Repubulika y'u Rwanda

Ubutegetsi bw'Ubucamanza

IMIRONGO YATANZWE MU MANZA ZACIWE N'URUKIKO RW'IKIRENGA

UKWAKIRA 2024- MUTARAMA 2025

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IJAMBO RY'IBANZE

Urwego rw'Ubucamanza rwihaye intego yo gutanga ubutabera bunoze kandi bwihuse. Ni muri urwo rwego, Urukiko rw'Ikirenga rwiyemeje kubaka ubutabera bushingiye ku mirongo yatanzwe (*precedent/jurisprudence*) hagamijwe gufata abantu kimwe ku buryo abahuje ibibazo babona ibisubizo bisa, no kwirinda imanza zitari ngombwa mu nkiko. Kugira ngo ibyo bigerweho, hafashwe ingamba ko imirongo yafashwe mu manza Urukiko rw'Ikirenga ruca, izajya ihurizwa hamwe ikamenyeshwa abo bireba bose, nibura rimwe mu gihembwe. Ni muri urwo rwego Urukiko rw'Ikirenga runejejwe no kongera kubagezaho imirongo yatanzwe mu manza zaciwe kuva mu kwezi k'Ukwakira 2024 kugera muri Mutarama 2025.

Abacamanza, abashakashatsi mu nkiko, ababuranyi (Abavoka n'Abashinjacyaha cyane cyane), basabwe kujya bayitaho kugira ngo twese hamwe dufatanye guteza imbere no gushimangira uyu muco wo gutanga ibisubizo bimwe ku bibazo bimeze kimwe.

Turasaba Abacamanza kwita kuri iyi mirongo mu manza baca tunabibutsa ko batemerewe kunyuranya na yo kimwe n'indi mirongo yatanzwe n'izindi nkiko uko zigenda zisumbana nk'uko biteganywa mu mabwiriza ya Perezida w'Urukiko rw'Ikirenga yo ku wa 15/03/2021 agenga itangazwa ry'ibyemezo by'inkiko.

Abavoka kimwe n'undi wese ubifitemo inyungu, barashishikarizwa kubaha imirongo yatanzwe, ntibakomeze gutanga ibirego bitari ngombwa kandi bazi ibisubizo inkiko zatanze ku birego bimeze nka byo. Igihe kandi hari umurongo batemeranya na wo cyangwa bumva utanoze, bakwibuka ko itegeko ryateganyije uko bene iyo mirongo iregerwa ikaba yakosorwa cyangwa igahindurwa (reba ingingo ya 65 na 73 y'Itegeko rigena ububasha bw'inkiko). Mu gihe ariko umurongo utarahinduka, ugomba kubahirizwa na bose uko uri.

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Date: 2025.03.18 12:28:42 +02'00'

MUKANTAGANZWA Domitilla

Perezida w'Urukiko rw'Ikirenga

IRIBURIRO

Aka gatabo gakubiyemo imirongo yatanzwe n'Urukiko rw'Ikirenga kuva mu kwezi k'Ukwakira 2024 kugera muri Mutarama 2025. Iyo mirongo yafashwe mu byiciro bikurikira:

- **IMANZA Z'IMBONEZAMUBANO**
  - Kwigarika intumwa mu rubanza (umurongo 1)
  - Ubwishingizi bw'uburyozwe (imirongo 2)

- **IMANZA Z'UBUCURUZI**
  - Kumenya agaciro ka sheki igihe yatanzwe ariko ntiyishyure umwenda ugomba kwishyurwa (imirongo 7)
  - Agaciro k'ingwate yanditswe n'Umwanditsi Mukuru (RDB) (imirongo 2)
  - Kuregera gutesha agaciro cyamunara (imirongo 3)

- **IMANZA Z'UMURIMO**
  - Kumenya igihe umukozi afatwa nk'ugengwa n'amasezerano (imirongo 2)
  - Kumenya uko ubuzime bwo gukurikirana umushahara bubarwa n'impamvu zishobora kubuhagarika (imirongo 4)

- **IMANZA Z'UBUTEGETSI**
  - Gutanga ikirego hashingiwe ku ngingo y'itegeko yakuweho (umurongo 1)

IMANZA Z'IMBONEZAMUBANO

1. Kwigarika intumwa mu rubanza.

Urubanza rwasuzumwe: Urubanza n° RS/INJUST/RC 00013/2021/SC rwaciwe ku wa 29/11/2024 haburana Munyampeta Clémence (uvuga ko asigaye yitwa Ineza Ange Clémence) na Munyampeta Freeson (uvuga ko asigaye yitwa Niyigena Landry Kevin) vs Me Kayijuka Ngabo na Me Mulinga Kadage Laban.

Ikibazo cyasuzumwe:

Kumenya niba ubwigarike bwakozwe na Munyampeta Clémence (uvuga ko asigaye yitwa Ineza Ange Clémence) na Munyampeta Freeson (uvuga ko asigaye yitwa Niyigena Landry Kevin) bwakwakirwa.

