukozi wa Power Family Ltd ihagarariwe na Muberangeyo mu kirombe gicukurwamo amabuye yo kubaka hanyuma akora impanuka agira ubumuga buhoraho bwa 35%. Umukoresha amubwira yagana umwishingizi ariwe prime kugirango ahabwe indishyi. Prime yamuhaye indishyi zingana na 500, 000FRw nkuko zitteganyijwe mu masezerano y'ubwishingizi ariko kuko yabona zidakwiye yatanze ikirego arega umukoresha kugirango ahabwe indishyi zikwiye. Urukiko mu rubanza RC00053/2021/TGI/NGO ko Sugira akwiye kwishyurwa 500.000Frw, kuko arizo zagenwe mu masezerano Company ye na Muberangeyo bagiranye na Prime Insurance kubera kandi ko mu zindi manza ari nkacyo kigero cy'indishyi gihuriweho n'amasosiyete y'ubwishingizi hashingiwe kuri « prime » iba yatanzwe n'usaba ubwishingizi.

Sugira yajuriye Urukiko Rukuru, Urugereko rwa Rwamagana, avuga ko indishyi zari zasabwe ku rwego rwa mbere zari gutangwa, amafaranga arenga ku yishingiwe muri Prime Insurance agatangwa na Power Family Ltd, nk'uko binasobanurwa mu ngingo ya 28 y'Iitegeko Teka N°20/75 ryo ku wa 20 kamena 1975 rigenga ubwishingire ; ku birebana n'indishyi mbangamirabukungu n'amafaranga y'ikurikiranarubanza hagashingiwa ku Iteka rya Perezida rigena indishyi zikomoka ku mpanuka zo mu muhanda.avuga kandi ko ibyo kuba hakubahirizwa amasezerano umukoresha yagiranye na sosiyete y'ubwishingizi bitahabwa agaciro kubera ko we arebwa n'amasezerano ku gaciro kishingiwe, ibirenzeho bikaryozwa umukoresha kuko impanuka yatewe n'amakosa ye.

Power Familly Ltd Na Muberangeyo bavuga ko impamvu z'ubujurire zitahabwa ishingiro kubera ko 500.000Frw y'ubwishingizi Sugira atemera ajya kungana (standards) ku masosiyete y'ubwishingizi; indishyi asaba zikaba zagenwa mu gihe nta bwishingizi bwafashwe. Urukiko rwasuzumye ikibazo cyo kumenya uko byagenda mu gihe indishyi zishingiwe ziri munsi y'agaciro k'ibyangijwe, niba uwangirijwe ataregera ikinyuranyo. Urukiko Rukuru mu rubanza RCA00077/2021/HC/RWG rwemeje ko kuba Sugira yaragize impanuka ikamwangiriza bikomotse ku makosa ya Power Family Ltd na Muberangeyo, bagomba kumwishyura ibyangijwe kugira ngo asubizwe mu burenganzira, yari kubamo iyo atangirizwa, cyangwa hagatangwa indishyi mu gihe bidashobotse. Urukiko rwemeje kandi ko, Sugira atagenerwa indishyi hashingiwe ku Iteka rya Perezida rigena uburyo indishyi zikomoka ku mpanuka z'ibinyabiziga mu muhanda, kubera ko we yagize impanuka itewe n'ikirombe, ahubwo yagenerwa indishyi hashingiwe ku ndishyi zitangwa ku muntu wangirijwe n'ibikorwa by'undi, hagamijwe kumusubiza mu burenganzira bwe zitangwa hashingiwe ku bimenyetso no ku bushishozi bw'Urukiko.

Incamake y'icyemezo:1. Iyo amasezerano y'ubwishingizi yagennye indishyi zidakwiye ku mpanuka umukozi yagirira mu kazi, nta cyabuza umukozi wagize impanuka gukurikirana umukoresha akamwishyura ikinyuranyo. Bityo iyo kugirango uwangirijwe n'impanuka asubizwe uburenganzira yarafite mbere yuko akora impanuka, indishyi umwishingizi atanze akurikije amasezerano zidahagije, abura agomba gutangwa n'umukoresha.

