SANLAM ASSURANCE GÉNÉRALES PLC v NSHIMIYIMANA

[Rwanda URUKIKO RW'IKIRENGA - RS/INJUST/RC 00007/2022/SC (Cyanzayire. P.J., Muhumuza, Nyirinkwaya, J.) 06 Mutarama 2023]

Amategeko agenga imiburanishirize y'imanza – Gusubirishamo urubanza ku mpamvu z'akarengane – Ibarwa ry'igihe cyo gusaba gusubirishamo urubanza ku mpamvu z'akarengane – Gusaba gusubirishamo urubanza ku mpamvu z'akarengane bikorwa mu gihe kitarenze iminsi mirongo itatu (30) y'akazi ibarwa uhereye ku munsi umuburanyi ubisaba yamenyesherejweho imikirize yarwo, hatabariwemo umunsi w'imenyesha, iminsi y'impera y'icyumweru (week-ends) n'iminsi y'ikiruhuko yemewe n'amategeko.

Amategeko agenga imiburanishirize y'imanza – Kumenya umunsi umuburanyi yamenyesherejweho urubanza – Mu manza umuburanyi yaburanye akamenyeshwa umunsi w'isomwa kandi uwo munsi ntuhinduke, uwo munsi w'isomwa niwo ufatwa ko yamenyeshejweho imikirize y'urubanza – Ku birebana n'imanza zasomwe ku munsi ababuranyi batamenyeshejwe mu buryo bwemewe n'amategeko, umunsi w'imenyesha ry'imikirize y'urubanza ni umunsi umuburanyi yaboneyeho kopi yarwo cyangwa umunsi kopi y'urwo rubanza yashyiriwe mu ikoranabuhanga.

Incamake y'ikibazo: Ku wa 30/03/2018 mu Karere ka Rusizi, habereye impanuka y'imodoka yo mu bwoko bwa NISSAN ifite ibyapa biyiranga C1914A, yari itwawe na SEHORANA ikaba yari ifite ubwishingizi muri SORAS Assurances Générales Ltd (SORAS) ubu yahindutse SANLAM Assurance Générales Plc (SANLAM) maze igonga Nshimiyimana imutera ubumuga buhoraho bungana na 60% ariko nyuma yo kongera gusuzumwa n'umuganga wa SORAS bigaragara ko yagize ubumuga buhoraho bungana na 40%. Nshimiyimana yatanze ikirego mu Rukiko Rwisumbuye rwa Rusizi rumugenera indishyi zinyuranye harimo n'indishyi z'ibangamirabukungu zabariwe ku mushahara wa Frw 5000 ku munsin kuko yari afite umurimo uzwi w'ubumotari. SANLAM ntiyishimiye iki cyemezo ikijurira mu rukiko rukuru ariko narwo rwemeza ko ubujurire bwayo nta shingiro bufite rugumsihaho icyemeozo cy'Uurkiko rwisumbuye. Yaje kwandikira Perezida w'Urukiko rw'Ubujurire asaba ko urwo rubanza rwasubirwamo ku mpamvu z'akarengane nawe yandikira Perezida w'Urukiko rw'Ikirenga, uru rubanza ruhabwa Urukiko rw'Ikirenga maze rurusubiramo.

Mbere yo kwinjira mu mizi y'urubanza, Urukikorwabanje gusuzuma ikibazo kijyanye n'iyubahirizwa ry'ibihe byo gusubirishamo urubanza ku mpamvu z'akarengane kwakozwe n'urega hagamijwe kumenya niba SANLAM yarubahirije ibihe byo gusubirishamo urubanza ku mpamvu z'akarengane.