Inkomoko y'ikibazo :

Mbere y'uko Munyampeta Gaspard apfa ku itariki ya 13/07/1993, yari yarabanye n'abagore 5, aribo Nyiraburanga, Cyurinyana Mélanie, Nyiramugwera Zilipa, Murekatete Caritas na Nyiranganizi Félicité ndetse babyarana abana. Nyuma y'urupfu rwe, umutungo we wasigaye ucunzwe n'umuhungu we witwa Ntirivamunda Alphonse kuko ari we wari warahawe ubwo bubasha, nyuma ajya gutura mu mahanga, maze imitungo yacungaga ikomeza gucungwa na Nyiranganizi Félicité, umugore muto wa Munyampeta Gaspard.

Mu bihe bitandukanye habaye imanza zinyuranye abagore, abana, n'abuzukuru ba Munyampeta Gaspard basaba kugabana imitungo yasize, maze hemezwa ko iyo mitungo yose igurishwa, ½ kigahabwa Nyiranganizi Félicité, naho ikindi ½ gisigaye kikagabanywa ku buryo bungana abazungura bose ba nyakwigendera.

Nyiramugwera Zilipa (umwe mu bagore ba Munyampeta Gaspard) yasubirishijemo urubanza ku mpamvu z'akarengane, hemezwa ko ruburanishwa n'Urukiko rw'Ikirenga, ruhabwa n° RS/INJUST/RC 00013/2021/SC.

Mu rubanza rubanziriza urundi rwaciwe ku wa 05/07/2024, uru Rukiko rwemeje ko Nyiramugwera Zilipa agomba gufatwa nk'umugore wemewe n'amategeko wa Munyampeta Gaspard, akaba afite uburenganzira ku mitungo yasizwe n'umugabo we, ruvuga ko uru

rubanza ruzongera kuburanishwa hasuzumwa ikibazo kirebana n'ingano y'umugabane Nyiramugwera Zilipa yemerewe ku mitungo yasizwe na Munyampeta Gaspard, rutegeka ababuranyi kuzagaragaza : imitungo yose yari iya Munyampeta Gaspard, iyagurishijwe muri cyamunara cyangwa mu bundi buryo, umubare w'amafaranga yavuyemo n'abayahawe, imisoro ku mitungo yishyuwe n'uwayishyuye, imitungo yanditse ubu kuri Munyampeta Gaspard, agaciro kayo n'abayikoresha cyangwa abayicunga, n'ibindi byose ababuranyi babona ko ari ngombwa kugaragariza Urukiko byatuma rutanga ubutabera bunoze.

Ku itariki ya 29/10/2024, Munyampeta Freeson (uvuga ko asigaye yitwa Niyigena Landry Kevin) yashyize imyanzuro muri *system* avuga ko yigaritse Me Mulinga Kadage Laban, intumwa ye muri uru rubanza. Ku wa 31/10/2024, Munyampeta Clémence (uvuga ko asigaye yitwa Ineza Ange Clémence) na we yashyize muri *system* inyandiko yandikiye Perezida w'Urukiko rw'Ikirenga avuga ko yigaritse Avoka we, Me Kayijuka Ngabo, kubera ko atemera ibyo yavuze mu rubanza rubanziriza urundi n° RS/INJUST/RC 00013/2021/SC rwaciwe ku wa 05/07/2024, iburanisha ku kirego cy'ubwigarike rishyirwa ku wa 18/11/2024.

Mu gusuzuma ikirego cy'ubwigarike, Urukiko rwasanze urubanza n° RS/INJUST/RC 00013/2021/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 05/07/2024, rugizwe n'icyemezo kidasubirwaho (*jugement définitif*) kivuga ko Nyiramugwera Zilipa agomba gufatwa nk'umugore wemewe n'amategeko wa Munyampeta Gaspard, akaba afite uburenganzira ku mitungo yasizwe n'umugabo we, ko igisigaye kuburanishwa ari ikibazo kirebana n'ingano y'umugabane Nyiramugwera Zilipa yemerewe ku mutungo wasizwe na Munyampeta Gaspard, hakaba n'icyemezo kibanziriza ikindi nk'icyemezo cy'agateganyo (*jugement avant-dire droit*), kidashobora kugira ingaruka ku mizi y'urubanza, ahubwo kigamije imigendekere myiza yarwo, kikaba kijyanye n'ibyo ababuranyi basabwe kugaragaza birebana n'imitungo yahoze ari iya Munyampeta Gaspard. Rwasanze n'ubwo inyito y'icyemezo cyafashwe mu rubanza n° RS/INJUST/RC 00013/2021/SC rwaciwe ku wa 05/07/2024, ari "urubanza rubanziriza urundi", imiterere yacyo

igaragaza ko kibumbiye hamwe icyemezo gitanga umwanzuro bidasubirwaho n'icyemezo kibanziriza ikindi (*Jugement mixte*) aho kuba icyemezo kibanziriza ikindi gusa nk'uko abarega babiburanishaga.