2. Mu kubara indishyi zitandukanye ku muntu wakoze impanuka itari iy'ikinyabiziga kigendera ku butaka, zigenwa hashingiwe ku bimenyetso ndetse no ku bushishozi bw'Urukiko.

Ubujurire bufite ishingiro.

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

Itegeko N°41/2001 ryo ku wa 19/09/2001 ryerekeye itangwa ry'indishyi ku bahohotewe n'impanuka zo ku mubiri zitewe n'imodoka, ingingo ya 1

Itekarya Perezida No 31/01 ryo ku wa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibanyabiziga, ingingo ya 1

itegeko N°41/2001 ryo ku wa 19/09/2001 ryerekeye itangwa ry'indishyi ku bahohotewe n'impanuka zo ku mubiri zitewe n'imodoka,

Code civil francais (version en vigueur du 19 fevrier 1804 au 01 octobre 2016), art.1382

Nta manza zifashishjwe.

Urubanza.

I. IMITERERE Y'URUBANZA

[1] Urubanza ruri mu rwego rw'ubujurire Sugira Jean Bosco anenga icyemezo cy'Urukiko Rwisumbuye, rwemeje ko ikirego cye cyerekeranye no gusaba kugenerwa indishyi zikomoka ku mpanuka yo mu kirombe, zisumba iz'ubwishingizi bwafashwe n'umukoresha nta shingiro gifite, rwemeza ko ikirego cyuririye ku kindi gisaba indishyi z'ikurikiranarubanza n'igihembo cya avoka nta shingiro gifite.

[2] Sugira Jean Bosco yari umukozi wa Power Family Ltd mu kirombe gicukurwamo amabuye yo kubaka. Ku wa 02/08/2020 cyaramugwiriye, avunika amagufwa y'ukuguru, muganga yemeza ko yasigaranye ubumuga buhoraho bungana na 35%, raporo ya RIB igaragaza ko impanuka yatewe no kuba nyiri Company atarateganyije akazu ko kugamamo izuba, hanyuma urega yugama mu kirombe. Yasabye indishyi, Prime Insurance yemera kumwishyura 500.000Frw ahuye n'amasezerano y'ubwishingizi ifitanye na Power Family Ltd. Sugira Jean Bosco yavuze ko ari zo ndishyi zikwiye kubera ko zihuye n'ubwishingizi bwafashwe. Avuga kandi ko yagombaga kurega Prime nk'uko yabyumvikanyeho n'umukoresha mbere yo gutangira akazi.

[3] Mu kwemeza ko Sugira Jean Bosco akwiye kwishyurwa 500.000Frw, Urukiko rwasobanuye ari zo zagenwe mu masezerano Company ye na Muberangeyo bagiranye na Prime Insurance. Abaregwa kandi ntibategekwa kugira izindi ndishyi zakwishyurwa kubera ko mu zindi manza ko ari nkacyo kigero cy'indishyi gihuriweho n'amasosiyete y'ubwishingizi hashingiwe kuri « prime » iba yatanzwe n'usaba ubwishingizi. Rwongeraho ko indishyi zikomoka ku mpanuka y'ikirombe zitatangwa hashingiwe ku Iteka rya Perezida Nº 31/01 ryo ku wa 25/8/2003 ryerekeye ubwishyu bw'indishyi zikomoka ku mpanuka zitewe n'ibinyabiziga bikoresha moteri bigendera ku butaka kubera ko muri uru rubanza ho « company » yari yarafashe ubwishingizi.

