

GAHENDA v. RUTSINDURA

[Rwanda SUPREME COURT – RS/INJUST/RP00005/2017/CS
(Mukandamage, P.J., Muhumuza and Gakwaya, J.) March 09,
2018]

Evidence law – Production of evidence – Evidence can be submitted at any stage of the proceeding, what is important is that the accused defends himself against it – Law N°15/2004 of 12/06/2004 relating to evidence and its production, article 119.

Facts: Bigirimana Cédric was pursued before the Primary Court of Nyarugunga for the offence of counterfeit, as he pretends to be the son of Rutsindura Alphonse who was killed in 1994 Genocide perpetrated against Tutsis and he names himself Rutsindura Alexis, he changed his names with intention to get fraudulently the documents issued by public authorities and to appropriate the properties of the *de cujus*. The Primary Court of Nyarugunga found him guilty and sentenced him to two (2) years of imprisonment and it orders him to pay Gahenda damages he claimed for.

The accused was not satisfied with the rulings, hence, he appealed to the Intermediate Court of Nyarugenge stating that the previous Court refused to order for the DNA test between him and those considered as his parents from Burundi and that there was contradiction in the testimony which the Court relied on , thus that Intermediate Court acquitted him basing on the fact that it found the statements of the witnesses relied on at the first instance to be not sufficient to convict the accused, it also based on the fact that other produced evidence which include photos, school reports, attendance certificates (*attestations de*

frequentation) and a report issued by the Prosecutor of the Republic of Burundi, *Parquet de Muramvya* as well as the statements of those considered as Bigirimana's parents were defective. With regard to DNA Test carried out, the Court found that it cannot be considered because it was carried out through unlawful procedure.

Subsequently, Gahenda Bienvenu resorted to the Office of Ombudsman claiming that the judgment was vitiated by injustice, consequently, that organ wrote to the President of the Supreme Court requesting that the judgment be reviewed on the ground of being vitiated by injustice because the Court disregarded noticeable elements of evidence such as the report of the Prosecutor of Burundi and DNA Test and that there is irrefutable evidence of DNA test ordered by the Supreme Court in the case between Bigirimana Cédric who calls himself Rutsindura Alexis and Gahenda Bienvenu, and that element of evidence also proved that Bigirimana Cédric is the son of Nahishakiye Jean Berchmas. The President of the Supreme Court ordered that the contested judgment be recorded in order to be reviewed.

During the hearing, the Prosecution appeared whereas Bigirimana did not, though he was lawfully summoned in unknown address, Gahenda argued that there are provisions of laws which were ignored, that Bigirimana's appeal should not have been admitted before the Intermediate Court of Nyarugenge, he also added that the judgment was rendered by a bench of judges who did not hear the case and there are some elements of evidence which were ignored.

Held: 1. The fact that Gahenda didn't appeal against the order of joining cases, he should not argue that it prejudiced him.

2. Evidence can be submitted at any stage of the proceeding, what is important is that the accused defends himself against it, therefore, the Prosecution had the right to submit the medical report on the DNA test.

3. The testimonies, the investigation report from Burundi and DNA test carried out twice in Germany are irrevocable evidence which were ignored by the Intermediate Court of Nyarugenge.

4. Gahenda Bienvenu is awarded moral damages of 100Frw (nominal damages) he claims for, because Bigirimana Cédric (who calls himself Rutsindura Alexis) prejudiced him.

**Application for review due to injustice has merit;
The contested judgment is reversed;
Sustains the judgment rendered by the Primary Court;
Court fees to the public treasury.**

Statutes and statutory instruments referred to:

Organic Law N°51/2008 of 09/09/2008 determining the organisation, functioning and jurisdiction of Courts as modified and complemented to date, article 156.

Law N°13/2004 of 17/5/2004 relating to the code of criminal procedure, article 164, litera 1.

Law N°30/2013 of 24/05/2013 relating to the code of criminal procedure, article 175, par. 2.

Law N°15/2004 of 12/06/2004 relating to evidence and its production, article 65,119.

Decree-Law N° 21/77 of 18 /08/1977 instituting the penal code, article 206.

No case law referred to.

Judgment

I. BRIEF BACKGROUND OF THE CASE

[1] This case started at the Primary Court of Nyarugunga, where the Prosecution accused Rutsindura Alexis also known as Bigirimana Cédric, the offence of counterfeit stating that he committed that offence in various occasions since 2008, whereby he pretended to be the son of Rutsindura Alphonse, a victim of Genocide perpetrated against Tutsi in 1994 whereas he is called Bigirimana Cedric, he did all these with intention of appropriating the estate of the late Rustindura Alphonse, the victim of Genocide.