Urukiko rwasanze mu bisobanuro Munyampeta Clémence (uvuga ko asigaye yitwa Ineza Ange Clémence) na Munyampeta Freeson (uvuga ko asigaye yitwa Niyigena Landry Kevin) batanze mu myanzuro yabo n'imvugo zabo mu gihe cy'iburanisha, bagaragaza ko buri wese yatanze ikirego cy'ubwigarike bw'intumwa agamije gukuraho igice cy'urubanza Urukiko rwamaze gufataho icyemezo gitanga umwanzuro bidasubirwaho (*jugement définitif)* cy'uko Nyiramugwera Zilipa afite uburenganzira ku mutungo wasizwe n'umugabo we.

Urukiko rwemeje ko ikirego cyatanzwe na Munyampeta Clémence (uvuga ko asigaye yitwa Ineza Ange Clémence) na Munyampeta Freeson (uvuga ko asigaye yitwa Niyigena Landry Kevin) kigamije kwigarika intumwa, kidashobora kwakirwa kuko bagitanze nyuma y'icyemezo cyafashwe mu rubanza n° RS/INJUST/RC00013/2021/SC rwaciwe ku wa 05/07/2024, kikaba cyaratanzwe mu buryo budahura n'ubuteganywa n'amategeko.

Ingingo z'amategeko umurongo ushingiyeho :

- Ingingo ya 88 na 89 z'Itegeko n° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi nk'uko ryahinduwe kugeza ubu;

Jurisprudence :

- Cour de cassation, 19 février 2018, S.17.0052.F, P.4.

Inyandiko z'abahanga :

- Serge Guinchard, Droit et Pratique de la Procédure Civile, Editions Dalloz, 2021-2022, p. 1683, n° 521.44.
- Yves Strickler, Alexey Varnek, Procédure civile, 11e éd., Bruxelles, Bruylant, 2021, p. 329.

Imirongo yatanzwe :

- Uwigarika Avoka agomba kugaragariza Urukiko ko yarenze ku bubasha yamuhaye, ko yagize uburiganya, cyangwa ko yabangamiye inyungu ze, akabikora mbere y'uko urubanza rucibwa.
- Ikirego cy'ubwigarike ku rubanza rwarangije gusomwa nticyakirwa. Ibi biranareba urubanza rubanziriza urundi ariko rwagize ibibazo rukemura mu buryo budasubirwaho.

2. Ubwishingizi bw'uburyozwe

Urubanza rwasuzumwe: Urubanza n° RS/INJUST/RC 00001/2024/SC rwaciwe ku wa 17/01/2025, haburana MUA Insurance Rwanda Ltd, SANLAM A. G Plc na Energy Utility Corporation Ltd (EUCL Ltd).

Ikibazo cyasuzumwe:

Kumenya niba inkurikizi z'inkongi y'umuriro yabaye muri Quincallerie Cleal zaryozwa EUCL Ltd n'umwishingizi wayo MUA Insurance Rwanda Ltd.

Inkomoko y'ikibazo :

Ku itariki ya 28/03/2017, SORAS A.G. Ltd, ubu yahindutse SANLAM A.G Plc, na Sosiyete y'ubucuruzi yitwa Quincaillerie Cleal bagiranye amasezerano y'ubwishingizi bw'inkongi bw'ibicuruzwa byayo biherereye mu Gakiriro ka Gisozi, aho Quincaillerie Cleal ikorera, ayo masezerano akaba yariswe "Contrat d'Assurance Incendie Risque Commercial" mu rurimi rw'igifaransa.

Ku itariki ya 28/04/2017, ibicuruzwa bya Quincaillerie Cleal byari mu bubiko (stock) bwayo byafashwe n'inkongi y'umuriro birashya birakongoka. SORAS A.G. Ltd yandikiye EUCL Ltd iyimenyesha iby'iyo mpanuka, iyibwira ko yatangiye ibarura ry'ibyahiye igomba kwishyura nk'umwishingizi w'ibyo bicuruzwa, nyuma na yo ikazayisubiza ubwo

bwishyu, EUCL Ltd iyisubiza ko ifite umwishingizi ari we MUA Insurance Rwanda Ltd (MUA).

Nyuma y'ibarurwa ry'ibicuruzwa byahiye, SORAS A.G Ltd yishyuye Quincaillerie Cleal 46.188.816 Frw, hanyuma na yo yandikira MUA iyisaba kuyisubiza ayo mafaranga, ariko ntiyabikora. Nyuma yo kutumvikana ku bijyanye n'ubwishyu, SANLAM A.G Plc yasimbuye SORAS A.G. Ltd yareze EUCL Ltd n'umwishingizi wayo MUA mu Rukiko Rwisumbuye rwa Nyarugenge isaba kwishyurwa 46.188.816 Frw n'inyungu zayo, igihembo cya *expert* wagaragaje agaciro k'ibyahiye, amafaranga y'ikurikiranarubanza n'igihembo cya Avoka kimwe n'amafaranga y'umuhesha w'inkiko wagombaga kurangiza urubanza.

