# VUNINGOMA v NARAME

[Rwanda URUKIKO RW'IKIRENGA – RS/INJUST/RC 0001/2018/SC (Mugenzi, P.J, Mutashya na Kayitesi, J.) 14 Ukuboza 2018]

*Amategeko agenga imiburanishirije y'imanza zasabiwe gusubirishwamo ku mpamvu z'akarengane – Gusaba kurenganurwa ku bitaragaragarijwe umucamanza mu rubanza rusabirwa gusubirwamo ku mpamvu z'akarengane – Ibyemezo by'agateganyo – Ibyemezo byagateganyo ntibishobora kuburanishwa mu rwego rw'akarengane kuko ari ibyemezo Urukiko rushobora buri gihe gukuraho bisabwe n'ubifitemo inyungu mu buryo bw'ikirego gitanzwe n'umuburanyi umwe.*

**Incamake y'ikibazo:** Urubanza rwatangiriye mu Rukiko rw'Ibanze rwa Kacyiru, aho Vuningoma yasabaga ubutane, avuga ko umugore we Narame amuhoza ku nkeke, atamwubaha, ataha nijoro yasinze, ko ndetse yataye urugo; naho umugore akavuga ko yavuye mu rugo akajya kuba ukwe, kubera guhozwa ku nkeke, no gukubitirwa imbere y'abana. Urukiko rwaciye urubanza rwemeza ko batanye burundu byemewe n'amategeko, rutegeka ko abana babo babyaranye bakomeza kurerwa na nyina, rutegeka Vuningoma kuzajya asura abana be igihe cyose abishakiye, ndetse nabo bakamusura igihe bashakiye kandi akaba agomba gufatanya na Narame kurangiza inshingano zabo zo kubarera, agatanga y'indezo y`abana buri kwezi, rubategeka kugabana umutungo bafitanye ku buryo bungana, ugizwe n'inzu, Imodoka 5, bakabigurisha byose hanyuma bakagabana amafaranga , bakanafatanya kwishyura umwenda wa Banque.

Vuningoma ntiyishimiye imikirize ajuririra Urukiko rw'Isumbuye rwa Gasabo, avuga ko Urukiko rwarirengagije amakosa ya Narame, rukavuga ko batanye kubw`amakosa ye, ko Urukiko rwategetse ko bagurisha imodoka eshanu kandi ntazo bafite, batunze imodoka imwe gusa, ko Narame yahawe abana atabasha kubarera kubera ingeso mbi afite, nuko hari ikibanza yagurishije batabyemeranijweho. Urukiko rwaciye urubanza rwemeza ko ubujurire bwa Vuningoma bufite ishingiro kuri bimwe, ki imodoka bagomba kugabana ari imwe, abana bakomeza kurerwa na Narame.

Vuningoma ntiyishimiye kandi imikirize yandikira Urwego rw'Umuvunyi asaba ko urubanza rusubirwamo ku mpamvu z'akarengane. Urwego rw'Umuvunyi rwandikira Perezida w'Urukiko rw'Ikirenga agaragaza ko urubanza hari mo nakarengane rwasubirwamo. Perezi w'Urukiko rw'Ikirenga yemeje ko urubanza rusubirwamo ku mpamvu z'akarengane, rugacibwa n'Urukiko rw'Ikirenga.

Vuningoma avuga ko akarengane kagaragara mu rubanza gashingiye ku kuba Urukiko Rwisumbuye rwa Gasabo rwaremeje ko Vuningoma na Narame batana, bakagabana imitungo bari bahuriyeho ariko rukavuga ko ikibanza kiburanwa ari icya Narame wenyine kandi ngo barakiguze nyuma yo gusezerana ivangamutungo rusange, akaba asanga Urukiko rwarirengagije igihe icyo kibanza cyagurishirijwe, ko rero asanga umucamanza yaragombaga kugishyira mu byo bagombaga kugabana. Me Nkusi avuga ko akandi karengane mu rubanza gashingiye ku kuba Urukiko Rwisumbuye rwa Gasabo rwahaye abana Narame kandi ataba mu rugo, abana bari mu gihirahiro cy'aho aba yabasize mu icumbi bonyine, Vuningoma agahora mu nzira ahurujwe n'abaturanyi ba Narame, ajya kubaramira, akaba asaba guhabwa abana kuko abona nyina atabitayeho uko bikwiye.