[2] In the judgment RP0075/10/TB/NYRGA rendered on 06 May 2011, the Primary Court of Nyarugunga found Bigirimana Cedric(who named himself Rutsindura Alexis) guilty of the offence he is accused, because before the Prosecution, he confessed that he came from Burundi in the names of Bigirimana Cedric and there is also testimony of Kalisa Célestin who witnessed that he registered himself in Kanogo village-Rwimbogo-Nyarugunga-Kicukiro stating that he is called Bigirimana Cédric, in addition, others witnesses, Uwingabire Angélique, Munezero Raïssa and others, testified that he is not Rutsindura Alexis the son of Rutsindura Alphonse, the Court sentenced him to two(2) years of imprisonment and ordered him to give the claimant of damages Gahenda Beinvenu, brother to Rutsindura Alphonse, damages worth 500,000Frw and to pay court fees.

[3] Rutsindura Alexis also known as Bigirimana Cédric appealed to the Intermediate Court of Nyarugenge stating that the Primary Court of Nyarugunga refused to order for DNA Test between him and his so-called parents living in Burundi and that there is contradiction in the testimony on which the Court based on, in the judgment RPA0138/11/TGI/NYGE-RPA0260/11/TGI/NYGE rendered on 14 November 2013, the Intermediate Court found Rutsindura Alexis not guilty of counterfeit on the ground that the statements of the witnesses interrogated by the Prosecution which were based on by the previous Court to convict Rutsindura Alexis were insufficient. The Court also found that other elements of evidence produced which include; photos, school reports, attendance certificates (attestations de fréquentation) and a report issued by the Prosecutor of the Republic of Burundi, Parquet de Muramvya as well as the statements of those considered as Bigirimana's parents were defective. With regard to DNA Test carried out on 11 January 2012, the Court found that it cannot be considered because it was carried out through unlawful procedure.

[4] After rendering that judgment, Gahenda Bienvenu resorted to the office of Ombudsman stating that the judgment was vitiated by injustice, on 09 July 2015, that organ wrote to the President of the Supreme Court requesting that the judgment RP0138/11/TGI/NYGE-RPA0260/11/TGI/NYGE be reviewed on the ground of being vitiated by injustice because the Intermediate Court of Nyarugenge disregarded noticeable elements of evidence such as the report of the Prosecutor of Burundi and DNA Test and that after those judgments, there is irrefutable evidence of DNA Test ordered by the Supreme Court in the case RCAA0020/14/CS between Rutsindura Alexis also known as Bigirimana Cédric and Gahenda Bienvenu, that

element of evidence also proved that Bigirimana Cédric is the son of Nahishakiye Jean Berchmas.

[5] The order N°038/2017 of 19 July 2017, the President of the Supreme Court decided, that the judgment RP0138/11/TGI/NYGE-RPA0260/11/TGI/NYGE rendered by the Intermediate Court of Nyarugenge be recorded by the registry in order to be reviewed, the hearing was held on 08 January 2018, Rutsindura Alexis alias Bigirimana Cédric did not appear although he was lawfully summoned with unknown address, Gahenda Bienvenu assisted by Counsel Mutembe Protais and the Prosecution presented by Bunyoye Grace, the National Prosecutor. On 09 February 2018, the Court found it necessary that before taking final decision, the registry of the Court sends for the case file of the judgment RP0138/11/TGI/NYGE-RPA0260/11/TGI/NYGE because in the scanned file before the Court, some documents are missing, and others are not clear, the pronouncement of the judgment was postponed to 23 February 2018 and 09 March 2018, unfortunately, the case file was missing in the archives of the Intermediate Court of Nyarugenge.

II. ANALYSIS OF LEGAL ISSUES

a. Whether appeal and application for the case review of Rutsindura Alexis alias Bigirimana Cédric's should not have been admitted before the Intermediate Court of Nyarugenge.

[6] Counsel Mutembe Protais assisting Gahenda Bienvenu states that his application is based on the provisions of article 81, paragraph 1, litera 2 of the Organic Law N°03/2012/OL of

13/06/2012 determining the organization, functioning and jurisdiction of the Supreme Court which provides that the review of a final decision due to injustice shall be applied when there are provisions and irrefutable evidence that the judge ignored in rendering the judgment.