Ku itariki ya 23/04/2021, Urukiko Rwisumbuye rwa Nyarugenge rwaciye urubanza n° RC 00946/2019/TGI/NYGE rwemeza ko ikirego cya SANLAM A.G Plc gifite ishingiro, rutegeka MUA kuyishyura 46.188.816 Frw y'agaciro k'ibicuruzwa byahiye, 500.000 Frw y'inyungu na 620.000 Frw akubiyemo igihembo cya Avoka, ay'ikurikiranarubanza n'ingwate y'amagarama.

MUA yajuririye icyo cyemezo mu Rukiko Rukuru isaba ko urubanza n° RC 00946/2019/TGI/NYGE rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge rwateshwa agaciro kubera ko Urukiko rwayiciye indishyi zidafite icyo zishingiyeho, ndetse nta n'ibimenyetso bigaragaza uruhare cyangwa se ikosa EUCL Ltd yaba yarakoze mu nkongi y'umuriro yatumye ibicuruzwa bya Quincaillerie Cleal bishya bikishyurwa na SANLAM A.G Plc.

Ku itariki ya 30/11/2022, Urukiko Rukuru rwaciye urubanza n° RCA 00139/2021/HC/KIG, rwemeza ko ubujurire bwa MUA nta shingiro bufite, rwemeza ko imikirize y'urubanza n° RC 00946/2019/TGI/NYGE rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge ku itariki ya 26/04/2021 idahindutse.

MUA yasabye ko urubanza rusubirwamo ku mpamvu z'akarengane, ubusabe bwayo burakirwa, ruburanishwa n'Urukiko rw'Ikirenga, hasuzumwa ikibazo cyo kumenya niba inkurikizi z'inkongi y'umuriro yabaye muri Quincallerie Cleal zaryozwa EUCL Ltd n'umwishingizi wayo MUA Insurance Rwanda Ltd.

Urukiko rwasanze nta kigaragaza ko inkongi y'umuriro yakomotse ku nsinga za EUCL Ltd nk'uko byemejwe n'inkiko zabanje kubera ko ibimenyetso byatanzwe bihuriza ku kuba iyo nkongi yaba yaratewe no gukoranaho kw'insinga (court circuit) kandi ko izo nsinga zitari zifunitse. Bikaba byumvikana ko kuba insinga z'amashanyarazi zarakoranyeho bigatuma habaho inkongi bidahagije ngo hemezwe ko izo nsinga zari iza EUCL Ltd, nk'uko byashimangiwe n'ibyasobanuwe muri raporo y'impuguke yashyizweho na MUA (Electrical Engineer's Report) ko igihe cyose inzu ihuye n'ikibazo cy'inkongi y'umuriro, abantu bahita bavuga ko yatewe n'umuriro w'amashanyarazi (énergie electrique) nyamara atari byo kuko iyo nkongi ishobora guterwa n'izindi mpamvu. Bikumvikana ko Urukiko Rukuru rutagombaga gutegeka MUA nk'umwishingizi wa EUCL Ltd kwishyura amafaranga SANLAM A.G Plc yahaye Quincaillerie Cleal.

Ingingo z'amategeko umurongo ushingiyeho

- Ingingo ya 12, igika cya mbere, y'Itegeko n° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi nk'uko ryahinduwe kugeza ubu ;
- Ingingo ya 4, igika cya mbere, y'Itegeko n° 062/2024 ryo ku wa 20/06/2024 rigenga ibimenyetso;

Imirongo yatanzwe :

- Ubwishingizi bw'uburyozwe busobanurwa nk'ubwishingizi bugamije kwishyurira uwishingiwe ibyo yakurikiranwaho n'abo yangirije, kandi uwangirijwe ni we ugomba kugaragaza uruhare rw'uwo avuga wamwangirije.
- Kugira ngo umwishingizi yishyurire uwo yishingiye, ni ngombwa ko habanza kugaragazwa ko uwishingiwe ari we wateje ibyago kandi uwangirijwe akaba ari we ufite inshingano zo kubigaragaza.

Izindi manza bihuriye kuri iyi mirongo:

-Urubanza n° RS/INJUST/RC 00019/2022/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 02/06/2023, haburana MUSENGAMANA Jean Marie Vianney n'Ikigega Cyihariye cy'Ingoboka ku bwishingizi bw'uburyozwe bw'impanuka z'ibinyabiziga bifite moteri bigendera ku butaka n'izikomoka ku nyamaswa (SGF).

-Reba urubanza n° RS/INJUST/RC 00003/2023/SC rwaciwe ku wa 16/02/2024 haburana SORAS AG Ltd ubu yahindutse SANLAM AG PLC na NZAMWITAKUZE Thérèse.