[4] Sugira Jean Bosco yajuririye Urukiko Rukuru, Urugereko rwa Rwamagana, we n'umwunganira bavuga ko indishyi zari zasabwe ku rwego rwa mbere zari gutangwa, amafaranga arenga ku yishingiwe muri Prime Insurance agatangwa na Power Family Ltd, nk'uko binasobanurwa mu ngingo ya 28 y'Iitegeko Teka N°20/75 ryo ku wa 20 kamena 1975 rigenga ubwishingire1; ku birebana n'indishyi

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[1] Iyo ngingo iteganya, mu gifaransa ko "igira iti: "si au jour du sinistre, la chose a une valeur supérieure à la somme garantie, l'assuré est considéré comme restant son propre assureur pour l'excédént et supporte, en conséquence, une partie proportionnelle du dommage. Le contrat peut écarter la règle proportionnelle.

mbangamirabukungu n'amafaranga y'ikurikiranarubanza hagashingiwa ku Iteka rya Perezida rigena indishyi zikomoka ku mpanuka zo mu muhanda.

[5] Bavuga ko ibyo kuba hakubahirizwa amasezerano umukoresha yagiranye na sosiyete y'ubwishingizi bitahabwa agaciro kubera ko we arebwa n'amasezerano ku gaciro kishingiwe, ibirenzeho bikaryozwa umukoresha kuko impanuka yatewe n'amakosa ye, kandi nta cyashingiweho mu kwemeza ko hari "standard" ku ndishyi zisumbye izavuzwe mu rubanza rujuririrwa.

[6] Power Familly Ltd na Muberangeyo Juvenal na Me Nemeyabahizi Jean Paul bavuga ko pamvu z'ubujurire zitahabwa ishingiro kubera ko 500.000Frw y'ubwishingizi Sugira Jean Bosco atemera ajya kungana (standards) ku masosiyete y'ubwishingizi ; we indishyi asaba zikaba zigenwe mu gihe nta bwishingizi bwafashwe. Bavuga ko atashingira ku mategeko atagikoreshwa ngo asabe indishyi zisumba izishingiwe kuko icyo gihe gufata ubwishingizi ntabyo byaba bikimaze kandi iyi mpanuka isi iyo mu muhanda. Urukiko rurasuzuma indishyi zishingiwe ziri munsi y'agaciro k'ibyangijwe, uwangirijwe ataregera ikinyuranyo.

[7] Urubanza rwaburanishirijwe mu ruhame ku wa 06/10/2022, Sugira Jean Bosco yunganiwe na Me Nemeyabahizi Jean Paul naho Power Famly na Muberangeyo Juvenal bunganiwe na Me Kayitare Dieudonné, utarumvikanye neza kuri "skype" yemera ko hashingirwa ku byakorewe mu nama nteguramrubanza

[8] Ikibazo gisuzumwa n'Urukiko ni iki gikurikira :

> Kumenya niba indishyi zishingiwe ziri munsi y'agaciro k'ibyangijwe, uwangirijwe ataregera ikinyuranyo.

II. IKIBAZO KIRI MU RUBANZA N'ISESENGURWA RYACYO.

Kumenya niba indishyi zishingiwe muri sosiyete y'ubwishingizi ziri munsi y'agaciro k'ibyangijwe, uwangirijwe ataregera ikinyuranyo

[9] Ingingo ya 12 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 urega agomba kugaragaza ibimenyetso by'ibyo aregera. Mu mategeko yo mu Gihugu cy'Ubufaransa hakavugwamo ko umuntu wese wangirije undi ategetswe kwishyura ibyangiritse[2].

[10] Izi ngingo zumvikanisha ko buri muburanyi agomba kugaragaza ibimenyetso by'ibyo aregera, ari urega cyangwa ujurira. Muri uru rubanza, uwajuriye akaba agomba kugaragaza ko yangirijwe kandi uwangije afite inshingano zo kuriha ibyangiritse.