[7] He continues stating that the judgment RP0138/11/TGI/NYGE-RPA0260/11/TGI/NYGE rendered by the Intermediate Court of Nyarugenge against which the application for review due to injustice was filed, it was heard on appellate level by that Court as the case review as it is demonstrated on first page where it is written the offence he is accused and second page, paragraph two of the judgment, consequently, the case was not appealed, this is due to the fact that after Rutsindura Alexis alias Bigirimana Cédric was convicted in the judgment RP0075/10/TB/NYRGA, he immediately appealed after the pronouncement and his appeal was recorded on RPA0152/11/TGI/NYGE, but it was not admitted because he didn't pay court fees as it was decided on 08 September 2011 by the Court seized on appeal. He applied for the case review, the case was recorded under RPA0260/11/TGI/NYGE and it was requested that the case be tried jointly with another appeal filed by his advocate on 03 June 2011, he paid court fees and the claim was recorded on RPA0138/11/TGI/NYGE, nevertheless, that claim should not have been admitted because the advocate had no power of attorney from his client as provided by article 164 *litera* 1 of the Law N°13/2004 of 17/5/2004 relating to the code of criminal procedure which was in force at that time.

[8] Counsel Mutembe Protais also states that the Intermediate Court of Nyarugenge disregarded article 180 of the

law N°13/2004 of 17/5/2004 mentioned above because his claim was recorded on RPA0260/11/TGI/NYGE without Rutsindura Alexis alias Bigirimana Cédric demonstrating any of the 4 grounds provided by that article, hence, there is no new element to serve as basis of admissibility, rather the Court deliberately ordered to join that claim with the appeal RPA0138/11/TGI/NYGE filed by his advocate.

[9] He finds that since those provisions were overlooked, this caused injustice because all appeals lodged by Rutsindura Alexis alias Bigirimana Cédric should not have been admitted, instead, the rulings of the appealed judgment should have been sustained, thus the property of Rutsindura Alphonse's family which Rutsindura Alexis alias Bigirimana Cédric appropriated, be handed back to his sibling Gahenda Bienvenu who succeeded Rutsindura Alphonse.

THE VIEW OF THE COURT

[10] Article 164, *litera* 1 of the law N°13/2004 of 17/5/2004 relating to the code of criminal procedure which was in force when Rutsindura Alexis alias Bigirimana Cédric appealed provides that those who are allowed to lodge appeal is the accused, but this does not prevent that his/her advocate may appeal on his/her behalf. This is emphasized by the fact that in the Law N° 30/2013 of 24/05/2013 relating to the code of criminal procedure which repealed the previous one, in its article 175, paragraph two provides that the appeal of the convicted may be lodged by his/her advocate.

[11] The documents in case file demonstrate that Rutsindura Alexis alias Bigirimana Cédric's appeal was recorded on two

case file numbers RPA0152/11/TGI/NYGE and RPA0138/11/TGI/NYGE, on 08 september 2011, the judgment was rendered and the first appeal was rejected basing on the failure to pay the court fees, he applied for the case review on 14 October 2011 and the claim was recorded on RPA0260/11/TGI/NYGE and it was joined to the case RPA0138/11/TGI/NYGE on the request of his advocate in the letter dated 17 February 2012, whereby he stated that Rutsindura Alexis alias Bigirimana Cédric's appeal was recorded on two case file numbers.

[12] It is further noted that in the hearing of 23 February 2012 Rutsindura Alexis alias Bigirimana Cédric was asked to demonstrate the grounds of his case review, his advocate replied that when he lodged appeal in Primary Court of Nyarugunga, he paid the court fees, and when they brought payment proof, the Court registrar opened other file, that their Court pleadings were put in the wrong file RPA0138/11/TGI/NYGE, he requests to change the decision rejecting the appeal recorded on RPA0152/11/TGI/NYGE because of failure to pay court fees, so that the Court decides that the court fee was paid and received by the Court. The Prosecution states that those grounds are relevant, that it finds that the claims should be admitted and joined, in addition, Gahenda was asked his view though his argument is not clear, but he didn't appeal against the order of joining cases as provided by article 156 of Organic Law N°51/2008 of 09/09/2008 determining the organisation, functioning and jurisdiction of Courts which provides that judgments and written Court orders concerning transfers or refusal to transfer cases, joining or disjoining cases in other Courts may be appealed against.