IMANZA Z'UBUCURUZI

1. **Kumenya agaciro ka sheki igihe yatanzwe ariko ntiyishyure umwenda ugomba kwishyurwa.**

Urubanza rwasuzumwe: Urubanza nº RS/INJUST/RCOM 00001/2024/SC rwaciwe ku wa 15/11/2024 haburana CIMERWA Ltd na Kigali Ceramica Furniture Ltd (KCF) na Karangwa Raymond

Ibibazo byasuzumwe:

- Kumenya niba hari umwenda KCF Ltd ibereyemo CIMERWA Ltd n'inyungu zawo.
- Kumenya niba Karangwa Raymond yategekwa gufatanya na KCF Ltd kwishyura umwenda uregerwa.
- Kumenya niba KCF Ltd yategekwa gusubiza CIMERWA Ltd 11,650,000 Frw yishyuwe harangizwa urubanza nº 00555/2022/HCC.

Inkomoko y'ikibazo:

CIMERWA Ltd yareze Kigali Ceramica Furniture Ltd (KCF Ltd) na Karangwa Raymond mu Rukiko rw'Ubucuruzi yishyuza KCF Ltd umwenda yari iyibereyemo ungana na 90.350.000 Frw ukomoka ku masezerano yo kuyigemurira sima. KCF Ltd yaburanye ivuga ko umwenda wose wishyuwe hakoreshejwe sheki zifite agaciro ka 102.000.000 Frw (Sheki ya mbere yatanzwe ku wa 30/11/2018 naho iya kabiri itangwa ku wa ku wa 03/12/2018 buri imwe ifite agaciro ka 51.000.000 Frw).

Urukiko rw'Ubucuruzi rwasanze nta mwenda KCF Ltd ibereyemo CIMERWA Ltd kuko yawishyuye hakoreshejwe sheki zifite agaciro ka 102.000.000 Frw, ruvuga kandi ko amasezerano yo ku wa 12/04/2017 akomokaho uwo mwenda yarangiye ku wa 12/04/2018, rwanzura ko ikirego cya CIMERWA Ltd nta shingiro gifite, rutegeka ko igomba gusubiza KCF Ltd 11.650.000 Frw arenga ku mafaranga yagombaga kwishyurwa.

CIMERWA Ltd yajuririye Urukiko Rukuru rw'Ubucuruzi ivuga ko Urukiko rw'Ubucuruzi rutahaye agaciro ibimenyetso rwashyikirijwe bigizwe na *delivery notes*, kandi ko iyo rushishoza rwari kubona ko amasezerano yo ku wa 12/04/2017 atigeze ahagarara.

Urukiko Rukuru rw'Ubucuruzi rwasanze amasezerano yo ku wa 12/04/2017 yari yararangiye, rusanga kandi kuba CIMERWA Ltd idahakana ko yakiriye sheki ebyiri zifite agaciro ka 102.000.000 Frw kandi ntinagaragaze ko hari undi mwenda izo sheki zishyuraga ari gihamya ko nta mwenda KCF Ltd ikibereyemo CIMERWA Ltd, rwanzura ko ubujurire bwa CIMERWA Ltd nta shingiro bufite, rwemeza ko nta gihindutse ku mikirize y'urubanza nº RCOM 00155/2021/TC rwaciwe n'Urukiko rw'Ubucuruzi ku wa 02/07/2021, rutegeka CIMERWA Ltd gutanga indishyi zitandukanye.

CIMERWA Ltd yasabye ko urubanza rusubirwamo ku mpamvu z'akarengane, ubusabe bwayo burakirwa, ruburanishwa n'Urukiko rw'Ikirenga.

Urukiko rwabanje gusuzuma ibijyanye no kumenya agaciro ka sheki igihe yatanzwe ariko ntiyishyure umwenda ugomba kwishyurwa, maze rusanga igihe KCF Ltd yatangaga sheki ziburanwa nta mafaranga yari ifite kuri konti, bityo hakaba hari hakiriho umwenda wose; ruvuga ko KCF Ltd igomba kwishyura CIMERWA Ltd 90,350,000 Frw y'umwenda iyibereyemo ndetse na 72,321,912 Frw y'inyungu ziwukomokaho zibazwe mu buryo bukurikira:

$$\frac{90{,}350{,}000 \text{ Frw x } 15.41 \text{ x iminsi } 1870}{360\text{x}100} = 72.321.912 \text{ Frw.}$$

Ku kibazo kijyanye no kumenya niba Karangwa Raymond yategekwa gufatanya na KCF Ltd kwishyura umwenda uregerwa, Urukiko rwasanze atagomba gutegekwa gufatanya na KCF Ltd kwishyura uwo mwenda kuko CIMERWA Ltd itanga ikirego itagaragaje niba Karangwa Raymond (i) yarakoresheje nabi imiterere ya sosiyete agamije uburiganya; (ii) yarishe amategeko (iii) cyangwa ngo abe yarafashe nabi umutungo wa sosiyete nk'aho ari umutungo we ku giti cye ku buryo byaba byaratumye habura ubwishyu.