Narame avuga ko asanga urubanza rusabirwa gusubirishwamo ku mpamvu z'akarengane nta karengane karimo, avuga ko asanga ari amayeri Vuningoma Augustin akoresha kugirango abone indonke, avuga kandi ko ku bijyanye n'ikibanza Vuningoma aregera ko itashyizwe mu mutungo w`urugo yagombaga kugabana n`umugore, asanga ntaho bimurenganya, kuko Narame yayiguze mu mwaka wa 2007, ayigurisha mu mwaka wa 2008. Ku bijyanye no kurera abana, avuga ko Narame ariwe ufite abana kandi unabarera, ko kuva bahabwa ubutane, Vuningoma nta faranga narimwe yigeze atanga ku ndezo yategetswe gutanga, ko ahubwo yareze inshuro nyinshi assaba yakuriwaho gutanga indezo, ntabyemererwe, ikurwaho ariko bikanga, akaba asanga atahabwa abana kuko ntacyo yabafasha.

**Incamake y'Icyemezo:** 1. Ibyemezo byagateganyo ntibishobora kuburanishwa mu rwego rw'akarengane kuko ari ibyemezo Urukiko rushobora buri gihe gukuraho bisabwe n'ubifitemo inyungu mu buryo bw'ikirego gitanzwe n'umuburanyi umwe, bityo Vuningoma ntashobora gusaba ko icyemeza Urukiko rwafashe cy'ugomba kurera abana, ko cyasuzumwa mu karengane, kuko ari icyemezo cy'agateganyo gishobora guhinduka igihe icyo aricyo cyose, ahubwo yagitanga mu Rukiko rubifitiye ububasha.

**Gusubirishamo urubanza k'umpamvu z'akarengane bifite ishingiro kuri bimwe'**
**Imikirize y'urubanza rwasubirishijwemo ihindutse kuri bimwe.**

**Amategeko yashyimgiweho:**
Itegeko Nº 32/2016 ryo ku wa 28/08/2016 rigena abantu n'umuryango, ingingo ya 243
Itegeko Ngenga nº 03/2012/OL ryo ku wa 13/06/2012 rigenga imiburanishirize y'imanza z'imbonezamubana, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 3
Itegeko N° 22/99 ryo ku wa 12/11/1999 rirebana n'imicungire y'umutungo w'abashingiranywe, impano n'izungura, ingingo ya 81

**Nta manza zifashishijwe**

## Urubanza

# I. IMITERERE Y`URUBANZA

[1] Uwitwa Vuningoma Augustin na Narame Ascia babanye kuva mu mwaka wa 1999 nk'umugore n'umugabo, baza gusezerana byemewe n`amategeko ku wa 23/04/2009 bahitamo ivangamutungo rusange nk`uburyo bwo gucunga umutungo w`urugo, babyarana abana batatu.

[2] Vuningoma Augustin na Narame Ascia baje kunaniranwa mu mibanire yabo, biza kugera aho Narame Ascia ava mu rugo akajya gutura wenyine.

[3] Vuningoma Augustin yatanze ikirego mu Rukiko rw'Ibanze rwa Kacyiru asaba ubutane, avuga ko umugore we Narame Ascia amuhoza ku nkeke, atamwubaha, ataha nijoro yasinze, ko ndetse yataye urugo ; naho umugore akavuga ko yavuye mu rugo akajya kuba ukwe, kubera guhozwa ku nkeke, no gukubitirwa imbere y'abana.

