RIZIKI v MUBIRIGI

[Rwanda URUKIKO RW'IKIRENGA – RS/INJUST/RC00001/2019/SC (Kayitesi Z, P.J, Nyirinkwaya, Cyanzayire, Rukundakuvuga na Hitiyaremye, J.) 29 Ugushyingo 2019]

Amategeko agenga umuryango – Ubutane – Kugabana imitungo – Iyo abashyingiranywe mu buryo bw'ivangamutungo batanye, ihame ni uko bagabana umutungo ku buryo bungana; yaba ukugurisha umutungo basangiye bakagabana amafaranga avuyemo, yaba kugabana ibintu uko bimeze hatagize ikigurishwa cyangwa se kuba umwe yaha undi agaciro k'umutungo ubazwe mu mafaranga akawugumana batagombye kugabana – Mu gihe batumvikanye muri bumwe muri ubwo buryo, umucamanza niwe utegeka igikwiye kitagize uwo kibangamiye mu bashakanye.

Incamake y'ikibazo: Uru rubanza rwahereye mu Rukiko rw' Ibanze rwa Nyarugunga aho Riziki yatanze ikirego asaba ubutane agaragaza ko uwo bashakanye Mubiligi amuhoza ku nkenke ko imibanire yabo yabaye mibi, asaba ko bahabwa ubutane maze kuko basezeranye ivangamutungo bakagabana imitungo bari bafitanye; Urukiko rwaciye urubanza rwemeza ko batanye burundu, abana babyaranye bakarerwa na nyina, Se akabasura nabo bakamusura, rutegeka ko imitungo bafitanye igurishwa amafaranga avuyemo bakayagabana.

Uwareze ntiyishimiye imikirize y'urwo rubanza ajuririra Urukiko Rwisumbuye agaragaza ko impamvu zose yatanze asaba ubutane zitasuzumwe, ko hari ibimenyetso Urukiko rwirengagije, ko mu kubagabanya umutungo Urukiko rutitaye ku nyungu z'abana no kuba nta ndezo rwategetse uwo baburana kuzajya

atanga. Urukiko Rwisumbuye rwemeje ko ubujurire bwe bufite ishingiro kuri bimwe, rutegeka uregwa kuzajya atanga indezo buri kwezi ndetse no gufatanya kwishyurira abana amashuri.

Urega kandi yongeye ajuririra Urukiko Rukuru ariko ikirego cye nticyakirwa. Yaje kwandikira Perezida w'Urukiko Rukuru asaba ko urubanza RCA00110/2017/TGI/NYGE rwaciwe n'urukiko Rwsumbuye rwasubirwamo ku mpamvu z'akarengene, Perezida w'Urukiko Rukuru yandikira Perezida w'Urukiko rw'Ikirenga amugaragariza ko muri urwo rubanza harimo akarengane ko rwasubirwamo, maze nawe yemeza ko urwo rubanza rusubirwamo.

Uwasabye gusubirishamo urubanza avuga ko yahabwa inzu aho kuyigurisha akayirereramo abana kubw' inyungu zabo, kuko iyo nzu igurishijwe abana babura aho kuba, bityo kuba ariwe urera abana, yagombye kugumana inzu, maze umugabo we akagumana indi mitungo inarusha agaciro iyo nzu.

Mu kwiregura, Mubiligi avuga ko kuba Urukiko rwarategetse ko imitungo igurishwa bakayigabana nta karengane karimo, kuko mu gihe bagabanye buri wese akabona uruhare rwe, yagura indi inzu, ko abana yitwaza bamaze gukura, kandi ko niba indi mitungo avuga bafitanye ifite agaciro kanini kuruta inzu ko nawe yayitwara yose maze we akagumana inzu gusa kugirango azabone aho aba mu kiruhuko cy'izabukuru ari hafi kujyamo.

Incamake y'icyemezo: 1. Iyo abashyingiranywe mu buryo bw'ivangamutungo batanye, ihame ni uko bagabana umutungo ku buryo bungana; yaba ukugurisha umutungo basangiye bakagabana amafaranga avuyemo, yaba kugabana ibintu uko bimeze hatagize ikigurishwa cyangwa se kuba umwe yaha undi agaciro k'umutungo ubazwe mu mafaranga akawugumana batagombye kugabana; mu gihe batumvikanye muri bumwe muri

ubwo buryo, umucamanza niwe utegeka igikwiye kitagize uwo kibangamiye mu bashakanye, bityo kubera ko ababuranyi bananiwe kumwikana kuburyo bagabanamo umutungo bafitanye, Urukiko nirwo rugomba gufata icyemezo, bityo imitungo bari batunze igomba kugurishwa, bakagabana kuburyo bungana amafaranga avuyemo.