Ku kibazo cyo kumenya niba KCF Ltd yategekwa gusubiza CIMERWA Ltd 11.650.000 Frw yishyuwe harangizwa urubanza nº 00555/2022/HCC, Urukiko rwasanze kuba KCF Ltd itarishyuye umwenda yari ibereyemo CIMERWA Ltd, nta n'uburenganzira yari ifite bwo gusaba gusubizwa amafaranga arenga ku bwishyu itatanze.

Rwasanze umwenda KCF Ltd yari ibereyemo CIMERWA Ltd utarishyuwe na sheki KCF Ltd yatanze kuko kuva ku itariki izo sheki zagombaga kwishyurirwaho kugeza ku itariki zitereye agaciro nta mafaranga yari kuri konte.

Ingingo z'amategeko umurongo ushingiyeho

- Ingingo ya 76, iya 110 n'iya 113 z'Itegeko n° 32/2009 ryo ku wa 18/11/2009 ryerekeye inyandiko zishobora gucuruzwa.
- Ingingo ya 144 y'Itegeko n° 45/2011 ryo ku wa 25/11/2011 rigenga amasezerano.
- Ingingo ya 95, igika cya mbere n'iya 136, 3° z'Itegeko n°17/2018 ryo ku wa 13/04/2018 rigenga amasosiyete y'ubucuruzi.
- Ingingo ya 5 y'Amabwiriza nº 006/2015 yo ku wa 16/09/2015 ya Banki Nkuru y'u Rwanda yerekeye sheki zitazigamiwe.

Inyandiko z'abahanga:

- Thierry Bonneau, Droit bancaire, 14e éd., LGDJ, Paris, 2021, p.482.
- Jérôme Lasserre Capdeville et les autres, Droit bancaire, 3e éd, Dalloz, Paris, 2021, P.600.

Imirongo yatanzwe :

- Sheki igizwe n'ibice 2 ari byo: (i) abarebwa na sheki: utanga sheki (le tireur), uyihabwa (le bénéficiaire) na banki (le tiré); no kuba (ii) hari amafaranga ahererekanywa (la provision);
- Uwatanze sheki agomba kuba (i) afite amafaranga kuri konti ye (caractère préalable), (ii) ahagije igihe yayisinyaga (Caractère suffisant) (iii) kuba amafaranga ashobora gutangwa (Caractère disponible) no (iv) kuba sheki idashobora gusubirwaho/guteshwa agaciro (Caractère irrévocable);
- Sheki igira agaciro gusa iyo izigamiwe kuva igihe itangiwe (itariki igaragara kuri sheki) kugeza igihe itaye agaciro (isaziye);
- Gutanga sheki ubwabyo ntibihagije kugira ngo uwayisinye agire umutekano w'uko yishyuye, ahubwo bimuha n'inshingano zo kwizeza ugomba kuyibikuza, ko kuri konti ye afiteho amafaranga ahagije ku itariki sheki igomba kwishyurirwaho kugeza itaye agaciro ndetse kandi igihe sheki idashobora kwishyurwa ku mpamvu izo ari zo zose, ntibikuraho umwenda w'ibanze.
- Igihe sheki itagifite agaciro, nyir'umwenda asigarana uburenganzira bwo gukurikirana ubwishyu mu bundi buryo bwose buteganywa n'amategeko.
- Kuba uwasinyiwe sheki atayibikuza kugeza itaye agaciro, ntibikuraho umwenda uwari wayimusinyiye yitwaje ko uwayisinyiwe yakoze amakosa yo kutayibikuza ikamusazana.
- Usaba ko umuyobozi cyangwa abanyamigabane ba sosiyete bagira ibyo baryozwa, agomba kugaragaza ko bakoresheje nabi imiterere ya sosiyete bagamije uburiganya, barishe amategeko cyangwa barafashe nabi umutungo wa sosiyete nk'aho ari umutungo wabo ku giti cyabo ku buryo byaba byaratumye habura ubwishyu.

Izindi manza zihuriye ku murongo urebana n'uko uburyozwe bwa sosiyete butandukanye n'ubw'abanyamigabane bayo :

- Urubanza nº RCOMAA 00040/2016/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 22/12/2017, haburana MUNYAMPUNDU Antoine n'undi n'Ikigo cy'Imisoro n'Amahoro.

- Urubanza nº RCOMAA 0056/2016/SC-RCOMAA 0061/16/CS, rwaciwe n'Urukiko rw'Ikirenga ku wa 14/07/2017, haburana TWAGIRAMUNGU Vénuste n'Ikigo cy'Imisoro n'Amahoro.
- Urubanza nº RS/INJUST/RCOM 00013/2022/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 24/05/2024, haburana MURWANASHYAKA Jean Damascène na BAMU TRADE COMPANY Ltd.