[4] Urukiko rwaciye urubanza RC 0261/15/TB/KCY ku wa 03/07/2015, rwemeza ko Vuningoma Augustin na Narame Ascia batandukanye burundu mu buryo bwemewe

n'amategeko, rutegeka ko icyo cyemezo cyandukurwa mu bwanditsi bw'irangamimerere y'aho bakoreye amasezerano y'ubushyingiranwe, rutegeka ko abana babo babyaranye bitwa Nikita Isabelle, Akamanzi Lisa na Isaro Raisah bakomeza kurerwa na nyina Narame Ascia, rutegeka Vuningoma Augustin kuzajya asura abana be igihe cyose abishakiye, ndetse nabo bakamusura igihe bashakiye kandi akaba agomba gufatanya na Narame Ascia kurangiza inshingano zabo zo kubarera, Vuningoma Augustin agatanga ibihumbi Magana abiri (200.000 Frw) y'indezo y`abana buri kwezi, ayo mafaranga agahabwa Narame Ascia nyina w'abana, rubategeka kugabana umutungo bafitanye ku buryo bungana, ugizwe n'inzu ifite numero 3554/GAS/KIM, Imodoka 5 zifite plaques: RAC 503C, RAC 459C, RAC 828K, RAB 766H, RAB 181V, bakabigurisha byose hanyuma bakagabana amafaranga , bakanafatanya kwishyura umwenda wa Banque I&M barimo ungana na 43.000.000 Frw.

[5] Vuningoma Augustin yajuririye Urukiko Rwisumbuye rwa Gasabo avuga ko Urukiko rwarirengagije amakosa ya Narame Ascia, rukavuga ko batanye kubw`amakosa ye, ko Urukiko rwategetse ko bagurisha imodoka eshanu kandi ntazo bafite, batunze imodoka imwe gusa, ko Narame Ascia yahawe abana atabasha kubarera kubera ingeso mbi afite, nuko hari ikibanza Narame Ascia yagurishije atabimwemereye.

[6] Urukiko Rwisumbuye rwa Gasabo rwaciye urubanza RCA 0193/15/TGI/GSBO ku wa 08/12/2015, rwemeza ko ubujurire bwa Vuningoma Augustin bufite ishingiro kuri bimwe, rwemeza ko urubanza RC 0261/15/TB/KCY rwaciwe ku wa 03/07/2015, ruhindutse kuri bimwe gusa; rwemeza ko umutungo bafitanye ugizwe w`ama modoka, bagomba kugabana imodoka ya nyuma ibariwe ku gaciro ka miliyoni umunani, Vuningoma Augustin akaba agomba guha Narame Ascia miliyoni enye z`iyo modoka yo mu bwoko bwa Avensis yagurishije; rwemeza ko abana bose bagomba kurerwa na nyina Narame Ascia, Vuningoma akaba agomba gutanga indezo y'amafaranga ibihumbi ijana na mirongo itanu (150.000frw) buri kwezi; rwemeza ko amafaranga y'ikibanza cyagurishijwe na Narame Ascia atari mu mutungo bagomba kugabana.

[7] Vuningoma Augustin yahise ashyikiriza ikirego Urwego rw'Umuvunyi, asaba ko urubanza RCA0193/15/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ku wa 08/12/2015, rwasuzumwa kubera ko rugaragaramo akarengane yatewe nuko mu micire yarwo hari ikimenyetso kirengagijwe kijyanye n`ikibanza Narame yagurishije ku giti cye kandi cyari icy`umuryango.

[8] Urwego rw`Umuvunyi rwohererej e raporo Perezida w'Urukiko rw'Ikirenga, rumugaragariza ko akarengane muri urwo rubanza gashingiye ku kuba hari ikibanza cy`umuryango Narame scia yagurishije Vuningoma Augustin atabizi, nta n'ububasha yabimuhereye, kandi bari bagisangiye kuko bagengwaga n`ivangamutungo rusange, nyamara Urukiko rukavuga ko cyari icya Narame Ascia kuko yakigurishishije mbere yo gusezerana mu buryo bwemewe n`amategeko. Rwagaragaje kandi ko icyemezo cyafashwe n`Urukiko cyemerera Narame Ascia kurera abana kitashimishije Vuningoma Augustin, kubera ko kenshi nyina asiga abana bonyine, yagiye muri gahunda ze, we akagomba kuza kubasanga ahurujwe n`abaturanyi.

[9] Perezida w'Urukiko rw'Ikirenga nyuma gusuzuma raporo y`Ubugenzuzi Bukuru bw'Inkiko kuri urwo rubanza, yategetse ko rugomba kuburanishwa hashingiwe ku ngingo ya 80 y'Itegeko No 03/2012 /OL ryo ku wa 13/06/2012 ryagengaga imiterere imikorere n'ububasha by'Urukiko rw'Ikirenga.