Urega avuga ko urubanza rusubirishwamo ku mpamvu z'akarengane rwaciwe ku wa 12/03/2020 ariko ko kopi y'urwo rubanza yashyizwe muri sisitemu ku wa 12/05/2020, ko asanga SANLAM yarubahirije ibihe biteganywa n'amategeko kuko yandikiye Perezida w'Urukiko rw'Ubujurire ku wa 20/05/2020 nyuma y'iminsi umunani (8) gusa ibonye kopi y'urubanza. Uregwa we avuga ko urubanza rusubirishwamo ku mpamvu z'akarengane rwasomwe ku wa 12/03/2020 kandi ko rwari rwarahawe itariki ruzasomerwaho ababuranyi bose bahari, ko kuba SANLAM yitwaza ko kopi y'urubanza yageze muri sisiteme itinze babona nta shingiro bifite kuko icyatinze kujya

muri sisiteme ari kopi y'urubanza naho icyemezo cyari cyafashwe cyagaragaraga mu nyandikomvugo y'isomwa ry'urubanza.

Incamake y'icyemezo: 1. Gusaba gusubirishamo urubanza ku mpamvu z'akarengane bikorwa mu gihe kitarenze iminsi mirongo itatu (30) y'akazi ibarwa uhereye ku munsi umuburanyi ubisaba yamenyesherejweho imikirize yarwo, hatabariwemo umunsi w'imenyesha, iminsi y'impera y'icyumweru (week-ends) n'iminsi y'ikiruhuko yemewe n'amategeko bityo umunsi ababuranyi bamenyesherejweho imikirize ukaba ari ku wa 12/03/2020.

2. Mu manza umuburanyi yaburanye akamenyeshwa umunsi w'isomwa kandi uwo munsi ntuhinduke, uwo munsi w'isomwa niwo ufatwa ko yamenyeshejweho imikirize y'urubanza. Ku birebana n'imanza zasomwe ku munsi ababuranyi batamenyeshejwe mu buryo bwemewe n'amategeko, umunsi w'imenyesha ry'imikirize y'urubanza ni umunsi umuburanyi yaboneyeho kopi yarwo cyangwa umunsi kopi y'urwo rubanza yashyiriwe mu ikoranabuhanga bityo ibyo SANLAM ivuga ko yamenye imikirize y'urubanza umunsi kopi yashyiriwe mu ikoranabuhanga ku wa 12/05/2020 nta shingiro bifite, kuko SANLAM yamenyeshejwe inasinyira umunsi w'isomwa ry'urubanza N° RCA 00024/2019/HC/RSZ wo ku wa 12/03/2020, ari nayo tariki rwasomeweho. Uwo munsi rero ukaba ari wo ugomba guherwaho habarwa iminsi 30 yo gusaba kurusubirishamo ku mpamvu z'akarengane.

Ikirego cyo gusubirishamo ku mpamvu z'akarengane urubanza Nº RCA 00024/2019/HC/RSZ cyatanzwe mu buryo butubahirije amategeko;
Icyo kirego nticyakiriwe.

Amategeko yashingiweho:

Itegeko No 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko, ingingo ya 56, 148, 275.

Imanza zifashishijwe:

Urubanza RS/INJUST/RCOM 00003/2019/SC rwa Access Bank na Sotiru, rwaciwe ku wa 14/09/2020, urupapuro rwa 6.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Ku wa 30/03/2018 mu Mudugudu wa Gatare, Akagari ka Kabakobwa, Umurenge wa Gashonga ho mu Karere ka Rusizi, Intara y'Iburengerazuba habereye impanuka y'imodoka yo mu bwoko bwa NISSAN ifite ibyapa biyiranga C1914A, yari itwawe na SEHORANA Emmanuel ikaba yari ifite ubwishingizi muri SORAS Assurances Générales Ltd ("SORAS'' muri uru rubanza) ubu yahindutse SANLAM Assurance Générales Plc ("SANLAM" muri uru rubanza) maze igonga Nshimiyimana Emmanuel imutera ubumuga buhoraho bungana na 60% ariko nyuma yo kongera gusuzumwa n'umuganga wa SORAS bigaragara ko yagize ubumuga buhoraho bungana na 40%.