Gusubirishamo urubanza ku mpamvu z'akarengane nta shingiro bifite.

Amategeko yashingiweho:

Itegeko Nº 32/2016 ryo ku wa 28/08/2016 rigenga abantu n'umuryango nk'uko ryahinduwe kandi ryujujwe kugeza ubu, ingingo 8 n'iya 242

Imanza zifashishijwe:

Murayire v Sindikubwabo, RS/REV/INJUST/CIV 0029/16/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 01/06/2018.

Urubanza

I. IMITERERE Y'IKIBAZO

[1] Riziki Nicole yashakanye byemewe n'amategeko na Mubirigi Rwamfizi Jean Paul ku wa 03/07/1999, mu cyahoze ari Komini Rubavu (ubu ni mu Murenge wa Gisenyi), babyarana abana 3 aribo: Mugisha Daniel, Singiza Prisca, na Ntwari Arnold Peace. Basangiye imitungo ikurikira:

a. ikibanza UPI N^{o} 1/03/05/04/596 kirimo inzu na "*annexe"* yayo iherereye mu Kagali ka Rubirizi, Umurenge wa Kanombe, Akarere ka Kicukiro;

b. ikibanza UPI N^{o} 1/03/05/03/4108 kiri mu Kagali ka Karama, Umurenge wa Kanombe, Akarere ka Kicukiro;

c. ikibanza UPI N^{o} 1/02/10/04/3037 giherereye mu Kagali ka Murama, Umurenge wa Kinyinya, Akarere ka Gasabo;

c. umutungo wimukanwa ugizwe n'imodoka Toyota Corolla RAA 864 N, n'ibikoresho byo mu nzu.

[2] Riziki Nicole avuga ko imibanire yabo yaje kuba mibi, Mubirigi Rwamfizi Jean Paul akamuhoza ku nkeke, bituma atanga ikirego asaba ubutane mu Rukiko rw'Ibanze rwa Nyarugunga. Urubanza rwanditswe kuri RC0296/16/TB/NYRGA, rucibwa ku wa 06/07/2017.

[3] Urukiko rwemeje ko Mubirigi Rwamfizi Jean Paul na Riziki Nicole batanye burundu, ko abana bafitanye bakomeza kurerwa na Riziki Nicole, se akajya abasura nabo bakamusura. Rwategetse ko:

a. umutungo utimukanwa wavuzwe haruguru ugurishwa Riziki Nicole na Mubirigi Rwamfizi Jean Paul bakagabana mu buryo bungana amafaranga avuyemo;

b. umutungo wimukanwa ugizwe n'imodoka n'ibikoresko binyuranye ugurishwa bakagabana mu buryo bungana amafaranga waguzwe.

[4] Riziki Nicole yajuririye urwo rubanza mu Rukiko Rwisumbuye rwa Nyarugenge, atanga impamvu zikurikira:

a. kuba hatarasuzumwe impamvu zose zaregewe mu gusaba ubutane;

b. kuba Urukiko rwarashingiye ku mpamvu zitarizo kandi zivuguruzanya;

c. Kuba Urukiko rwarirengagije ikimenyetso cy'urubanza RC00447/16/TB/NYRGA rwategetse umugabo kuva mu rugo;

d. kuba rutarumvise ubuhamya bw'abana, no kuba rutaritaye ku nyungu zabo mu igabana ry'umutungo;

e. Kuba rwaratanze ubutane bushingiye ku makosa yabo bombi, no kuba nta ndezo rwaciye Mubirigi Rwamfizi Jean Paul.

[5] Urubanza mu bujurire rwanditswe kuri RCA00110/2017/TGI/NYGE rucibwa ku wa 31/05/2018, Urukiko rwemeza ko ubujurire bwa Riziki Nicole bufite ishingiro kuri bimwe, rutegeka Mubirigi Rwamfizi Jean Paul kujya atanga amafaranga y'u Rwanda ibihumbi ijana na makumyabiri (120.000Frw) buri kwezi y'indezo y'abana no kujya afatanya na Riziki Nicole kubarihira amafaranga y'ishuri.