[13] Basing on the motivations above, the Court finds, the fact that Gahenda did not appeal against that order of joining cases, he cannot use it as a pretext to allege that he was prejudiced.

b. Whether the judgment RP0138/11/TGI/NYGE-RPA0260/11/TGI/NYGE was rendered by a bench of judges who did not hear the case.

[14] Counsel Mutembe Protais and Gahenda Bienvenu state that other serious irregularity in the judgment RP0138/11/TGI/NYGE-RPA0260/11/TGI/NYGE is that it was rendered by a bench of judges who did not hear the case because it was heard by a judge called Mukagasana Marciana but it was pronounced by three judges.

[15] As demonstrated in the Court decision of 09 February 2018, this Court requested the registry of the Court to send for the case file RP0138/11/TGI/NYGE-RPA0260/11/TGI/NYGE in the Intermediate Court of Nyarugenge, unfortunately, the case file was not found for the Court to thoroughly analyse it, therefore, the court cannot find the basis of deciding that the judgment was rendered by the bench of the judges not authorized by the President of the Intermediate Court of Nyarugenge.

c. Whether the Intermediate Court of Nyarugenge disregarded elements of evidence produced by the Prosecution.

[16] Counsel Mutembe Protais assisting Gahenda Bienvenu states that, although the Intermediate Court of Nyarugenge relied on the article 65 of the Law N°15/2004 of 12/06/2004 relating to evidence and its production as indicated in paragraph

10 of the contested judgment due to injustice, the Court disregarded its last part which states that it shall not be influenced by the number of witnesses. It shall mainly consider their knowledge of facts and the objectivity and sincerity of their testimonies. Consequently, it concluded that not all witnesses interrogated by the Prosecution testified that Rutsindura Alexis is not son of Rutsindura Alphonse...whilst during Court investigation, all those interrogated, testified that Rutsindura Alexis is son of Rutsindura Alphonse. For that, he finds that the Court considered the number of witnesses instead of considering their knowledge of facts, the objectivity and sincerity of their testimonies.

[17] He continues stating that article 65 of the Law N°15/2004 of 12/06/2004 mentioned above does not provide that the testimonies of the witnesses are admissible when they have similar testimony because they can all give false testimonies, and those interrogated by the Court, did not testify that Rutsindura Alexis is the son of Rutsindura Alphonse, instead they said that he looks in part like his son who was called Rutsindura Alexis, he adds that the fact of pretending that not all those interrogated by the Prosecution testified that Bigirimana Cédric is not the son of Rutsindura Alphonse, this cannot serve as evidence proving that he is the son of Rutsindura Alphonse, rather, it would be reason of having doubt that he may be Rutsindura Alexis the son of Rutsindura Alphonse.

[18] Counsel Mutembe Protais furthermore states that if the Court considered the article of the law mentioned above, it would have admitted testimonies of those who know Rutsindura Alexis as son of Rutsindura Alphonse, who are Françoise

Mukashyaka who lived at Rutsindura's home, Mukamazimpaka Ciphrose who used to drop at school his children and ones of Rutsindura Alphonse in the car and Uwingabire Angélique maternal aunt of Rutsindura Alexis, those witnesses produced two elements of evidence which would have convinced the Court without doubt that the person pretended to be Rutsindura Alexis is not the real one, those elements of evidence include birthmark on the cheek and on the thigh and forward slanting ears, what he calls scientific evidence instead of relying on hair placed next to forehead.

[19] Counsel Mutembe Protais avers that the Court disregarded the provisions of article 45 of the law N°13/2004 of 17/5/2004 mentioned above, and decided that DNA Test carried out in Germany is inadmissible because of the fact that the Prosecution and Judicial police sought it after filing a claim in Court without the order of the Court, 2° the assistance investigation was conducted contrary to article 77 of the law relating to the code of criminal procedure which was in force at that time, 3° there is no request of expertise for DNA test while it was lawfully carried out.

[20] He argues that the law relating to the code of criminal procedure which was in force at the moment of the hearing of the contested judgment, does not prohibit the Prosecution to seek for the elements of evidence which can be put in additional statements especially when the case is yet to be heard and that in article 41 of that law provides that the power to prosecute before a court rests with the Public Prosecution, while its article 44 states that the burden of proof shall be on the Public Prosecution, for this reason, the Prosecution may submit the additional evidence at any stage of the instance, what is

important is to be debatable in public as provided by article 45 of the law of that time.