[2] Nshimiyimana Emmanuel yareze SORAS mu Rukiko Rwisumbuye rwa Rusizi asaba indishyi zikomoka kuri iyo mpanuka maze ku wa 27/02/2019, urwo Rukiko ruca urubanza N° RC 00135/2018/TGI/RSZ rwemeza ko SORAS igomba kumwishyura indishyi z'ibangamirabukungu zingana 7.085.817 Frw, ikamwishyura indishyi z'akababaro zingana na 432.000 Frw, indishyi z'ibangamira ry'uburanga zingana na 216.000 Frw, indishyi z'ibangamira ry'uburambe mu kazi zingana na 900.000 Frw, ikamusubiza 457.413 Frw yakoresheje yivuza no kugura icyemezo cyo mu Murenge, 100.000 Frw yakoresheje mu ngendo yivuza,100.000Frw y'ikurikiranarubanza 500.000 Frw y'igihembo cya Avoka, hiyongereyeho 20.000 Frw Nshimiyimana Emmanuel yatanzeho ingwate arega.

[3] SORAS yahise ijuririra icyo cyemezo mu Rukiko Rukuru, Urugereko rwa Rusizi, ivuga ko Urukiko Rwisumbuye rwa Rusizi rwageneye Nshimiyimana Emmanuel indishyi z'ibangamirabukungu hashingiwe ku mushahara muto fatizo ungana 5.000 Frw ku munsi, aho gushingira ku mushahara muto ntarengwa wemewe n'amategeko ungana na 3.000 Frw ku munsi kubera ko nta bimenyetso bifatika bigaragaza umushahara w'ukuri yakoreraga. Yanenze kandi ko Urukiko Rwisumbuye rwa Rusizi rwageneye Nshimiyimana Emmanuel indishyi z'ibangamiraburambe mu kazi kandi nta kimenyetso gifatika kigaragaza akazi gahoraho yakoraga.

[4] Mu rubanza N° RCA 00024/2019/HC/RSZ rwaciwe ku wa 12/03/2020, Urukiko Rukuru, Urugereko rwa Rusizi rwemeje ko nta gihindutse ku mikirize y'urubanza N° RC 00135/2018/TGI/RSZ rwaciwe ku wa 27/02/2019 n'Urukiko Rwisumbuye rwa Rusizi, usibye indishyi z'ikurikiranarubanza n'igihembo cya Avoka ziyongereyeho ku rwego rw'ubujurire zingana na 500.000 Frw SORAS igomba guha Nshimiyimana Emmanuel ku neza kandi mu bihe biteganywa n'amategeko, itabikora zikazavanwa mu byayo ku ngufu za Leta.

[5] Urukiko Rukuru Urugereko rwa Rusizi, rwashingiye iki cyemezo ku kuba Nshimiyimana Emmanuel yarakoraga umurimo uzwi kandi ahemberwa wo gutwara abagenzi kuri moto (Motard) ndetse akaba yaranabigaragarije ibimenyetso bigizwe n'uruhushya rwo gutwara moto ruherekejwe n'icyemezo cyatanzwe na Koperative COOPROMOTRAKI y'abamotari yakoreragamo. Rwasanze ntaho ahuriye n'abagomba kubarirwa hashingiwe ku mushahara fatizo 3.000 Frw ku munsi bavuzwe mu rubanza N° RCAA 0049/14/CS rwaciwe ku wa 25/11/2016 n'Urukiko rw'Ikirenga, SORAS igenderaho aho uwahohotewe aba akora umurimo adahemberwa, cyangwa iyo yakoraga gusa imirimo yo mu rugo, cyangwa adashobora kwerekana umusaruro we nyakuri ukomoka ku murimo. Rwongeraho kandi ko kubarirwa ku mushahara fatizo wa 5.000Frw ku batwara abagenzi kuri moto mu Ntara y'Uburengerazuba, ari umurongo wafashwe n'Inkiko mu manza zitandukanye harimo urubanza N° RCA 00279/2016/HC/KIG.

[6] Ku wa 20/05/2020 SORAS yahindutse SANLAM yandikiye Perezida w'Urukiko rw'Ubujurire isaba ko rubanza N° RCA 0024/2019/HC/RSZ rwaciwe ku wa 12/03/2020 n'Urukiko Rukuru, Urugereko rwa Rusizi, rusubirwamo ku mpamvu z'akarengane, maze nyuma yo gusuzuma ubusabe bwayo, nawe yandikira Perezida w'Urukiko rw'Ikirenga asaba ko urubanza rwavuzwe rusubirwamo ku mpamvu z'akarengane.