[6] Riziki Nicole yongeye kujurira mu Rukiko Rukuru ariko ikirego nticyakirwa, ku wa 13/02/2019 yandikira Perezida w'Urukiko Rukuru amusaba gusuzuma akarengane kari mu rubanza RCA00110/2017/TGI/NYGE. Perezida w'Urukiko Rukuru amaze gusuzuma ubusabe bwa Riziki Nicole, yandikiye Perezida w'Urukiko rw'Ikirenga amusaba ko urwo rubanza rwasubirwamo ku mpamvu z'akarengane.

[7] Perezida w'Urukiko Rukuru yasobanuye ko akarengane gashingiye ku kuba:

a. mw’icibwa ry’urubanza RCA00110/2017/TGI/NYGE, Urukiko rutarigeze rugira icyo ruvuga ku mafaranga angana na 5.000.000Frw Riziki Nicole avuga ko ari kuri konti, kandi yaravuzweho mu bigomba kugabanwa nk’uko bigaragazwa n’inyandikomvugo y’iburanisha ryo ku wa 01/03/2018;

b. Urukiko rutarigeze rugaragaza ingano y’amafaranga y’ishuri buri wese azajya yishyurira abana hakurikijwe ubushobozi bwe, bikaba byatuma urubanza rudashobora kurangizwa mu gihe ubwabo batabyumvikanyeho.

[8] Ku wa 07/05/2019, Perezida w'Urukiko rw'Ikirenga yafashe icyemezo nomero 096/CJ/2019 cyo gusubirishamo ku mpamvu z'akarengane urubanza RCA00110/2017/TGI/NYGE rwaciwe bwa nyuma n'Urukiko Rwisumbuye rwa Nyarugenge, ategeka ko ikirego cyandikwa mu bitabo by’Urukiko, gihabwa numero RS/INJUST/RC00001/2019/SC. Iburanisha ry’urubanza ryashyizwe ku wa 11/09/2019.

[9] Ku wa 11/09/2019, iburanisha ryabereye mu ruhame, Riziki Nicole yunganiwe na Me Mukandera Clothilde naho Mubirigi Rwamfizi Jean Paul yunganiwe na Me Subukonoke Emmanuel. Ababuranyi bagiye impaka ku bijyanye n’igabana ry’inzu iri mu kibanza UPI No 1/03/05/04/596 giherereye mu Kagali ka Rubirizi, Umurenge wa Kanombe, Akarere ka Kicukiro. Riziki Nicole yagaragarije Urukiko ko ashaka kugumana inzu mu nyungu z’abana, kugirango abarerereremo. Mubirigi Rwamfizi Jean Paul nawe yabwiye Urukiko ko ariwe ukwiye kuyigumana kugirango azabone aho aba mu kiruhuko cy’izabukuru ari hafi kujyamo. Ikindi cy’ingenzi cyagiweho impaka, ni amafaranga y’ubwizigame ahabwa abasilikare igihe bafashe ikiruhuko cy’izabukuru. Riziki Nicole avuga ko ayo mafaranga atashyizwe mu bigomba kugabanwa, Mubirigi

Rwamfizi Jean Paul akavuga ko ibyo bitigeze biregerwa mu nkiko zibanza.

[10] Iburanisha ry'urubanza ryarapfundikiwe, ababuranyi bamenyeshwa ko ruzasomwa ku wa 18/10/2019. Mu mwiherero warwo, Urukiko rwasanze mbere yo guca urubanza burundu, ari ngombwa kubanza kubaza muri Zigama CSS ibijyanye n' amafaranga ari kuri konti nomero 0049633 y'ubwizigame ahabwa abasilikare igihe bafashe ikiruhuko cy'izabukuru, by'umwihariko umubare w'amafaranga yashyizwe kuri iyo konti kuva ku itariki ya 13/07/2016 ubwo hatangwaga ikirego cy'ubutane, kugeza ku itariki ya 10/05/2019.