[21] Counsel Mutembe Protais states that there are also other elements of evidence that the Court disregarded which include photos of Rutsindura Alexis and those of Bigirimana Cédric (or Emmanuel, Jean Claude), school reports and student file “fiche individuelle” for Bigirimana Cédric, thus, he prays the Court to hold that Gahenda Bienvenu suffered injustice and consequently the contested judgment be reversed in whole and sustains the judgment RP0075/10/TB/NYRGA rendered by the Primary Court of Nyarugunga.

[22] The Prosecution states that Rutsindura Alexis known as Bigirimana Cédric was pursued for the offence of the use of counterfeited document whereby he sought to inherit the properties left by the late Rutsindura Alphonse killed during genocide perpetrated against Tutsis in 1994 pretending to be his child, the Court disregarded the evidence produced by the Prosecution while there was no other means of appeal.

[23] It continues stating that Rutsindura Alexis known as Bigirimana Cédric filed a civil claim requesting to inherit the properties left by his so called father, the case before the Supreme Court was recorded under RCAA0020/14/CS, another DNA test was ordered and the results indicated that Rutsindura Alexis is a child of Nahishakiye Jean Berchmas and Ndayisaba Rose, consequently he lost the case, due to these facts, Gahenda Beinvenu requests that the judgment mentioned above be reviewed due to injustice and the Prosecution as well agrees that there is injustice and therefore wishes the judgement RP0075/10/NYGA rendered by the Primary Court of

Nyarugunga on 05 May 2011 which held with merit the claim of the Prosecution, be sustained and enforced.

THE VIEW OF THE COURT

[24] Article 65 of the Law N°15/2004 of 12/06/2004 relating to evidence and its production provides that only the court can assess the relevance, pertinence and admissibility or rejection of testimonial evidence. It shall not be influenced by the number of witnesses. It shall mainly consider their knowledge of facts and the objectivity and sincerity of their testimonies.

[25] While article 119 of that Law provides that in criminal cases, evidence is based on all grounds, factual or legal provided that parties have been given a chance to be present for cross-examination. The courts rule on the validity of the prosecution or defence evidence. With regard to the offence of counterfeit, article 206 of the Decree-Law N°21/77 of 18/08/1977 instituting the penal code that was into force at the time the offence was committed states that he/she shall be liable to a term of imprisonment of three(3) months to two (2) years and a fine of ten thousand francs at maximum or one of these penalties only, any person who fraudulently gets other documents issued by public authorities for the purpose of establishing a right, identity or (...) by making false declarations, by taking a false name or false quality, or by providing false information, certificates or attestations(...).

[26] In her testimony, Mukashyaka Francoise stated that in March 2008, a girl named Munezero Raïsa brought to her a male *child* asking whether she can identify him, she replied that she can not recognise him, Munezero Raïsa told her that he is

Dede, Mukashyaka Francoise replied that the one she knew was called Rutsindura Alexis, son of Rutsindura Alphonse and Dusabe Emma Marie basing on his physical appearance, he was dark brown skin colour, and that he had birthmark on the cheek and on the thigh and forward slanting ears, she removed his shoes and socks to check on his feet and found that he is not the one she knew.

[27] While Mukamazimpaka Ciphrose, during her interrogation by the Prosecution, she testified that she knew Rutsindura Alphonse and Dusabe Emma Marie's family as she worked around their residence and their children use to go to same school at Elena Guerra, the sister of Rutsindura Alexis named Musika was studing with her fifth child called Christian, that she used to transport them at school, that Rutsindura Alexis was a fat child up to his face, dark brown skin colour, birthmark on the cheek, extra fingers(Polydactyly), big nose and eyes, however, she cannot ensure that, that child died because she had been exiled to Burundi, that she hear say that their mother died together with all children. She added that the child Bigirimana Cédric, she found that he was not Rutsindura Alexis, and he was not aware of some facts she talked to him.

[28] It is obvious that in report made by Burundian Prosecutor of Muramvya made on 23 November 2010, the Prosecutor General reached Gahweza Village, Kiganda Commune, at Nahishakiye Jean Berchmans, and showed him a photo of Bigirimana Cédric recognise him and responded that he is his fourth child, Nahishakiye even asked him if his child is still alive because he left the country to Rwanda in 2006 in Athletics competition and he never returned home, the father informed the Prosecutor that at his birth, he named him

Nahishakiye Cédric but he changed himself his names later, Nahishakiye Jean Berchmans showed him other photos when he was still studying at ETS Kamenge and told him other names of his five brothers, even his mother knew him and told the Prosecutor that he was named himself Bigirimana Cédric.