[7] Perezida w'Urukiko rw'Ikirenga, mu cyemezo cye No 123/CJ/2022, yemeje ko urubanza N° RCA 00024/2019/HC/RSZ rwongera kuburanishwa n'Urukiko rw'Ikirenga maze cyandikwa mu gitabo cy'ibirego kuri N° RS/INJUST/RC 000072022/SC.

[8] Iburanisha ry'uru rubanza ryashyizwe ku wa 12/12/2022, ribera mu ruhame, SANLAM ihagarariwe na Me Nkeza Sempundu Clément naho Nshimiyimana Emmanuel yunganiwe na Me Karuranga Salum.

[9] Mbere yo kwinjira mu mizi y'urubanza, Urukiko, rushingiye ku ngingo ya 129 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi[1], rwabanje gusuzuma ikibazo kijyanye n'iyubahirizwa ry'ibihe byo gusubirishamo urubanza ku mpamvu z'akarengane kwakozwe na SANLAM.

II. IKIBAZO KIGIZE URUBANZA N'ISESENGURWA RYACYO

- **Kumenya niba SANLAM yarubahirije ibihe byo gusubirishamo urubanza ku mpamvu z'akarengane.**

[10] Me Nkeza Sempundu Clément avuga ko urubanza rusubirishwamo ku mpamvu z'akarengane rwaciwe ku wa 12/03/2020 ariko ko kopi y'urwo rubanza yashyizwe muri sisitemu ku wa 12/05/2020, ko asanga SANLAM yarubahirije ibihe biteganywa n'amategeko kuko yandikiye Perezida w'Urukiko rw'Ubujurire ku wa 20/05/2020 nyuma y'iminsi umunani (8) gusa ibonye kopi y'urubanza.

[11] Avuga kandi ko ibi byafashweho icyemezo mu rubanza N° RS/INJUST/RCOM 00003/2019/SC rwa Access Bank na SOTIRU Ltd, cyafashwe mu iburanisha ryo ku wa 14/09/2020, aho Access Bank yandikiye Perezida w'Urukiko rw'Ikirenga nyuma y'amezi abiri hashyizwemo icyemezo cy'isomwa ry'urubanza maze urukiko rukavuga ko ikimenyeshwa ababuranyi atari dispositif ahubwo ari urubanza rwose, ko muri urwo rubanza urukiko rwashingiye ku gihe kopi y'urubanza yashyiriwe muri sisitemu kuko urubanza rwari rwaraburanishijwe ababuranyi b'impande zombi bahari (contradictoire) ariko ko umunsi w'isomwa ryarwo bari bamenyeshejwe rutasomwe.

[12] Abajijwe uko ibyemejwe mu rubanza rwaciwe n'Urukiko rw'Ikirenga yavuze nk'urubanza rwatanze umurongo kuri iki kibazo abihuza n'ingingo ya 148 igika cya 2 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, Me Nkeza Sempundu Clément asubiza ko ibyemezo bibiri bishobora kugera ku mwanzuro umwe ariko byanyuze mu nzira zitandukanye, ariko ko igishingirwaho atari icyemezo gusa ahubwo ari icyo urukiko rwashingiyeho ruca urubanza (motivation) kandi inyandikomvugo y'isomwa ry'urubanza itabigaragaza ahubwo bigaragazwa na kopi y'urubanza. Avuga ko ingingo ya 148 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru idahuye n'urubanza bafite kuko baregeye gusubirishamo urubanza ku mpamvu z'akarengane.

[1] Iyi ngingo iteganya ko impamvu ituma ikirego kitakirwa igaragazwa mu myanzuro yo kwiregura. Iyo ari indemyagihugu, nko kurenza igihe cyo kujurira, kutagira ububasha, ubushobozi cyangwa inyungu byo kurega, ishobora kubyutswa n'umuburanyi cyangwa urukiko rubyibwirije igihe icyo aricyo cyose.