[11] Zigama CSS yashyikirije Urukiko "historique" igaragaza ko ku wa 26/07/2016 konti no 0049633 yariho 5.021.920Frw, naho ku wa 25/04/2019 ikaba yariho 6.741.856 Frw. Urubanza rwasubukuwe ku wa 11/11/2019 kugirango ababuranyi bagire icyo bavuga ku byagaragajwe na Zigama CSS. Mu iburanisha, Riziki Nicole yabwiye Urukiko ko atagikurikiranye ayo mafaranga, ko ayahebeye Mubirigi Rwamfizi Jean Paul, akaba ariyo mpamvu iki kibazo kitiririrwa gisuzumwa.

[12] Ikibazo nyamukuru kiri muri uru rubanza akaba ari ugusuzuma niba mu kugabanya imitungo, inzu iri mu kibanza UPI No 1 /03/05/04/596 yaherera kuri Riziki Nicole kugirango akomeze kuyirereramo abana mu rwego rwo kurengera inyungu zabo.

II. IKIBAZO KIGIZE URUBANZA N'ISESENGURA RYACYO

Gusuzuma niba mu kugabanya imitungo, inzu iri mu kibanza UPINo1/03/05/04/596 yaherera kuri Riziki Nicole kugira ngo akomeze kuyirerereramo abana mu rwego rwo kurengera inyungu zabo.

[13] Kuri iki kibazo, Riziki Nicole asobanura akarengane muri aya magambo:

a. Urukiko rw'Ibanze rwari rwategetse ko umutungo Riziki Nicole afatanyije na Mubirigi Rwamfizi Jean Paul ugurishwa, rwirengagije ko abana bose bakiri bato bakaba bagomba kugira aho babana n'umubyeyi ubarera;

b. Urukiko Rwisumbuye rwagombaga gukosora ayo makosa rugategeka ko inzu imuhereraho; rukaba rwarirengagije ibikubiye mu ngingo ya 3 y'Amasezerano mpuzamahanga ku burenganzira bw'umwana ivuga ko ibyemezo byose bifatirwa umwana byaba bifashwe n'inzego zitandukanye cyangwa inkiko hitabwa ku nyungu z'ikirenga ze;

c. iyo ngingo imaze kuvugwa yunganirwa n'ingingo ya 4 y'Amasezerano nyafurika ku burenganzira n'imibereho myiza by'umwana, nayo ivuga ko mu byemezo byose bireba umwana bifashwe n'uwari we wese cyangwa n'urwego urwo arirwo rwose, hitabwa mu nyungu ze. Icyemezo cyafashwe n'Inkiko zombi kinyuranye kandi n'ibiteganywa n'ingingo ya 227 y' Itegeko Nº 32/2016 ryo ku wa 28/08/2016 rigenga abantu n'umuryango[1];

---

[1]Uretse igihe abashyingiranywe basezeranye ivangura mutungo risesuye, iyo urukiko rutegetse kuba ahandi, umutungo wimukanwa n'utimukanwa ugabanywa abashyingiranywe mu buryo bw'agateganyo nyuma yo kuwukorera ibarura rishyirwaho umukono n'impande zombi kandi hagomba kwitabwaho inyungu z'umwana n'iz'umwuga w'abashyingiranywe".

d. kuba Urukiko rwarategetse ko imitungo igurishwa, bivuze ko hazakoreshwa inzira ya cyamunara, bikaba bibangamiye ituze ry'abana kuko harimo umwe warwaye ihungabana akaba akurikiranwa n'ibitaro bya Ndera. Undi nawe arwaye umutima akaba yarabagiwe i Burayi, kubera iyo mpamvu Urukiko Rwisumbuye rwagombaga guhindura icyemezo cyafashwe n'Urukiko rw'Ibanze rukemeza ko umutungo ugizwe n'inzu iri mu kibanza UPI No1/03/05/04/596, ifite agaciro ka 36 500 000 Frw iherezwa kuri Riziki Nicole, Mubirigi Rwamfizi Jean Paul agahabwa ibibanza bifite agaciro karenze 50.000.000Frw, agasubiza ikinyuranyo;

e. mu mibanire ye na Mubirigi Rwamfizi Jean Paul yahuye n'ihohotera ryo mu rugo rikabije, ari naryo ryatumye atanga ikirego cy'ubutane, ariko nta butabera yabonye kuko mu guca urubanza Urukiko rwemeje ko ubutane butanzwe ku makosa yabo bombi bituma inzu babagamo itamuhérereraho

f. kumuha inzu ntaho binyuranyije n'itegeko, kuko ariwe ubana n'abana kandi bakaba bakiri bato. Avuga ko n'ubwo Singiza Prisca afite imyaka 20 afite ikibazo cy'uburwayi bw'umutima, uwa kabiri ufite imyaka 17 we akaba afite ihungabana, uwarangije kwiga amashuri yisumbuye akaba akiri mu rugo. Inzu babamo igurishijwe mu cyamunara abana bajya mu muhanda, bikabatera ihungabana rirushije iryo bagize amaze gutandukana na Mubirigi Rwamfizi Jean Paul.