[10] Urukiko rw'Ikirenga rwaburanishije uru rubanza ku wa 19/11/2018, Vuningoma Augustin yunganiwe na Me Nkusi Dismas, Narame Ascia yunganiwe na Me Ntwali Justin wabanje kuvuga

ko asanga urega yaragombaga kubanza gusaba ko urubanza rwe rusubirishwamo ingingo nshya mbere yo kujyana ikirego cye ku rwego rw`Umuvunyi.

## II. IBIBAZO BIGIZE URUBANZA N'ISESENGURO RYABYO

### 1. Kumenya niba Vuningoma yari agifite inzira y`ubujurire yo gusubirishamo urubanza ingingo nshya, mbere yo kugana Urwego rw`Umuvunyi ku mpamvu z`akarengane

[11] Me Ntwali Justin avuga ko Vuningoma Augustin atagombaga kujyana ku Rwego rw`Umuvunyi, ikirego cye cy`akarengane kagaragara muri uru rubanza RCA0193/15/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ku wa 08/12/2015, ko ahubwo yagombaga kuba yarasubirishijemo ingingo nshya, kuko avuga ko habayeho kwitiranya ibintu uko byagenze, akaba asanga Vuningoma Augustin yararegeye akarengane agifite inzira yindi y'ubujurire.

[12] Me Nkusi Dismas avuga ko ibivugwa n`uwo baburana, ko bagombaga kubanza gusubirishamo urubanza ingingo nshya, atari byo, kuko kuba Umuvunyi yaragaragaje ko akarengane gahari kubera Urukiko rwitiranije uko ibintu byagenze, akaba atabona ukuntu bari kujya gusubirishamo ingingo nshya kubera ibimenyetso, kandi ibyo bimenyetso byarabivuzwe mu nkiko zaburanishije urubanza mbere.

## UKO URUKIKO RUBIBONA

[13] Ku byerekeye impamvu zishobora gutuma urubanza rusubirishwamo ingingo nshya, ingingo ya 81 y'Itegeko Ngenga Nº 03/2012/OL ryo ku wa 13/06/2012 ryakoreshwaga icyo gihe, yateganyaga impamvu eshatu harimo ko impamvu zituma habaho gusubirishamo ku mpamvu z'akarengane urubanza rwaciwe ku rwego rwa nyuma ari izikurikira : "[1º.......], 2º iyo mu icibwa ry`urubanza, hirengagijwe amategeko n`ibimenyetso bigaragarira buri wese, [3º .........]."

[14] Muri uru rubanza rusabirwa gusubirishwamo ku mpamvu z'akarengane, Umuvunyi yagaragaje ko akarengane kari muri urwo rubanza gashingiye ku kuba mu mutungo wagombaga kugabanywa hagati ya Vuningoma Augustin na Narame Ascia haratashyizwemo ikibanza Narame Ascia yagurishije atabyemeranyijweho n`umugabo we Vuningoma Augustin, uvuga ko hirengagijwe inyandiko y'ubugure igaragaza ko icyo kibanza cyagurishijwe baramaze gusezerana ivangamutungo rusange, icyo kimenyetso kikaba cyaraburanishijwe mu Rukiko rw'Ibanze rwa Kacyiru, ndetse no mu Rukiko Rwisumbuye rwa Gasabo. Bityo ibivugwa na Me Ntwali Justin ko hari izindi nzira z'ubujurire Vuningoma Augustin yarikunyuramo bikaba nta shingiro bifite.

[15] Urukiko rw'Ikirenga rurasanga kuba ikimenyetso kivugwa ko cyirengagijwe muri uru rubanza cyaraburanishijwe mu nkiko zibanza, Vuningoma Augustin ntiyagombaga koko kugiheraho agisabisha gusubirishamo urubanza ingingo nshya, bityo iyo nzira y`ubujurire ivugwa ikaba itarashobokaga, ku buryo itagomba kuzitira Vuningoma mu kugana Urwego rw`umuvunyi, bityo hakaba nta nzira y`ubujurire isanzwe cyangwa idasanzwe yari ihari ntitiyambazwe, ibivugwa na Me Ntwali Justin ko hari izindi nzira z'ubujurire Vuningoma Augustin yari kunyuramo bikaba nta shingiro bifite.