[13] Nshimiyimana Emmanuel na Me Karuranga Salum umwunganira bavuga ko urubanza rusubirishwamo ku mpamvu z'akarengane rwasomwe ku wa 12/03/2020 kandi ko rwari rwarahawe itariki ruzasomerwaho ababuranyi bose bahari, ko kuba SANLAM yitwaza ko kopi y'urubanza yageze muri sisitemu itinze babona nta shingiro bifite kuko icyatinze kujya muri sisitemu ari kopi y'urubanza naho icyemezo cyari cyafashwe cyagaragaraga mu nyandikomvugo y'isomwa ry'urubanza.

[14] Nyuma yo kumva ibivugwa n'impande zombi kuri iyo nzitizi, Urukiko rwemeje ko icyemezo kizafatwa ku wa 06/01/2023.

UKO URUKIKO RUBIBONA

[15] Ingingo ya 56 igika cya mbere y'Itegeko No 30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'inkiko iteganya ko "Ushaka ko urubanza rwe rusubirwamo ku mpamvu z'akarengane, abisaba urwego rubishinzwe mu nyandiko ikubiyemo impamvu ashingiraho mu gihe kitarenze iminsi mirongo itatu (30) uhereye ku munsi yamenyesherejwe imikirize yarwo."

[16] Ingingo ya 275 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru iteganya ko "Ku bihe bibarwa mu minsi cyangwa mu masaha, bibarwa umunsi ku munsi, n'isaha ku isaha hakurikijwe igihe bimara kandi umunsi igikorwa cyakoreweho ntubarwamo, ahubwo habarwa umunsi wa nyuma kigomba kurangiriraho." Naho ingingo ya 276 y'iri Tegeko yo igira iti: "Iminsi y'ikiruhuko yemewe n'iminsi y'impera y'icyumweru ntabwo ibarwa mu kubara ibihe bivugwa mu ngingo ya 275. Nyamara, iyo umunsi igikorwa kigomba kurangiriraho ari umunsi w'ikiruhuko, icyo gihe cyongerwaho umunsi ukurikira w'akazi."

[17] Urukiko rusanga ibiteganywa muri izi ngingo byumvikanisha ko gusaba gusubirishamo urubanza ku mpamvu z'akarengane bikorwa mu gihe kitarenze iminsi mirongo itatu (30) y'akazi ibarwa uhereye ku munsi umuburanyi ubisaba yamenyesherejweho imikirize yarwo, hatabariwemo umunsi w'imenyesha, iminsi y'impera y'icyumweru (week-ends) n'iminsi y'ikiruhuko yemewe n'amategeko.

[18] Ku byerekeye igihe umuburanyi amenyera imikirize y'urubanza, ingingo ya 148 igika cya 2 y'Itegeko No 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru iteganya ko umuburanyi wari uhari iburanisha ripfundikirwa, n'iyo yaba atari ahari umunsi w'isomwa ry'urubanza, afatwa nk'uwamenye igihe urubanza rwasomewe. Ibi kandi uru Rukiko rwabigarutseho mu rubanza Nº RS/REV/RCOM 00005/2017/SC Dunia Bakarani Faustin n'undi, baburanaga na Majyambere Silas n'abandi. Muri urwo rubanza, urukiko rwasuzumye ikibazo cyo kumenya niba DUNIA BAKARANI Faustin yarubahirije ibihe byo gusubirishamo urubanza ingingo nshya biteganywa n'Itegeko hashingiwe ku gihe yamenyesherejwe imikirize yarwo, aho rwasanze umunsi urubanza rwasomeweho, kandi ababuranyi bari bamenyeshejwe, ari nawo ugomba guherwaho habarwa igihe cy'amezi abiri cyo gusubirishamo urubanza ingingo nshya.[2]

[19] Ku birebana n'uru rubanza, dosiye igaragaza ko urubanza N° RCA 00024/2019/HC/RSZ, SANLAM yasabye ko rusubirwamo ku mpamvu z'akarengane rwaburanishijwe ku wa 18/02/2020 ababuranyi bose bahari, bamenyeshwa kandi