[11] Sugira Jean Bosco yajuririye Urukiko Rukuru, Urugereko rwa Rwamagana, we na Me Nemeyabahizi Jean Paul bavuga ko indishyi zari zasabwe ku rwego rwa mbere zari gutangwa, amafaranga arenga ku yishingiwe muri Prime Insurance akishyurwa na Power Family Ltd, na Muberangeyo nk'uko binasobanurwa mu ngingo ya 28 y'Itegeko Teka N°20/75 ryo ku wa 20 kamena 1975 rigenga ubwishingizi; ku birebana n'indishyi mbangamirabukungu n'amafaranga y'ikurikiranarubanza hagashingiwa ku Iteka rya Perezida rigena indishyi zikomoka ku mpanuka zo mu muhanda.

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[2]Aux termes de l'article 1382 du code civil francais (version en vigueur du 19 fevrier 1804 au 01 octobre 2016: « Tout fait quelconque de l'homme, qui cause á autrui un dommage, oblige celui par la faute duquel il estarrivé á le réparer". https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006070721/LEGISCTA000006136352/#LEGISCTA000006136352, consulted on 17th November 2022.

[12] Bavuga ko ibyo kuba hakubahirizwa amasezerano umukoresha yagiranye na sosiyete y'ubwishingizi bitahabwa agaciro kubera ko we arebwa n'amasezerano ku gaciro kishingiwe ariko ibirenzeho bikaryozwa umukoresha kuko impanuka yatewe n'amakosa ye, hakaba kandi hatari gushingira kuri "standard", kubera ko nta kigaragaza ko ihari mu gihe n'urukiko rurakeka, kandi hari andi masezerano agaragaramo ko hishyurwa indishyi zisumbye izavuzwe mu rubanza rujuririrwa.

[13] Power Family Ltd na Muberangeyo Juvenal na Me Kayitare Dieudonné bavuga ko pamvu z'ubujurire zitahabwa ishingiro kubera ko 500.000Frw ku wagize ubumuga buhoraho bwa 50% yafatiwe ubwishingizi ajya kungana (standards) ku masosiyete y'ubwishingizi akaba ari yo akwiye kwishyurwa Sugira Jean Bosco nk'uko byanakozwe mu zindi manza, indishyi zirenze izo Sugira avuga mu zindi manza zikaba zaragiye zigenwa mu gihe nta bwishingizi bwabaga bwafashwe. Bavuga ko atashingira ku mategeko atagikoreshwa ngo asabe indishyi zisumba izishingiwe kuko icyo gihe gufata ubwishingizi ntacyo byaba bikimaze ; bongeraho ko ubwishingizi bwari bwafashe atari buto bugereranijwe n'ingano y'ubucuruzi akora.

[14] Hashingiwe ku byasobanuwe mu ngingo y'Itegeko ryavuzwe haruguru, bigahuzwa n'ibyavuzwe mu ngingo y'Itegeko ry'abafaransa, Urukiko rusanga kuba Sugira Jean Bosco yaragize impanuka ikamwangiriza bikomotse ku makosa ya Power Family Ltd na Muberangeyo Juvenal, aba bagomba kumwishyura ibyangijwe kugira ngo asubizwe mu burenganzira, asubizwe muri « état » yari kubamo iyo atangirizwa, cyangwa hagatangwa indishyi mu gihe bidashobotse.

[15] Urukiko rusanga mu ndishyi zigomba kwishyurwa harimo 500.000 Frw akomoka ku bwishingizi Power Family Ltd na Muberangeyo Juvenal bafashe muri Prime Insurance, iyi ikaba ari zo nshingano yafashe, zinahuye na « prime » yishyuwe, kuba itakwemera kwishyura amafaranga arengaho, bikaba bikurikije amategeko, kuko itakwishyura ibirenze ibyo yishingiye.

[16] Urukiko rusanga kuba Sugira Jean Bosco akwiye kwishyurwa indishyi zihwanye n'ibyo yangirijwe hatagiwe munsi cyangwa ngo harenzwe agaciro k'ibyangijwe, indishyi zigenwa na Prime Insurance zaba zidahagije, ikinyuranyo kishyurwa Power Family Ltd na Muberangeyo Juvenal kugira ngo haboneke indishyi zigaragarijwe ibimenyetso.