[16] Urukiko rusanga ahubwo icyo kimenyetso cyirengagijwe ari imwe mu mpamvu zituma ikirego cy`akarengane cya Vuningoma Augustin cyakirwa kigasuzumwa, hashingiwe ku

biteganywa n`igika cya nyuma cy`ingingo ya 81, agace ka kabiri (2°) y'Itegeko Ngenga Nº 03/2012/OL ryo ku wa 13/06/2012 ryavuzwe haruguru.

**2. Kumenya niba ikibanza kiburanwa kiri mu mutungo w`umuryango ku buryo Narame Ascia yaba yarakigurishije atabifitiye uburenganzira.**

[17] Me NKUSI Dismas avuga ko akarengane kagaragara mu rubanza RCA 0193/15/TGI/GSBO gashingiye ku kuba Urukiko Rwisumbuye rwa Gasabo rwaremeje ko Vuningoma Augustin na Narame Ascia batana, bakagabana imitungo bari bahuriyeho ariko rukavuga ko ikibanza kiburanwa ari icya Narame Ascia wenyine kandi ngo barakiguze nyuma yo gusezerana ivangamutungo rusange, asobanura ko Narame Ascia yagurishije icyo kibanza ku wa 03/11/2009, kandi bari barasezeranye ku wa 23/04/2009, akaba asanga Urukiko rwarirengagije igihe icyo kibanza cyagurishirijwe, ko kandi ari uwitwa Muhirwa Richard wakiguze, akaba asanga icyemezo cyagifatwaho cyamugiraho ingaruka, agasaba ko yagobokeshwa muri uru rubanza kabone n`ubwo yaba agobokeshejwe mu rwego rwa nyuma.

[18] Me Nkusi Dismas avuga ko ikindi kimenyetso kigaragaza ko Narame Ascia yagurishije uwo murima atabyemeranijweho na Vuningoma Augustin ari inyandiko yandikiye Abunzi ba Kibagabaga yo ku wa 12/10/2009 ubwo yatakambaga kubera icyemezo bari bafashe cyo ku wa 01/08/2009, Mukabutera Marthe aburana na Mukamabano Dancille, akaba asanga Narame Ascia atari gutakambira ikibanza (umurima ) kitari icye, bigaragaza ko icyo gihe ikibanza cyari kitaragurishwa, ko rero asanga umucamanza yaragombaga kugishyira mu byo bagombaga kugabana .

[19] Me Ntwali Justin avuga ko asanga urubanza rusabirwa gusubirishwamo ku mpamvu z'akarengane nta karengane karimo, avuga ko asanga ari amayeri Vuningoma Augustin akoresha kugira ngo abone indonke.

[20] Me Ntwali Justin avuga ko ku bijyanye na pariseli Vuningoma Augustin aregera ko itashyizwe mu mutungo w`urugo yagombaga kugabana n`umugore, asanga ntaho bimurenganya, kuko Narame Ascia yayiguze mu mwaka wa 2007, ayigurisha mu mwaka wa 2008, mbere yuko bashyingiranwa na Vuningoma Augustin ku itariki ya 23/04/2009, ko ubwo bugure bwaje gutambamirwa n`abamwe bo mu muryango wagurishije aho hantu, baza gukora amasezerano nyuma yizo manza ariko uwaguze yari yaratanze amafaranga, ko nizo manza z'Abunzi zabaye mbere y'uko amasezerano yo kugurisha akorwa, ariko ukuri kurimo ni uko amasezerano y`ubugure yabaye mbere, abo Narame Ascia yaburanaga nabo basubizwa igice kimwe cy`ubutaka, bituma amasezerano asubirwamo mu mwaka wa 2009.

## UKO URUKIKO RUBIBONA

[21] NARAME Ascia na Vuningoma Augustin barahawe ubutane, bagabana imitungo bari basangiye ariko ku birebana n`ikibanza kiburanwa, Urukiko rwemeza ko Narame Ascia yakigurishije atarasezerana na Vuningoma Augustin, akaba atagomba kugabana na Vuningoma Augustin, amafaranga icyo kibanza cyagurishijwe.