[2]Reba urubanza Nº RS/REV/RCOM 00005/2017/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 04/12/2019, igika cya 37.

basinyira umunsi ruzasomerwaho wo ku wa 12/03/2020 ari nawo munsi urubanza rwasomeweho. Dosiye igaragaza kandi, nk'uko n'uhagarariye SANLAM yabisobanuriye urukiko mu iburanisha ryo ku wa 12/12/2022, ko ku wa 20/05/2020 aribwo SANLAM yandikiye Perezida w'Urukiko rw'Ubujurire isaba ko urubanza N° RCA 00024/2019/HC/RSZ rwasubirwamo ku mpamzu z'akarengane.

[20] Me Nkeza Sempundu Clément uhagarariye SANLAM avuga ko itariki ya 12/05/2020, ariyo ikwiye guherwaho habarwa ibihe byo gusubirishamo urubanza N° RCA 00024/2019/HC/RSZ ku mpamvu z'akarengane ngo kuko ari bwo kopi yarwo yashyiriwe muri sisitemu. Avuga ko asanga SANLAM yarubahirije ibihe biteganywa n'amategeko kuko yandikiye Perezida w'Urukiko rw'Ubujurire ku wa 20/05/2020, nyuma y'iminsi umunani (8) gusa ibonye kopi y'urubanza. Ibi abivuga yifashisha icyemezo cy'uru Rukiko mu rubanza N° RS/INJUST/RCOM 00003/2019/SC cyafatiwe mu ntebe, mu iburanisha ryo ku wa 14/09/2020 haburana Access Bank na SOTIRU Ltd, aho avuga ko Urukiko rwemeje ko kumenyeshwa imikirize y'urubanza bishingira ku gihe kopi yarwo yashyiriwe muri sisitemu.

[21] Urukiko rusanga ibivugwa n 'uhagarariye SANLAM nta shingiro bifite kuko icyemejwe mu iburanisha ry'urwo rubanza ari uko mu manza umuburanyi yaburanye akamenyeshwa umunsi w'isomwa kandi uwo munsi ntuhinduke, uwo munsi w'isomwa ariwo ufatwa ko yamenyeshejweho imikirize y'urubanza. Urukiko rwagize ruti: "Urukiko rusanga umunsi umuburanyi yamenyesherejweho imikirize y'urubanza ari umunsi urubanza rwasomeweho iyo ababuranyi bamenyeshejwe isomwa ry'urubanza…"[3].

[22] Urwo rubanza kandi rwasobanuye ko ku birebana n'imanza zasomwe ku munsi ababuranyi batamenyeshejwe mu buryo bwemewe n'amategeko, umunsi w'imenyesha ry'imikirize y'urubanza ari umunsi umuburanyi yaboneyeho kopi yarwo cyangwa umunsi kopi y'urwo rubanza yashyiriwe mu ikoranabuhanga[4]. Urukiko rusanga umurongo watanzwe muri urwo rubanza urebana n'ibara ry'ibihe ku muburanyi utaramenyeshejwe umunsi urubanza ruzasomerwaho, bikaba bitandukanye n'ibyabaye muri uru rubanza kuko ababuranyi bitabiriye iburanisha, bamenyeshwa itariki urubanza ruzasomerwaho kandi iyo tariki ntiyahinduka.

[23] Hashingiwe ku ngingo z'amategeko no ku bisobanuro byatanzwe, Urukiko rurasanga ibivugwa na SANLAM ko yamenye imikirize y'urubanza umunsi kopi yashyiriwe mu ikoranabuhanga ku wa 12/05/2020 nta shingiro bifite, kuko SANLAM yamenyeshejwe inasinyira umunsi w'isomwa ry'urubanza N° RCA 00024/2019/HC/RSZ wo ku wa 12/03/2020, ari nayo tariki rwasomeweho. Uwo munsi rero ukaba ari wo ugomba guherwaho habarwa iminsi 30 yo gusaba kurusubirishamo ku mpamvu z'akarengane.

