

KANAMUGIRE v. UMUJYI WA KIGALI N'UNDI

[Rwanda URUKIKO RW'IKIRENGA – RADA 0001/13/CS (Mugenzi, P.J., Munyangeri na Gakwaya, J.) 15 Gicurasi 2013]

Amategeko agenga imiburanishirize y'imanza z'ubutegetsi – Kutubahiriza ibyategetswe mu rubanza – Uregwa mu rubanza ruregwamo Urwego rw'ubutegetsi bwa Leta rutangije ibyategetswe n'urubanza – Haregwa umuyobozi warwo kuko, ku bw'amategeko, ariwe uhamagarwa mu Rukiko mu izina ryarwo – Itegeko n° 21/2012 ryo kuwa 14/04/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 31 – Itegeko n° 10/2006 ryo kuwa 3/03/2006 rigena imiterere, imitunganyirize n'imikorere y'umujyi wa Kigali, ingingo ya 73.

Amategeko agenga imiburanishirize y'imanza z'ubutegetsi – Ibihano byo kwanga kubahiriza ibyategetswe mu rubanza – Iyo impamvu zatumye umuyobozi atubahiriza ibihe byo kurangiza ibyategetswe mu rubanza zifite ishingiro, ahabwa igihe ntarengwa cyo kuba yabyubahirije, mbere y'uko hategekwa ibihano – Itegeko n° 21/2012 ryo kuwa 14/04/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 347 n'ya 348.

Incamake y'ikibazo: Kanamugire yaregeye Urukiko rw'Ikirenga asaba ko Umujyi wa Kigali n'Umuyobozi wawo basobanuzwa impamvu urubanza RADA 0046/12/CS rutegeka kumwishyura indishyi z'ibikorwa yimuwemo rutarangizwa kandi agasaba ko bahatirwa kururangiza.

Umujyi wa Kigali uvuga ko gutinda kwishyura byatewe n'imishyikirano itarabashije kurangira vuba hagati y'abo na RSSB yasabwaga kumva ko ariyo igomba kumwishyura kuko ariyo yahawe ubutaka. Naho Umuyobozi wawo yiregura avuga ko atari we wari ukwiye kuregwa kuko adashinzwe gucunga umutungo w'Umujyi wa Kigali no kurangiza imanza, ahubwo bishinzwe Umunyamabanga Nshingwabikorwa akaba riwe ugomba guhamagarwa.

Incamake y'icyemezo: 1. Ku birebana n'ikibazo cyo kurangiza ibyategetswe n'urubanza, ntiharegwa mu Rukiko Umunyamabanga Nshingwabikorwa w'Umujyi wa Kigali ahubwo haregwa umuyobozi wawo kuko, ku bw'amategeko, ariwe uhamagarwa mu Rukiko mu izina ryawo.

2. Iyo impamvu zatumye umuyobozi atubahiriza ibihe byo kurangiza ibyategetswe mu rubanza zifite ishingiro, ahabwa igihe ntarengwa cyo kuba yabyubahirije, mbere y'uko habasha gutegekwa ibihano. Abaregwa batanze impamvu zumvikana zituma hatangwa igihe ntarengwa cy'amezi abiri.

Ikirego gifite ishingiro.

Abaregwa bategetswe kurangiza urubanza bitarenze kuwa 16/11/2013.

Amategeko yashingiweho:

Itegeko n° 21/2012 ryo kuwa 14/04/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 31, 347 n'ya 348.

Itegeko n° 10/2006 ryo kuwa 3/03/2006 rigena imiterere, imitunganyirize n'imikorere y'umujyi wa Kigali, ingingo ya 73.

Nta manza zifashishijwe.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Nyuma y'urubanza RAD A 0046/12/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 16/11/2012, rugategeka Umujyi wa Kigali kwishyura Kanamugire Rwaka Laurent amafaranga 86.186.205 y'indishyi ku mutungo yimuwemo, Kanamugire yakomeje gusaba Umujyi wa Kigali ko warangiza urwo rubanza ukamwishyura, ariko ntibishoboke kuko wamusubizaga ko ukigirana imishyikirano n'ikigo RSSB cyahawe ubutaka kugirango kibe cyatanga ayo mafaranga.

[2] Kanamugire yaregeye Urukiko rw'Ikirenga asaba ko Umujyi wa Kigali n'Umuyobozi wawo basobanuzwa impamvu urubanza RAD A 0046/12/CS rutarangizwa, urubanza ruburanishwa ku wa 15/10/2013, Kanamugire yunganiwe na Me Mutembe Protais, Umujyi wa Kigali uburanirwa n'Intumwa Nkuru ya Leta yungirije, Me Sezabungu Alphonse, Umuyobozi w'Umujyi wa Kigali, Ndayisaba Fideli aburanirwa na Me Rutabingwa Athanase.