B. Kumenya ingano y'indishyi SUGIRA Jean Bosco yakwishyurwa n'uko zabarwa

B. 1. Kumenya niba SUGIRA Jean Bosco yagenerwa indishyi hashingiwe ku Iteka rya Perezida rigena indishyi zikomoka ku mpanuka yo mu muhanda.

[17] Ingingo ya 1 y'Iteka No 31/01 ryo ku wa 25/08/2003 rishyiraho uburyo bwo kwishyura indishyi ku bubabare bw'umubiri buturutse ku mpanuka zitewe n'ibanyabiziga, iteganya ko iri Teka rishyiraho uburyo itegeko N°41/2001 ryo ku wa 19/09/2001 ryerekeye itangwa ry'indishyi ku bahohotewe n'impanuka zo ku mubiri zitewe n'imodoka, rigomba gukoreshwa. Ingingo ya 1 y'iryo Tegeko igateganya ko rigenga uburyo bwo kwishyura indishyi ku bubabare bw'umubiri butewe n'ibinyabiziga[3]. Ibivuzwe muri izi ngingo byumvikanisha ko ari Iteka rya Perezida ryavuzwe ari n'iri Tegeko, icyumvikanamo ni uko yombi agenga itangwa ry'indishyi z'ububabare bw'umubiri ariko zikomoka ku mpanuka z'ibinyabiziga.

[18] Mu rubanza rujuririrwa Urukiko rwasobanuye ko Sugira Jean Bosco atagenerwa indishyi hagendewe kuri iryo Teka n'Itegeko bigenga itangwa ry'indishyi z'ububabare bw'umubiri bukomoka mu mpanuka zo mu muhanda, kuko kuri we umukoresha yari yarafashe ubwishingizi muri Prime Insurance, bikaba bitakoreshwa muri uru rubanza kubera ko muri uru rubanza hafashwe ubwishingizi naho mu manza zavuzwe hakoreshejwe iri Teka n'Itegeko bigena uburyo indishyi ku bubabare bukomoka ku mpanuko zitewe n'ibinyabiziga kubera ko nta bwishingizi bwabaga bwarafashwe.

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[3] L'art 1 de la loi précitée, stipule que la présente loi régit l'indemnisation des dommages corporels causés par des véhicules automoteurs.

[19] Sugira Jean Bosco yajuririye Urukiko Rukuru, Urugereko rwa Rwamagana, we na Me Kayitare Dieudonné bavuga ko mu kumugenera indishyi hari gushingirwa ku Iteka n'Itegeko byavuzwe haruguru, ateganya uburyo indishyi z'ububabare ku mubiri bikomoka ku mpanuka zo mu muhanda nk'uko byakozwe mu zindi manza zinyuranye cyane ku byerekeranye n'indishyi mbangamirabukungu, iz'ikurikiranarubanza n'igihembo cya avoka.

[20] Power Family Ltd na Muberangeyo Juvenal na Me Nemeyabahizi Jean Paul ubunganira bavuga ko izo ndishyi zidakwiye kubera ko, uretse no kuba hari indishyi ziteganyijwe mu masezerano y'akazi Sugira yemeye gusinya ariko nta n'izindi ndishyi yagenerwa kubera ko izasezeranywe yazemerewe na Prime Insurance kandi nk'uko biboneka muri dosiye, impanuka y'ikirombe ikiba, imenyekanisha ryahise rikorwa.