[22] Muri dosiye y`urubanza, hari "Icyemezo cyo kuba warashyingiranwe" cyo ku wa 12/11/2009, kigaragaza ko Narame Ascia na Vuningoma Augustin basezeranye mu buryo bwemewe n'amategeko ku wa 23/04/2009, ikibanza kiburanwa kikaba cyaragurishijwe ku wa 03/11/2009 nk'uko amasezerano y'ubugure abigaragaza, nayo ari muri dosiye. Dosiye kandi igaragaza ko Narame Ascia na Vuningoma Augustin bagengwa n`ivangamutungo rusange, rikaba

risobanurwa mu ngingo ya 3 y`Itegeko N°22/99 ryo ku wa 12/11/1999, ko ari ``amasezrano abashyingiranywe bagirana bumvikana gushyira hamwe umutungo wabo, wose, ibyimukanwa n`ibitimukanwa kimwe n`imyenda yabo yose.

[23] Mu kwemeza ko ikibanza kiburanwa, Narame Ascia akigurisha, ko cyari icye wenyine, Urukiko Rwisumbuye rwa Gasabo rwashingiye ku kuba ntaho ku masezerano y'ubugure Vuningoma Augustin yigeze asinya, nuko ko icyemezo cy'umutungo cyo muri 2007 kigaragaza ko ari icya Narame Ascia wenyine.

[24] Urukiko rw'Ikirenga rukaba rusanga impamvu yashingiweho nta shingiro ifite, kuko nk'uko bigaragazwa n'amasezerano y'ubugure yavuzwe haruguru, Narame Ascia yaragurishije icyo kibanza ku wa 03/11/2009 nyuma yo gukora amasezerano y`ubushyingiranwe na Vuningoma Augustin mu buryo bwemewe n'amategeko ku wa 23/04/2009, kandi icyo gihe bakaba barasezeranye ivangamutungo rusange ntawe ubihakana, bityo imitungo buri wese yari atunze mbere y`ubushyingiranywe, kimwe n`iyo bashakiye hamwe nyuma, byabaye umutungo rusange guhera ku wa 23/04/2009 umunsi basezerana bakumvikana ubwo buryo bwo gucunga umutungo (ivangamutungo rusange), hashingiwe ku biteganywa n`ingingo ya 3 y`Itegeko N° 22/99 ryo ku wa 12/11/1999 iteganya ko "Ivangamutungo rusange ni amasezerano abashyinigrnywe bagirana bumvikana gushyira hamwe umutungo wabo, wose, ibyimukanywa n`ibitimukanwa kimwe n`imyenda yabo yose".

[25] Urukiko rusanga rero ikibanza cyagurishijwe cyari cyarinjiye mu mutungo rusange, ku buryo Narame Ascia atari kukigurisha atabyemeranijweho na Vuningoma Augustin, ngo uyu abe yarasinye ku masezerano y`ubugure cyangwa se ngo abe yarabitangiye uruhushya mu nyandiko, iryo gurisha rikaba rinyuranyije n`amategeko kubera ko yagurishije ibyo asangiye n`umugabo we batabyumvikanyeho, hashingiwe ku biteganywa n`ingingo ya 21 y`Itegeko N° 22/99 ryo ku wa 12//11/1999 rivuzwe haruguru igira iti: ``Uko imicungire y`umutungo n`uburyo bawucunga byaba bimeze kose, ubwunvikane bw`abashyingiranywe ni ngombwa mu gutanga ikitimukanwa bwite cyangwa bahuriyeho no ku bitangaho ubundi burenganzira bwose``, bityo ayo masezerano yari akwiye guteshwa agaciro,

**3. Kumenya niba ikibanza kiburanwa cyagaruzwa nk`umutungo w`ababuranyi bakakigabana cyangwa se bakagabaaa amafaranga cyagurishijwe.**

[26] Me Nkusi Dismas wunganira avuga ko ikibanza kiburanwa gikwiye kugarurwa mu mutungo w`urugo, Vuningoma Augustin na Narame Ascia bakakigabana nk'uko bagabanye ibindi nyuma y`ubatane, avuga ko cyaguzwe n`uwitwa Muhirwa Richard, akaba asanga icyemezo cyagifatwaho cyamugiraho ingaruka, agasaba ko yagobokeshwa muri uru rubanza kabone n`ubwo yaba agobokeshejwe mu rwego rwa nyuma.