2. Kuregera gutesha agaciro cyamunara.

Urubanza rwasuzumwe: Urubanza rubanziriza urundi nº RS/INJUST/RCOM 00006/2023/SC rwaciwe ku wa 15/11/2024 haburana Bimenyimana Innocent na Ndererimana Gédéon.

Ikibazo cyasuzumwe:

-Kumenya niba ubujurire bwa Ndererimana Gédéon butaragombaga kwakirwa mu Rukiko Rukuru rw'Ubucuruzi;

-Kumenya niba Ndererimana Gédéon yaratinze kuregera gutesha agaciro cyamunara.

Inkomoko y'ikibazo:

Bimenyimana Innocent, Umuhesha w'inkiko w'umwuga, yateje cyamunara umutungo wa Ndererimana Gédéon ubaruye kuri UPI: 4/03/03/04/3678 harangizwa urubanza nº RCOM 00335/2019/TC rwaciwe ku wa 29/04/2019, Ndererimana Gédéon yatsinzwemo na Universal Trading Ltd, agategekwa kuyishyura 13.067.050 Frw, 202.191 Frw y'inyungu, 600.000 Frw akubiyemo igihembo cya Avoka, ay'ikurikiranarubanza n'igihembo cy'Umuhesha w'inkiko na 20.000 Frw y'amagarama yishyuye atanga ikirego.

Ndererimana Gédéon yatanze ikirego mu Rukiko rw'Ibanze rwa Muhoza asaba gutesha agaciro iyo cyamunara, urwo Rukiko rwemeza ko ikirego kitakiriwe kubera ko yaregeye urukiko rutabifitiye ububasha. Nyuma y'icyo cyemezo yatanze ikirego mu Rukiko rw'Ubucuruzi asaba ko cyamunara yabaye ku mutungo we iteshwa agaciro kuko Umuhesha w'Inkiko atigeze ayimumenyesha ndetse akaba ataranubahirije imihango iteganyijwe n'amategeko. Bimenyimana Innocent yatanze inzitizi asaba ko ikirego cya Ndererimana Gédéon kitakwakirwa kuko yagitanze impitagihe.

Mu rubanza n° RCOM 01295/2022/TC rwaciwe ku wa 05/09/2022, Urukiko rw'Ubucuruzi rwemeje ko ikirego cya Ndererimana Gédéon kitakiriwe, rumutegeka kwishyura Bimenyimana Innocent 500.000 Frw y'igihembo cya Avoka na 50.000 Frw y'ikurikiranarubanza.

Ku wa 12/09/2022, Ndererimana Gédéon yajuririye mu Rukiko Rukuru rw'Ubucuruzi avuga ko Urukiko rw'Ubucuruzi rwanze kwakira ikirego cye rushingiye ku kuba yaratinze kugitanga nyamara atari byo, kubera ko uhereye igihe yamenyeye iby'igurishwa ry'umutungo we, ni ukuvuga ku wa 10/05/2022, nta gukererwa kwabayeho; ko kandi yaciwe indishyi zidafite icyo zishingiyeho, asaba Urukiko Rukuru rw'Ubucuruzi guha ishingiro ikirego cye no gutesha agaciro cyamunara yaregeraga.

Bimenyimana Innocent yatanze inzitizi yo kutakira ubujurire bwa Ndererimana Gédéon kubera ko yatinze kujurira, anavuga ko no ku rwego rwa mbere ikirego kitagombabaga kwakirwa nk'uko Urukiko rw'Ubucuruzi rwabibonye kubera ko yamenyeshejwe igurishwa ry'umutungo we mu cyamunara, hagashira igihe kigera ku myaka 2 atararegera kuyitesha agaciro, asaba ko iyo nzitizi nayo yakongera gusuzumwa, urubanza rwaciwe ku rwego rwa mbere rukagumaho.

Mu rubanza n° RCOMA 00599/2022/HCC rwaciwe ku wa 07/10/2022, Urukiko Rukuru rw'Ubucuruzi rwemeje ko ubujurire bwa Ndererimana Gédéon bufite ishingiro, rutegeka ko imikirize y'urubanza n° RCOM 01295/2022/TC rwajuririwe ihinduka kuri byose

Bimenyimana Innocent yasabye ko urubanza rusubirwamo ku mpamvu z'akarengane, ubusabe bwe burakirwa, ruburanishwa n'Urukiko rw'Ikirenga.