[21] Urukiko rusanga nk'uko byasobanuwe mu ngingo z'amategeko yavuzwe haruguru, Sugira Jean Bosco ntiyari kugenerwa indishyi yasabye hashingiwe ku Iteka rya Perezida rigena uburyo indishyi zikomoka ku mpanuka z'ibinyabiziga mu muhanda, kubera ko we yagize impanuka itewe n'ikirombe, mu gihe ayo mategeko yo akoreshwa gusa mu kugena impanuka zitewe n'ibinyabiziga, hakanagaragazwa inzira ikoreshwa mu kuzibara (formule). Kuri Sugira Jean Bosco rero yagenerwa indishyi hashingiwe ku ndishyi zitangwa ku muntu wangirijwe n'ibikorwa by'undi, hagamijwe kumusubiza mu burenganzira bwe.

B.2. Kumenya indishyi zagenerwa SUGIRA Jean Bosco

[22] Ingingo ya 111 y'Itegeko N° 22/2018 ku wa 29/04/2018 Itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, iteganya ko ikirego cy'amafaranga y'ikurikiranarubanza ni ikirego gishamikiye ku kirego cy'iremezo kigamije kwishyuza ibyakoreshejwe mu rubanza. Ikirego cy'amafaranga y'ikurikiranarubanza kiburanishirizwa rimwe n'ikirego cy'iremezo. Abahanga mu mategeko bakemeza ko igikorwa cy'umuntu cyangirije undi, nyir'ukugikora ategetswe kwishyura (byasobanuwe haruguru. Ibivuzwe mu ngingo no mu nyandiko z'abahanga zasobanuwe haruguru, byumvikanisha ko umuburanyi watsinze ufite ibyo yatakaje ku rubaza, yishyurwa iyo abigaragarije ikimenyetso, akishyurwa n'uwangije.

[23] Mu rubanza rujuririrwa Sugira Jean Bosco yari yasabye indishyi z'ibyakoreshejwe :

124.364 yishyuwe kwa muganga ; 10.000Frw y'icyemezo cyo kwa muganga, 150.000 Frw y'urugendo ; indishyi z'akababaro 432.000Frw, ay'ibangamiraburanga 432.000Frw, ay'ibangamirabukungu 21.807.62Frw na 1.350.000Frw y'ubumuga buhoraho ; ikurikiranarubanza n'ay'igihembo cya avoka. Izi ndishyi zose zasabwe Sugira Jean Bosco hashingiwe ku Iteka ryavuzwe haruguru, rigena indishyi zikomoka ku bubabare bukomoka ku mpanuka z'ibinyabiziga, akavuga ko izi ndishyi ari nyinshi ntaho zihuriye na 500.000Frw yemerewe na Prime Insurance.

[24] Power Family Ltd na Muberangeyo Juvenal na Me Nemeyabahizi Jean Paul bavuga ko izi ndishyi zidakwiye kuko uretse no kuba impanuka yagize itaratewe n'impanuka ikomoka ku kinyabiziga mu muhanda ariko Sugira akwiye kwishyurwa indishyi na Prime Insurance nk'uko biri mu masezerano y'ubwishingizi yafashwe n'umukoresha kandi Sugira yatangiye akazi yabyemeye.

[25] Hashingiwe ku byasobanuwe haruguru, Urukiko rusanga izo ndishyi zitagenwa hashingiwe ku iteka ryavuzwe ahubwo zikwiye kugenwa hashingiwe ku bimenyetso byagaragajwe, aho bitabonetse kandi zikwiye hagashingirwa ku bushishozi bw'Urukiko bushingiye ku miterere yazo. Rusanga kandi ari muri uru rubanza ari no mu rubanza rujuririrwa uretse ibyerekeranye n'amafaranga yakoreshejwe ku zindi ndishyi nta bisobanuro nta n'ibimenyetso bigaragaza ingano y'ibyangijwe n'indishyi zikwiye uretse gusa gushingira ku buryo izo ndishyi zibarwamo (formule) hashingiwe ku Iteka rya Perezida ryakomejwe kugarukwaho mu bika byabanje. Akaba ari yo mpamvu rero aho Urukiko rusanga zikwiye hakoreshwa ubushishozi.

