

UBUSHINJACYAHA v. NSANGIRANABO

[Rwanda URUKIKO RW'IKIRENGA – RPAA0221/10/CS (Mukanyundo, P.J., Gakwaya na Rugabirwa, J.) 5 Nzeli 2014]

Amategeko agenga imiburanishirize y'imanza nshinjabyaha – Ubujurire – Ibara ry'iminsi y'ubujurire – Ubujurire bukozwe n'umuntu ufunzwe – Mu gihe uregwa ufunzwe atabashije kujurira ku gihe kubera amakosa ya Gereza cyangwa Urukiko bitatumye amenya imikirize y'urubanza nyamara we yarakoze ibishoboka byose kugira ngo abimenye, ibihe byo kujurira bitangira kubarwa uhereye igihe yamenyeye imikirize y'urubanza – Itegeko N° 013/2004 ryo kuwa 17/05/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 166, igika cya 4.

Incamake y'ikibazo: Uregwa yahamijwe icyaha cyo gusambanya umwana w'imyaka icumi maze Urukiko rw'intara ya Gisenyi rumukatira igifungo cya burundu n'ihazabu ya miliyoni imwe (1.000.000Frw). Uregwa yajuririye Urukiko Rukuru, Urugereko rwa Musanze maze rwemeza ko imikirize y'urubanza idahindutse.

Uregwa yajuririye Urukiko rw'Ikirenga maze ubujurire bukorerwa ibanzirizasuzuma ariko umucamanza yemeza ko ubujurire bwe bwakerewe. Uregwa yajuririye icyo cyemezo muri uru Rukiko avuga umucamanza atitaye ku mpamvu yatumye atajuririra igihe kuko gereza ya Gisenyi itamujyanye gusomerwa ndetse akaba yarandikiye Urukiko Rukuru ko rwamumenyesha icyemezo cy'Urukiko kugeza ubwo yakimenyeye ahita ajurira.

Uhagarariye Ubushinjacyaha we avuga ko icyemezo cy'ibanzirizasuzuma kidakwiye guhinduka kubera ko ubujurire bw'uregwa bwakererewe.

Incamake y'icyemezo: Mu gihe uregwa afunzwe ntabashe kujurira ku gihe kubera amakosa ya gereza cyangwa Urukiko bitatumye amenya imikirize y'urubanza nyamara bigaragara ko we yakozwe ibishoboka byose ngo abimenye, ibihe byo kujurira bitangira kubarwa uhereye igihe yamenyeye imikirize y'urubanza.

**Ubujurire bufite ishingiro.
Icyemezo cy'ibanzirizasuzuma kirahindutse.**

Amategeko yashingiweho:

Itegeko N° 013/2004 ryo kuwa 17/05/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 166, igika cya 4.

Nta manza zifashishijwe.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Urukiko rw'intara ya Gisenyi rwemeje ko Nsangiranabo Raphaël ahamwa n'icyaha cyo gusambanya umwana w'imyaka 10 y'amavuko, rumuhanisha igifungo cya burundu n'ihazaba ya 100.000Frw.

[2] Nsangiranabo Raphaël yajuririye urwo rubanza mu Rukiko Rukuru, Urugereko rwa Musanze, rwemeza ko imikirize y’urubanza rwajuririwe idahindutse.

[3] Nsangiranabo Raphaël yajuririye na none urwo rubanza mu Rukiko rw’Ikirenga kuri N° RPAA0039/10/CS. Ubwo ubujurire bwakorewe ibanzirizasuzuma, umucamanza wabishinzwe afata icyemezo cy’ibanzirizasuzuma N° RP0168/10/Pré-ex/CS kuwa 01/06/2010, yemeza ko ubujurire bwe butakiriwe kuko bwakererewe kubera ko urubanza N° RPA0646/06/HC/MUS rwaburanishijwe ahari kuwa 12/05/2009, amenyeshwa ko ruzasomwa kuwa 02/06/2009, uwo munsu ugeze rurasomwa, ariko ko yarujuririye akererewe kuwa 05/01/2010.

[4] Amaze kumenyeshwa icyo cyemezo, Nsangiranabo Raphaël yakijuririye muri uru Rukiko avuga ko umucamanza w’ibanzirizasuzuma yagombaga kwakira ubujurire bwe kuko icyatumye atajurira mu gihe cy’iminsi mirongo itatu (30) yateganywaga n’amategeko ari uko Gereza ya Gisenyi afungiyemo itari yaramujyanye gusomerwa imikirize y’urubanza yajuririye muri uru Rukiko, ariko ko yakomeje kwandikira Urukiko Rukuru asaba ko rwamumenyesha imikirize y’urwo rubanza kugeza ubwo yayimenyeshejwe kuwa 05/01/2010, ahita ajurira uwo munsu.

[5] Urubanza rwaburanishijwe mu ruhamu kuwa 16/06/2014, Nsangiranabo Raphaël yitabye kandi yunganiwe na Me Murenzi Eugène, naho Ubushinjacyaha buhagarariye na Ntawangundi Béatrice.

II. IKIBAZO KIRI MU RUBANZA N’ISESENGURWA RYACYO

Kumenya niba ubujurire bwa Nsangiranabo Raphaël ku cyemezo cy’ibanzirizasuzuma bufite ishingiro.