[27] Narame Ascia we akavuga ko icyo kibanza kitagaruka mu mutungo wabo kuko yakigurishije atarashakana na Vuningoma Augustin, ko rero asanga nta mpamvu yo kugobokesha uwo yakigurishije.

## UKO URUKIKO RUBIBONA

[28] Dosiye y`urubanza igaragaza koko ko ikibanza kiburanwa cyagurishijwe Muhirwa Richard ku mafaranga angana na 3.5000 Frw nk'uko bigaragazwa n`amasezerano y'ubugure yo ku wa 03/11/2009.

[29] Ku birebana no kukigaruza kugirango kigabanywe, Urukiko rusanga n`ubundi, kubera ubutane, Vuningoma Augustin na Narame Ascia bararangije kugabana umutungo w`urugo wose, uretse icyo kibanza cyagurishijwe mu buryo buranyije n`amategeko, rukaba rusanga ibyo kugobokesha uwakiguze, no guzasesa amasezerano kugirango kigaruzwe nk`umutungo ababuranyi bahuriyeho, bigamije gusa kuzakigurisha ngo bagabane amafaranga azavamo, nta mpamvu yabyo, uretse gusa gutinza urubanza, bityo bakaba ahubwo bagomba kugabana amafaranga cyagurishijwe, narame Ascia agasubiza Vuningoma Augustin icya kabiri (1/2) cy`amafaranga yakiriye ni ukuvuga 3.500.000 Frw : 2 = 1.750. 000 Frw.

**4. Kubyerekeye inshingano zo kurera abana zakwamburwa Narame Ascia zigahabwa Vuningoma Augustin.**

[30] Me Nkusi Dismas avuga ko akandi karengane mu rubanza RCA0193/15/TGI/GSBO gashingiye ku kuba Urukiko Rwisumbuye rwa Gasabo rwahaye abana Narame Ascia kandi ataba mu rugo, abana bari mu gihirahiro cy’aho aba yabasize mu icumbi bonyine, Vuningoma Augustin agahora mu nzira ahurujwe n’abaturanyi ba Narame Ascia, ajya kubaramira, akaba asaba guhabwa abana kuko abona nyina atabitayeho uko bikwiye.

[31] Me Ntwali avuga ko Narame Ascia ariwe ufite abana kandi unabarera, ko kuva bahabwa ubutane, Vuningoma Augustin nta faranga narimwe yigeze atanga ku ndezo yategetswe gutanga, ko ahubwo yareze inshuro nyinshi assaba yakuriwaho gutanga indezo, ntabyemererwe, ikurwaho ariko bikanga, akaba asanga atahabwa abana kuko ntacyo yabafasha.

## UKO URUKIKO RUBIBONA

[32] Ingingo ya 243 y’Itegeko Nº 32/2016 ryo ku wa 28/08/2016 rigena abantu n’umuryango iteganya ko ``Abana bahabwa umubyeyi watsindiye ubutane, undi mubyeyi asigarana uburanganzira bwo gusura abana, kubavugisha cyangwa gusurwa na bo. Mu mikirize y’urubanza, Umucamanza agena uburyo bukwiye kugirango ubwo burenganzira bwubahirizwe. Urukiko rubyibwirije cyangwa rubisabwe n’umwe mu bashaka ubutane cyangwa rubusabwe n’umwe mu basaba ubutane cyangwa undi wese ubifitemo inyungu, rushobora gutegeka ko umwana ahabwa umubyeyi utatsinze urubanza cyangwa se undi muntu wese, rushingiye ku byagirira abana akamaro. Icyakora, abana batarageza ku myaka itandatu (6) y’amavuko, bagomba kubana na nyina, keretse iyo bishobora kubangamira inyungu z’abana. Urukiko rushobora kandi gutegeka ko abana bamwe barerwa n’umubyeyi umwe, abandi nabo bakarerwa n’undi mubyeyi mu gihe biri mu nyungu z’abana. "Ibyemezo Urukiko rufata bihora ari agateganyo, rushobora buri gihe kubikuraho bisabwe n’ubifitemo inyungu mu buryo bw’ikirego gitanzwe n’umuburanyi umwe".