[26] Ku byerekeranye n'amafaranga y'ibyakoreshejwe, Urukiko rusanga Sugira Jean Bosco yagenerwa amafaranga yasabwe kuko ayagaragariza ibimenyetso, uretse gusa ku mafaranga yakoreshejwe mu ngendo 150.000Frw, aya akaba atatangwa yose, kuko nta kimenyetso yatanze. Rusanga ariko none kuba agaragaza ko yagiye kwa muganga byumvikana ko hari amafaranga yishyuye, akaba agenewe 100.000Frw. Ku mafaranga yakoreshejwe yose hamwe, Sugira Jean Bosco akaba agenewe amafaranga ibihumbi Magana abiri na mirongo itandatu na bibiri n'amafaranga ibihumbi mirongo itandatu na bine (262.064Frw) y'ibyakoreshejwe.

[27] Ku birebana n'indishyi z'akababaro, iz'ibangamiraburanga, iz'ubumuga n'iz'ibangamirabukungu ; izi ndishyi ntizatangiwe ibisobanuro ngo hagaragazwe ibimenyetso ku ngano y'indishyi zisabwa. Urukiko rusanga ariko nta n'Itegeko ririho riteganya uburyo zitangwa, zikaba zikwiye kugenwa mu bushishozi kubera ko, koko Sugira Jean Bosco yababaye ku mubiri igihe yakomeretse n'igihe yari arwaye, yatakaje ubwiza ku mubiri kubera ko niba afite ubumuga bwa 35% byumvikanisha ko yangiritse ku miterere y'umubiri. Hari kandi icyo yatakaje mu bushobozi yari asanganywe bwo gukora no gushaka ikimubeshaho.

[28] Rusanga ibyo byose biherewe agaciro hamwe, Sugira Jean Bosco akwiye kugenerwa indishyi zihwanye na miliyoni ebyiri z'amafaranga y'u Rwanda (2.000.000 Frw) ; zikongerwaho 262.064Frw yakoreshejwe ; akwiye kandi kwishyurwa igihembo cya avoka n'amafaranga y'ikurikiranarubanza mu nzego zombi, agenewe hamwe 800.000Frw. Indishyi zose hamwe zikaba zihwanye na miliyoni eshatu, ibihumbi mirongo itandatu na bibiri n'amafaranga mirongo itandatu n'ane (3.062.064Frw)

[29] Kuri izi ndishyi zigenwe, Power Family Ltd na Muberangeyo Juvenal bagomba gufatanya kuzishyura Sugira Jean Bosco hakuwemo 500.000Frw yishyurwa n'umwishingizi hagendewe ku masezerano yavuzwe haruguru, bikaba bisobanuye ko bazamwishyura amafaranga miliyoni ebyiri n'ibihumbi magana atanu na mirongo itandatu na bibiri na'amafaranga mirongo itandatu n'ane (2.562.064Frw), kongeraho amafaranga ibihumbi mirongo itandatu y'amagarama y'urubanza).

III. ICYEMEZO CY'URUKIKO

[30] Rwemeje ko ikirego cy'ubujurire cyatanzwe na Sugira Jean Bosco gifite ishingiro ishingiro;

[31] Rwemeje ko urubanza RC00053/2021/TGI/NGOMA rwo ku wa 16/11/2021rwaciwe n'Urukiko Rwisumbuye rwa Ngoma ruhindutse mu ngingo zarwo zose;

[32] Rutegetse Power Family Ltd na Muberangeyo Juvenal gufatanya kwishyura Sugira Jean Bosco indishyi zibariwe hamwe miliyoni ebyiri n'ibihumbi magana atanu na mirongo itandatu na bibiri n'amafaranga mirongo itandatu n'ane (2.562.064Frw), kongeraho amafaranga ibihumbi mirongo itandatu (60.000Frw) y'amagarama y'urubanza).

[33] Rutegetse ko amafaranga ibihumbi mirongo ine (40.000Frw) Sugira Jean Bosco yatanze ajuririra ahwanye n'ibyakoreshejwwe muri uru rubanza;