[29] That report shows that the informations gathered by the Prosecutor from the parents are the same as what are recorded in civil status registers whereby the Prosecutor noticed that the name Bigirimana Cédric is recorded under the name Nahishakiye Jean Claude born on 12 January 1985 at Gahweza, Kiganda Commune whereas at the parish where he was baptized on 06 April 1996, his name is Nahishakiye Cédric.

[30] The Prosecutor concluded stating that Bigirimana Cédric is child of Nahishakiye Jean Berchmans and Ndayisaba Rose Marie of Burundian nationality.

[31] With regard to the medical report on DNA test, it indicated also that Bigirimana Cédric is a child of Nahishakiye Jean Berchmans, but the Intermediate Court of Nyarugenge found not appropriate to refer on it in rendering the judgment because it was conducted through unlawful procedure, however as it is clear in the judgment, it is the element of evidence produced by the Prosecution and it is not prohibited to produce evidence at any stage of the proceeding what matters is that the accused defends himself against it, the content of that report was sustained by another DNA test ordered by the Supreme Court in the case RCAA0020/14/CS of Rutsindura Alexis known as Bigirimana Cédric against Gahenda Bienvenu, the Court found that those results of DNA test are irrevocable evidence that Rutsindura Alexis is not the child of Rutsindura Alphonse, rather the child of Nahishakiye Jean Berchmans and that DNA

test is trustful than other elements of evidence based on the statements of the witnesses, hence, the Court held that he has no right to inherit Rutsindura Alphonse.

[32] The Court finds that the statements of the witnesses, the investigation report from Burundi and DNA test carried out twice in Germany are irrevocable evidence which were ignored by the Intermediate Court of Nyarugenge whereas it is clear that Rutsindura Alexis know as Bigirimana Cédric changed his names with intention to get fraudlently the documents issued by public authorities that include birth certificate, the certificate in lieu of identity card and identity card N°1185800190916087, all these documents demonstrate that he is named Rutsindura Alexis, whose parents are Rutsindura Alphonse and Dusabe Emma Marie, he was aiming to inherit their properties because they were killed during genocide perpetrated against Tustis in 1994.

[33] The Court finds that the appeal of Bigirimana Cédric (who names himself Rutsindura Alexis) lodged in the Intermediate Court of Nyarugenge could not have been found with merit, instead, the rulings of the judgment RP0075/10/TB/NYRGA of 06 May 2011 rendered by the Primary Court of Nyarugunga could have been sustained, which found Bigirimana Cédric (who names himself Rutsindura Alexis) guilty of the offence of counterfeit and sentenced him to two (2) years of imprisonment.

d. Damages claimed by Gahenda Bienvenu

[34] Counsel Mutembe Protais and his client Gahenda Bienvenu state that they don't intend to claim damages from Bigirimana Cédric (who calls himself Rutsindura Alexis) at this

instance, especially that he does not appear, the Court would impose him to give a symbolic sum of 100Frw for moral damages he caused.

[35] The Court finds that Gahenda Bienvenu deserves moral damages of 100Frw he claims on this instance because Bigirimana Cédric (who calls himself Rutsindura Alexis) prejudiced him.

III. THE DECISION OF THE COURT

[36] Decides that the claim initiated by Gahenda Bienvenu for reviewing due to injustice the case RP0138/11/TGI/NYGE-RPA0260/11/TGI/NYGE rendered by the Intermediate Court of Nyarugenge has merit.

[37] Decides that the judgment RP0138/11/TGI/NYGE-RPA0260/11/TGI/NYGE rendered by the Intermediate Court of Nyarugenge on 14/11/2013 is reversed in whole because some elements of evidence proving that Bigirimana Cédric (who calls himself Rutsindura Alexis) is guilty of the offence of counterfeit were disregarded.

[38] Rules that the judgment RP0075/10/TB/NYRGA rendered on 06 May 2011 by the Primary Court of Nyarugunga, by which Bigirimana Cédric (who calls himself Rutsindura Alexis) appealed against it, is sustained.

[39] Orders Bigirimana Cédric (who calls himself Rutsindura Alexis) to pay moral damages worth 100Frw at this instance.

[40] Orders the court fees to be charged to the public treasury.