[33] Hakurikijwe ibiteganywa n`ingingo igaragajwe haruguru, Urukiko rusanga ibisabwa na Me Nkusi Dismas, ko Vuningoma Augustin yahabwa abana, bitasuzumwa muri uru rubanza kuko bitari mu bubasha bw`uru Rukiko, cyane cyane harebwe uburyo ibyo birego bitangwa nkuko iyo ngingo ibigaragaza, bitaburanishwa mu rwego rw`akarengane, kuko ari ibyemezo by’agateganyo nkuko iyo ngingo mu gika cyayo cyanyuma ibivuga, bikaba bigomba kuregerwa mu Rukiko rwabifashe.

**5. Kumenya ishingiro ry`indishyi zitandukanye zisabwa na Vuningoma Augustin.**

[34] Me Nkusi Dismas asabira uwo yunganira Vuningoma Augustin indishyi zo guhozwa mu manza ku maherere zingana na 2.000.000 Frw, iz`ikurikiranarubanza zingana na 400.000 Frw, igihembo cya avoka kingana na 500.000 Frw, yose hamwe angana na 2.900.000 Frw.

[35] Me Ntwali Justin wunganira Narame Ascia avuga ko izo ndishyi asaba ntazo yahabwa cyane ko ariwe wishora mu manza nta mpamvu, ikindi ngo ni uko amafaranga Vuningoma Augustin yaciwe yo gutunga abana ntayo atanga.

## UKO URUKIKO RUBIBONA

[36] Urukiko rw'Ikirenga rurasanga indishyi Vuningoma Augustin asaba zifite ishingiro kuko kugirango atange ikirego cyo gusubirishamo urubanza ku mpamvu z`akarengane, yabitewe ni uko Narame Ascia yamuteye akababaro amukurura mu manza, kuko yanze ko bagabana ikibanza basangiye, bituma anashaka avoka, anafata n'umwanya wo gukora ingendo akurikirana urubanza rwe, akaba akwiye kuyagenerwa, ariko kuko ayo asaba ari umurengera, Urukiko rukaba rumugeneye mu bushishozi bwarwo 100.000 Frw y'ikurikiranarubanza, 100.000 Frw y'indishyi z'akababaro hamwe na 500.000 Frw y'igihembo cya Avoka, yose hamwe angana na 700.000 Frw.

## III. ICYEMEZO CY'URUKIKO

[37] Rwemeje ikirego cyo gusubirishamo urubanza ku mpamvu z`akarengane, cyatanzwe Vuningoma Augustin gifite ishingiro kuri bimwe ;

[38] Rwemeje ko ikirego cyo gusaba guhabwa abana cyatanzwe na Vuningoma Augustin kitari mu bubasha bw'Urukiko rw'Ikirenga ;

[39] Rwemeje ko imikirize y'urubanza RCA 0193/15/TGI/GSBO rwaciwe n'Urukiko Gasabo ku wa 08/12/2015 ihindutse ku bijyanye n'ikibanza Narame Ascia yagurishije Muhirwa Richard, ababuranyi bakaba bagomba kugabana ku buryo bungana amafaranga cyagurishijwe angana na 3.500.000 Frw ;

[40] Rutegetse Narame Ascia guha Vuningoma Augustin kimwe cya kabiri (1/2) cy'amafaranga yagurishije ikibanza atamubwiye, akamuha miliyoni imwe n'ibihumbi magana arindwi na mirongo itanu (1.750.000 Frw) ;

[41] Rutegetse Narame Ascia guha Vuningoma Augustin indishyi z`ikurikiranarubanza zingana na 100.000 Frw, akamuha na 100.000 Frw z'akababaro hamwe na 500.000 Frw y'igihembo cya avoka, yose hamwe akaba ibihumbi magana arindwi (700.000 Frw).