[24] Nkuko byagarutsweho haruguru, ku wa 20/05/2020 nibwo SANLAM yasabye ko urubanza Nº RCA 00024/2019/HC/RSZ rwaciwe ku wa 12/03/2020, rusubirwamo ku mpamvu z'akarengane, hashize

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[3]Reba icyemezo cy'Urukiko rw'Ikirenga mu rubanza rubanziriza urundi N° RS/INJUST/RCOM 00003/2019/SC rwa Access Bank na Sotiru, cyafashwe mu iburanisha ryo ku wa 14/09/2020, urupapuro rwa 6.

[4] Ibid

iminzi y'akazi 45 kuva urubanza rusomwe, bikaba byumvikana ko igihe giteganywa n'amategeko cyari cyarenze.

[25] Kubera izo mpamvu zose, Urukiko rurasanga ikirego cyatanzwe na SANLAM cyo gusubirishamo ku mpamvu z'akarengane urubanza Nº RCA 00024/2019/HC/RSZ rwaciwe n'Urukiko Rukuru, Urugereko rwa Rusizi ku wa 12/03/2020, kidakwiye kwakirwa ngo gisuzumwe kuko ibihe (iminsi mirongo itatu) byo gusubirishamo urubanza ku mpamvu z'akarengane bitubahirijwe.

- **Gusuzuma ibijyanye n'amafaranga y'ikirikiranarubanza n'igihembo cy'Avoka asabwa.**

[26] SANLAM ivuga ko Nshimiyimana Emmanuel yakomeje kuyishora mu manza zitari ngombwa kugeza kuri uru rwego, bityo isaba ko ikirego cyayo kiramutse gihawe ishingiro, yategekwa kuyisubiza 1.000.000 Frw akubiyemo amafaranga y'ikurikiranarubanza n'igihembo cy'Avoka.

[27] Me Karuranga Salum avuga ko indishyi Nshimiyimana Emmanuel yagenewe n'Urukiko zubahirije amategeko, ko ahubwo kuba SANLAM ikomeje kumusubiza mu nkiko nyuma y'imyaka 3 ivuga ko imanza zabayemo akarengane, atanze ikirego kigamije kwiregura asaba ko SANLAM imwishyura 1.000.000 Frw akubiyemo ay'igihembo cy'Avoka n'ay'ikurikiranarubanza.

UKO URUKIKO RUBIBONA

[28] Urukiko rurasanga indishyi SANLAM isaba ntazo yahabwa kuko ikirego cyayo kitakiriwe.

[29] Ku bijyanye n'indishyi zisabwa na Nshimiyimana Emmanuel, Urukiko rurasanga yagenerwa amafaranga y'ikurikiranarubanza n'igihembo cy 'Avoka kuri uru rwego, kuko byabaye ngombwa gukurikirana urubanza no gushaka umwunganira biturutse ku kirego cy'akarengane cyatanzwe na SANLAM. Icyakora, kubera ko ayo asaba atayagaragarije ibimenyetso, Urukiko rurasanga rwamugenera mu bushishozi bwarwo 300.000 Frw y'ikurikiranarubanza, na 500.000 Frw y'igihembo cya Avoka, yose hamwe akaba ibihumbi magana inani (800.000 Frw).

III. ICYEMEZO CY'URUKIKO

[30] Rwemeje ko ikirego cya SANLAM Assurance Générales Plc cyo gusubirishamo ku mpamvu z'akarengane urubanza Nº RCA 00024/2019/HC/RSZ rwaciwe n'Urukiko Rukuru, Urugereko rwa Rusizi ku wa 12/03/2020, cyatanzwe mu buryo butubahirije amategeko;

[31] Rwemeje ko icyo kirego kitakiriwe;

[32] Rutegetse SANLAM Assurance Générales Plc guha Nshimiyimana Emmanuel amafaranga ibihumbi magana inani (800.000 Frw) akubiyemo ay'ikurikiranarubanza nay'igihembo cy'Avoka.