g. Asoza avuga ko indi impamvu y'akarengane ari uko Urukiko rwirengagije ikimenyetso kijyanye n'igenagaciro yatanze ryagaragaje ko agaciro k'inzu iri mu kibanza UPI:1/03/05/04/596 ari 36.523.640Frw, agaciro k'ikibanza UPI: 1/03/05/03/4108 akaba ari 46.426.000Frw, ikindi kibanza kiri kuri UPI: 1/10/04/3037 kikaba gifite agaciro ka 5.096.000Frw, ku buryo harebwe inyungu z'abana, Mubirigi Rwamfizi Jean Paul

yagombaga guhabwa ibyo bibanza byose bifite agaciro ka 51.522.000Frw karenze kure agaciro k'inzu, hanyuma we agasigarana inzu kugira ngo arerereremo abana.

[14] Me Mukandera Clothilde umwunganira avuga ko ingingo ya 245 y'Itegeko rigenga abantu n'umuryango mu Rwanda itubahirijwe, ko inzu y'ababyeyi igurishijwe abana bajya mu muhanda inyungu zabo zikaba zibangamiwe. Avuga ko ashingiye kuri iyo ngingo, asanga kuba Riziki Nicole ariwe urera abana, yagombye kugumana inzu y'ababyeyi, Mubiligi Rwamfizi Jean Paul akugumana indi mitungo inarusha agaciro inzu Riziki Nicole asaba ko imuhererezwaho.

[15] Mubirigi Rwamfizi Jean Paul asubiza ku ngingo Riziki Nicole aburanisha avuga ko:

a. kuba Urukiko rwarategetse ko umutungo bafitanye ugurishwa nta karengane karimo, kuko byubahirije ibiteganywa n'ingingo ya 8 y'Itegeko Nº 27/2016 ryo ku wa O8/07/2016 rigenga imicungire y'umutungo w'abashyingiranywe, impano n'izungura[2], ndetse n'inyandiko z'abahanga mu mategeko zikaba zivuga ko ibigabanwa mu gihe cy'ubutane ari imitungo iriho muri icyo gihe, n'imyenda bafitiye abandi bantu (....*La masse à partager se compose des biens existants au jour du divorce, sur base de l' inventaire, tout en déterminant le passif commun*; *Alain Duelz, Le droit du divorce, 3 éd., Bruxelles, De Boeck & Larcier, 2002*).

---

[2] Iyo uburyo bw'ivangamutungo rusange busheshwe ku mpamvu z'ubutane cyangwa guhindura uburyo bw'imicungire y'umutungo, abari barashyingiranywe kuvanga umutungo bagabana ku buryo bungana cyangwa mu bundi buryo bumvikanye imitungo n'imyenda

b. abana bamaze gukura, kuko Singiza Prisca afite imyaka 21, Ntwari Peace Arnold 18, bombi bakaba barangije amashuri yisumbuye bategereje kujya muri Kaminuza. Uwa gatatu Mugisha Daniel ufite imyaka 15 agiye kurangiza "Tronc commun", bityo akaba asanga icyemezo cyafashwe n'Inkiko zombi (TB Nyarugunga na TGI/Nyarugenge) cyo kugurisha imitungo basangiye no kugabana mu buryo bungana cyarakurikije amategeko. Avuga ko mu gihe bagabanye buri wese akabona uruhare rwe, yagura indi inzu, abana bakaba aho bashatse cyane ko bamaze gukura;

c. imitungo asangiye na Riziki Nicole atari imitungo itimukanwa gusa (inzu n'ibibanza bibiri), ko hari n'imitungo yimukanwa basangiye (ibikoresho byo munzu, n' imodoka) nkuko bikubiye mu cyemezo cy'Urukiko rw'Ibanze rwa Nyarugunga, akaba atumva impamvu Riziki Nicole atsimbaraye gusa ku mutungo utimukanwa cyane cyane inzu;