[6] Nsangiranabo Raphaël n’umwunganira bavuga ko umucamanza w’ibanzirizasuzuma yemeje ko ubujurire bwe bwakererewe, yirengagije ko impamvu yatumye atajurira mu gihe cy’iminsi 30 yateganywaga n’amategeko ari uko Gereza ya Gisenyi afungiyemo itamujyanye gusomerwa imikirize y’urubanza N° RPA0646/06/HC/MUS yari yaraburanye kuwa 12/05/2009 rukaba rwaragombaga gusomwa kuwa 02/06/2009, ariko ko yandikiye Urukiko Rukuru, Urugereko rwa Musanze, amabaruwa atanu (5) yose asaba ko rwamumenyesha imikirize y’urwo rubanza kugeza ubwo yayimenyeshejwe kuwa 05/01/2010, ajurira uwo munsu, asaba ko icyemezo cy’ibanzirizasuzuma yajuririye cyahinduka kugira ngo azabone amahirwe yo kuburana urubanza mu mizi.

[7] Uhagarariye Ubushinjacyaha avuga ko icyemezo cy’ibanzirizasuzuma kidakwiye guhinduka kubera ko ubujurire bwa Nsangiranabo Raphaël bwakererewe. Asobanura ko Nsangiranabo Raphaël yaburanye urubanza N° RPA0646/06/HC/MUS, iburanisha rirangiye, amenyeshwa ko ruzasomwa kuwa 02/06/2009, ko uwo munsu wageze, rurasomwa, nyamara yarujuririye akererewe kuwa 05/01/2010.

UKO URUKIKO RUBIBONA

[8] Ku byerekeranye n’ibihe by’ubujurire, ingingo ya 64 y’Itegeko - Ngenga N° 01/2004 ryo kuwa 29/01/2004 rigena imitunganyirize, imikorere n’ububasha by’Urukiko rw’Ikirenga ryakurikizwaga igihe Nsangiranabo Raphaël yajuriraga, ivuga ko “Igihe cyo kujurira ni

iminsi mirongo itatu (30) itangira kubarwa guhera ku muni w'isomwa ry'icibwa ry'urubanza rwajuririwe ku muburanyi wari uhari cyangwa ahagarariwe no ku muburanyi wamenyeshejwe umunsi w'isomwa ariko ntahagere, cyangwa ngo yohereze umuhagararira”.

[9] Naho ingingo ya 166, igika cya 4 y'Itegeko N°013/2004 ryo kuwa 17/05/2004 ryerekeye imburanishirize y'ianza z'inshinjabyaha ryakurikizwaga ubwo Nsangiranabo Raphaël yajuriraga, igateganya ko “Nyamara, iyo ujuriye afunze, ubujurire bwe ashobora kubukorera muri gereza mu nyandiko yandikira umwanditsi w'urukiko abinyujije ku muyobozi wa gereza. Na we ashyira umukono kuri urwo rwandiko agaragaza itariki arushyikirijweho ari na yo ifatwaho umunsi w'ijurira. Yihutira koherereza ubwo bujurire urukiko rugomba kububuranisha”.

[10] Ku birebana n'uru rubanza, dosiye igaragaza ko urubanza N° RPA0646/06/HC/MUS rwaburanishijwe n'Urukiko Rukuru kuwa 12/05/2009, ababuranyi bose bahari, iburanisha rishojwe, Urukiko rubamenyesha ko urubanza ruzasomwa kuwa 02/06/2009, uyu muni ugeze, rusomwa nta muburanyi uhari nk'uko bigaragazwa n'inyandiko-mvugo y'isomwa ry'urubanza iri muri dosiye, Nsangiranabo Raphaël arujuririra muri uru Rukiko kuwa 05/01/2010.

[11] Muri dosiye hari kandi amabaruwa yo kuwa 22/06/2009, kuwa 26/10/2009 no kuwa 23/11/2009, Nsangiranabo Raphaël yandikiye Urukiko Rukuru, Urugereko rwa Musanze, ayanyujije ku Buyobozi bwa Gereza ya Gisenyi yari afungiyemo, ariko ntibwayandikaho amatariki buyashyikirijweho, aho yasabaga ko rwamumenyesha imikirize y'urubanza N° RPA 0646/06/HC/MUS rwe rwagombaga gusomwa kuwa 02/06/2009, nyamara ntiyahabwa ibisubizo.

[12] Urukiko rurasanga, kuba urubanza rwajuririwe muri uru Rukiko rwaraciwe kuwa 02/06/2009, Nsangiranabo Raphaël akaba yarahise yandika ibaruwa yey'ubujurire kuwa 22/06/2009, ni ukuvuga nyuma y'iminsi makumyabiri (20) urwo rubanza rukimara gusomwa, ariko Ubuyobozi bwa Gereza ya Gisenyi bukaba bwarakoze amakosa yo kutayandikaho itariki buyiboneyeho, bigaragara ko Nsangiranabo Raphaël ataryozwa ayo makosa yakozwe na Gereza, bivuga rero ko ubujurire bwe ku rubanza N° RPA0646/06/HC/MUS bukwiye gufatwa nk'aho bwatanzwe mu gihe kitarenze iminsi 30 yateganywaga n'ingingo ya 64 y'Itegeko Ngenga ryavuzwe haruguru, bityo ubujurire bwe bukaba bukwiye kwakirwa, bityo icyemezo cy'ibanzirizasuzuma N° RP 0168/10/Pré-ex/CS cyo kuwa 01/06/2010 kikaba kigomba guhinduka.

III. ICYEMEZO CY'URUKIKO

[13] Rwemeye kwakira ubujurire bwa Nsangiranabo Raphaël ku cyemezo cy'ibanzirizasuzuma N° RP0168/10/Pré-ex/CS cyo kuwa 01/06/2010 kuko bwatanzwe mu buryo n'inzira bikurikije amategeko;

[14] Rwemeje ko ubwo bujurire bufite ishingiro;

[15] Rwemeje ko icyemezo cy'ibanzirizasuzuma N° RP 0168/10/Pré-ex/CS cyo kuwa 01/06/2010 gihindutse.

[16] Rutegetse ko amagarama y'uru rubanza aherera ku isanduku ya Leta.