II. IKIBAZO CYASUZUMWE MU IBURANISHA

Kumenya impamvu Umujyi wa Kigali utarangiza urubanza Kanamugire yawutsindiye.

[3] Kanamugire avuga ko hashize igihe kirekire asaba Umujyi wa Kigali kumwishyura indishyi z'ibikorwa yimuwemo nk'uko byategetswe n'Urukiko rw'Ikirenga kuwa 16/11/2012, ariko akaba atishyurwa, agasaba rero ko hashingiwe ku ngingo za 347 na 348 z'Itegeko n° 21/2012 ryo kuwa 14/04/2012 ryerekeye imiburanishirize y'ianza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu, Urukiko rwasobanuzwa impamvu urwo rubanza rutarangizwa, byaba ngombwa Umujyi wa Kigali n'Umuyobozi wawo bagahatirwa kurangiza.

[4] Uburanira Umujyi wa Kigali avuga ko gutinda kwishyura Kanamugire byatewe n'imishyikirano itarabashije kurangira vuba hagati y'Umujyi wa Kigali na RSSB yasabwaga kwumva ko mu by'ukuri ariyo igomba gutanga amafaranga kuko ariyo yahawe ubutaka bwakuwemo Kanamugire. Yemereye Urukiko ko mu gihe kitarenze amezi abiri ikibazo kizaba cyakemutse Kanamugire akishyurwa.

[5] Uburanira Umuyobozi w'Umujyi wa Kigali avuga ko uwo Umuyobozi atari we wari ukwiye kuregwa kuko atafatwa nk'uwanze kwishyura Kanamugire mu gihe adashinzwe gucunga umutungo w'Umujyi wa Kigali no kurangiza imanza, ahubwo bishinzwe Umunyamabanga Nshingwabikorwa, naho uburanira Kanamugire agasubiza ko iyo ngingo idafite ishingiro kuko ikigo gifite ubuzimagatozi gihagararirwa n'umuyobozi wacyo.

[6] Uburanira Umuyobozi w'Umujyi wa Kigali avuga ko igisobanuro atanze haruguru kiramutse kitemewe, nawe asaba ko hatangwa igihe cy'amezi abiri kugira ngo Kanamugire abe yishyuye.

[7] Urukiko rurasanga, ku kibazo cyo kurangiza ibyategetswe n'urubanza, hataregwa mu Rukiko Umunyamabanga Nshingwabikorwa w'Umujyi wa Kigali nk'uko uburanira

Umuyobozi wawo abivuga, ahubwo ari uwo muyobozi, kuko, ku bw'amategeko, ariwe uhamagarwa mu Rukiko mu izina ry'Umujyi, nk'uko biteganywa n'ingingo ya 31 y'Itegeko n° 21/2012 ryavuzwe haruguru, n'ingingo ya 73 y'Itegeko n° 10 ryo kuwa 03/03/2006 rigena imiterere, imitunganyirize n'imikorere y'Umujyi wa Kigali.

[8] Urukiko, rushingiye ku ngingo ya 347 y'itegeko n° 21/2012 ryavuzwe haruguru, rurasanga Umujyi wa Kigali waragombaga kwishyura Kanamugire amafaranga yatsindiye bitarenze amezi atandatu nyuma y'imenyeshwa ry'urubanza, nyamara hakaba hashize umwaka wose atishyuwe.

[9] Ingingo ya 348 y'iryo tegeko iteganya mu gika cyayo cya kabiri, ko iyo impamvu zatumye umuyobozi atubahiriza ibihe byo kurangiza ibyategetswe mu rubanza zifite ishingiro, ahabwa igihe ntarengwa cyo kuba yabyubahirije, mbere y'uko habasha gutegekwa ibihano biteganywa mu gika cya gatatu cy'iyi ngingo, aramutse atubahirije ibihe yahawe.

[10] Urukiko rurasanga, ibisobanuro Umujyi wa Kigali n'Umuyobozi wawo batanga ku mpamvu zo kuba Kanamugire yatinze kwishyurwa kubera imishyikirano yari igikorwa kuri icyo kibazo kandi Kanamugire akaba yaragiye ayimenyeshwa, bigize impamvu zumvikana zituma hatangwa igihe ntarengwa cy'amezi abiri nk'uko abaregwa babyisabira na Kanamugire akaba abyemera.

III. ICYEMEZO CY'URUKIKO

[11] Rwemeje ko ikirego cya Kanamugire gifite ishingiro;

[12] Rutegetse Umujyi wa Kigali n'Umuyobozi wawo kuba bubahirije, bitarenze kuwa 15/12/2013, ibyategetswe mu rubanza RADA 0046/12/CS rwo kuwa 16/11/2012, bijyanye no kwishyura Kanamugire indishyi yatsindiye.