d. niba Riziki Nicole asanga ibibanza bibiri bafatanyije bifite agaciro kanini karenze inzu, asaba Urukiko rw'Ikirenga ko rwategeka Riziki Nicole ko yagumana ibyo bibanza bibiri, ndetse akagumana n'ibikoresho byose byo mu nzu hamwe n'imodoka, maze we agasigarana inzu gusa kugirango bombi hatagira urengana. Avuga ko ubu afite imyaka 47, akaba asigaje imyaka itatu gusa ngo ajye mu kiruhuko cy'izabukuru, akaba rero akeneye kugira aho asazira;

e. ibyo Riziki Nicole avuga by'uko yahohotewe bikabije ari amarangamutima kubera inzu ashaka, kuko iyo aba yarabikoze yari kubihanirwa mu Rukiko Rwisumbuye rwa Gasabo kuko byaburanyweho Asobanura ko inzu ariwe wayiguze ku ideni yari yahawe na Zigama CSS, ariko ko iryo deni ryishyuwe kuko yagize amahirwe akajya mu butumwa mu mahanga

f. kuvuga ko inzu igurishijwe abana bahungabana ataribyo kuko abana bameze neza, na Singizwa wigeze kubagwa ku mutima nta kibazo afite ubu, n'ubwo Riziki Nicole yamwohereje muri Canada atamubwiye;

g. n'ubwo atemera igenagaciro Riziki Nicole yakoresheje, kugira ngo ibintu bigende neza, yamuha 50% by'agaciro k'inzu, ibikoresho byose byo mu nzu n'imodoka, hanyuma bakagabana ibibanza bisigaye, abana akabarera nawe kuko abishoboye kandi bakaba ari bakuru. Avuga ko atumva impamvu yanga ko bagurisha bakagabana, mu gihe baramutse bagurishije bakuramo amafaranga menshi akaba yanagura inzu irenze iyo bari bafite.

[16] Me Sebukonoke Emmanuel wunganira Mubirigi Rwamfizi Jean Paul avuga ko mu rubanza rusabirwa gusubirwamo nta karengane karimo, kuko hagendewe ku mategeko. Avuga ko iyo abashakanye batanye bagabana imitungo bari bafitanye ku buryo bungana, bakagira inshingano zo kurera abana babo uko babishoboye, ko ntaho itegeko ryateganyije ko babanza kureba abana mbere y'uko bagabana.

UKO URUKIKO RUBIBONA

[17] Ingingo ya 242 y'Itegeko Nº 32/2016 ryo ku wa 28/08/2016 rigenga abantu n'umuryango iteganya ko ubutane busesa ishyingirwa n'amasezerano agenga imicungire y'umutungo w'abashyingiranywe, igabana ry'umutungo rigakorwa hakurikijwe amategeko abigenga. Naho ingingo ya 8, igika cya mbere, y'Itegeko Nº 27/2016 ryo ku wa 08/07/2016 rigenga imicungire y'umutungo w'abashyingiranywe, impano n'izungura, igateganya ko «iyo uburyo bw'ivangamutungo rusange busheshwe ku mpamvu z'ubutane cyangwa guhindura

uburyo bw'imicungire y'umutungo, abari barashyingiranywe kuvanga umutungo bagabana ku buryo bungana cyangwa mu bundi buryo bumvikanye imitungo n'imyenda. Icyakora, Urukiko rushobora gutegeka ko agaciro k'ibyangijwe n'umwe mu bashyingiranywe gakurwa mu mugabane we.

[18] Isesengura ry'izi ngingo ryumvikanisha ko iyo abashyingiranywe mu buryo bw'ivangamutungo batanye, ihame ari uko bagabana umutungo ku buryo bungana. Itegeko ntiryateganyije uburyo bagabanamo, niba ari ukugurisha umutungo bakagabana amafaranga avuyemo, kugabana ibintu uko bimeze hatagize ikigurishwa cyangwa se kuba umwe yaha undi agaciro k'umutungo ubazwe mu mafaranga akawugumana batagombye kugabana. Mu gihe abashakanye batagize icyo bumvikanaho, umucamanza mu bushishozi bwe, akaba ariwe ureba igikwiye kitagize uwo kibangamiye mu bashakanye, kandi abona ko aricyo gitanga ubutabera.

[19] Ku byerekeye uru rubanza, Urukiko rurasanga ababuranyi bari basangiye imitungo igizwe:

a. n'inzu ifite "annexe" biri mu kibanza gifite UPI: 1/03/05/04/596, giherereye mu Murenge wa Kanombe, Akarere ka Kicukiro;

b. ikibanza kiri kuri UPI: 1/03/05/03/4108 giherereye mu Murenge wa Kanombe, Akerere ka Kicukiro;

c. ikibanza kiri kuri UPI: 1/02/10/04/3037 giherereye mu Murenge wa Kinyinya, Akerere ka Gasabo;

d. imitungo yimukanwa inyuranye, n'imodoka Toyota Corolla RAA 864.

[20] Riziki Nicole avuga ko yiteguye guhara ibindi bibanza, akagumana ikibanza kirimo inzu, akarereramo abana. Mubirigi Rwamfizi Jean Paul nawe avuga ko atiteguye guhara iyo nzu, kuko ariwe uyikeneye cyane, kandi ko yiteguye kurera abana kuko ari bakuru, Urukiko rukaba rusanga nta n'umwe mu bashakanye witeguye guharira undi, akaba ariyo mpamvu arirwo rugomba gufata icyemezo rusanga ko gikwiye.

[21] Urukiko rurasanga, nk'uko Urukiko rw'Ibanze n'Urukiko Rwisumbuye zabibonye, icyemezo gikwiye kandi kidateje impaka, kinatuma hadakomeza kubaho imanza za hato na hato, ari uko imitungo Riziki Nicole Mubirigi Rwamfizi Jean Paul bari batunze igurishwa, bakagabana ku buryo bungana amafaranga avuyemo, buri wese agakomeza inshingano za kibyeyi ku bana babyaranye.

[22] Urukiko rurasanga ibyo Riziki Nicole avuga ko inzu iramutse igurishijwe mu cyamunara byagira ingaruka ku bana, bikaba byatuma bahungabana, nta shingiro byahabwa kuko ari ibyiyumviro bidafite ikibyemeza (*hypothétique*). Urukiko rurasanga kandi nta kibuza ko nyuma yo kugabana amafaranga avuye mu igurisha ry'imitungo, buri wese yashakamo indi nzu yo guturamo, ku buryo abana batabura aho baba.

[23] Urukiko rurasanga kandi, kuba bagurisha imitungo bakagabana amafaranga avuyemo mu buryo bungana, ari byo byemejwe no mu rubanza RS/REV/INJUST/CIV0029/16/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 01/06/2018, haburana Murayire Marie Aimable na Sindikubwabo Louis.

[24] Urukiko rurasanga rero, hashingiwe ku bisobanuro bimaze gutangwa, no ku ngingo ya 242 y'Itegeko Nº 32/2016 ryo ku wa 28/08/2016 rigenga abantu n'umuryango, n'iya 8 igika cya

mbere y'Itegeko Nº 27/2016 ryo ku wa 08/07/2016 rigenga imicungire y'umutungo w'abashyingiranywe, impano n'izungura, imitungo Riziki Nicole na Mubirigi Rwamfizi Jean Paul bari batunze igomba kugurishwa, bakagabana ku buryo bungana amafaranga avuyemo, nk'uko byari byemejwe n'Inkiko zibanza.

III. ICYEMEZO CY'URUKIKO

[25] Rwemeje kwakira ikirego cyatanzwe na Riziki Nicole kigamije gusubirishamo, ku mpamvu z'akarengane, urubanza RCA00110/2017/TGI/NYGE, rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge ku wa 31/05/2018;

[26] Rwemeje ko nta karengane kari mu rubanza RCA 00110/2017/TGI/NYGE, rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge ku wa 31/05/2018;

[27] Rwemeje ko imikirize y'urubanza Nº RCA 00110/2017/TGI/NYGE, rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge ku wa 31/05/2018, idahindutse;

[28] Rwemeje ko ikibanza UPI:1/03/05/04/596 kirimo inzu na *annexe* yayo, nabyo bigurishwa, Riziki Nicole na Mubiligi Rwamfizi Jean Paul bakagabana mu buryo bungana amafaranga avuyemo.