Urukiko rwabanje gusuzuma niba ubujurire bwa Ndererimana Gédéon butaragombabaga kwakirwa mu Rukiko Rukuru rw'Ubucuruzi maze rusanga urubanza n° RCOM 01295/2022/TC rwaraburanishijwe ku wa 01/09/2022, ababuranyi bakamenyeshwa ko ruzasomwa ku wa 05/09/2022, uwo munsi rurasomwa ariko inyandikomvugo y'isomwa ishyirwa muri IECMS ku wa 06/09/2022, naho kopi y'urubanza yo ishyirwa muri dosiye ku wa 07/09/2022, rwemeza ko ibihe by'ubujurire bigomba kubarwa guhera ku wa 08/09/2022, umunsi wa nyuma wo kujurira ukaba wari ku wa 12/09/2022 kubera ko itariki ya 10 na

11/09/2022 yari iminsi y'ikiruhuko. Nyuma yo kubona ko ubujurire bwatanzwe ku wa 12/09/2022, Urukiko rwasanze Ndererimana Gédéon yarubahirije ibihe by'ubujurire.

Urukiko rwanasuzumye ikibazo cyo kumenya niba Ndererimana Gédéon yaratinze kuregera gutesha agaciro cyamunara kubera ko Bimenyimana avuga ko cyamunara yakozwe ku wa 26/05/2020, ikirego kigatangwa ku wa 25/05/2022, naho Ndererimana Gédéon we akavuga ko atigeze amenyeshwa mbere iby'iyo cyamunara kuko yayimenye ku wa 10/05/2022 ubwo yohererezwaga raporo yayo kuri *email*.

Urukiko rwasanze n'ubwo Bimenyimana Innocent avuga ko cyamunara yabaye ku wa 26/05/2020, ari naho ahera abara ibihe byagombaga kubahirizwa na Ndererimana Gédéon, atagaragaza ibimenyetso byerekana ko yamenye iby'iyo cyamunara cyane cyane ko we (Ndererimana Gédéon) yatanze ibimenyetso bigaragaza ko yamenyeshejwe raporo ya cyamunara ku wa 10/05/2022 nabwo abanje kuyisaba, rwemeza ko iyo tariki ariyo igomba guherwaho habarwa ibihe byo gutanga ikirego, cyane cyane ko Bimenyimana Innocent atigeze ahakana ko kuri iyo tariki yamwohererereje *email* yavuzwe haruguru cyangwa ngo atange ibindi bimenyetso byerekana ko yamumenyesheje raporo ya cyamunara mbere y'iyo tariki.

Urukiko rwemeje ko uhereye ku gihe yamenyesherejweho raporo ya cyamunara, Ndererimana Gédéon yubahirije iminsi 15 iteganywa n'amategeko nk'uko n'Urukiko Rukuru rw'Ubucuruzi rwabibonye, rwemeza ko ikirego cye mu Rukiko rw'Ubucuruzi cyagombaga kwakirwa kigasuzumwa.

Urukiko rwasanze ariko, n'ubwo Urukiko Rukuru rw'Ubucuruzi rwasuzumye ubujurire bwa Ndererimana Gédéon rugasanga bufite ishingiro ndetse rugategeka ko imikirize y'urubanza n° RCOM 01295/2022/TC rwajuririwe ihinduka kuri byose, rutarigeze rutegeka ko urwo rubanza rusubizwa Urukiko rw'Ubucuruzi rwari rwaruciye kugira ngo ruruburanishe mu mizi, rusanga uru rubanza rwaragombaga koherezwa mu Rukiko rw'Ubucuruzi kugira ngo rusuzume mu mizi ikirego kijyanye no gutesha agaciro cyamunara Ndererimana

Gédéon yari yararushyikirije kuko kugeza ubu kitaraburanishwa. Nyamara harebwe igihe gishize kuva ikirego gitanzwe, kandi bizwi ko ibirego bijyanye no gutesha agaciro cyamunara bifatwa nk'ibyihutirwa kubera kamere yabyo, kurusubiza ku rwego rwa mbere ndetse bikaba bishoboka ko rwazajuririrwa cyangwa rukajya mu karengane, byatuma rushobora kumara ikindi gihe kirekire rutaracibwa.

Mu rwego rwo gukosora amakosa yavuzwe haruguru no mu nyungu z'ubutabera, uru Rukiko rwasanze rugomba kuburanisha mu mizi ikirego kijyanye no gutesha agaciro cyamunara, kandi kuba mu rwego rw'akarengane Urukiko rw'Ikirenga rwaca urubanza ubundi rwari mu bubasha bw'inkiko zo hasi, uru Rukiko rwabikoze no mu manza zinyuranye rwaciye.

Amategeko umurongo ushingiyeho:

- Ingingo ya 188, igika cya 2, iya 260 n'iya 275 z'Itegeko nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz''umurimo n'iz'ubutegetsi nk'uko ryahinduwe kugeza ubu.

Imirongo yatanzwe :

- Ibihe byo kujurira bitangira kubarwa kuva ku munsi umuburanyi yamenyeyeho imikirize y'urubanza, ni ukuvuga umunsi kopi y'urubanza ajuririra yashyiriwe muri iecms.

- Ikirego gisaba gutesha agaciro cyamunara gitangwa mu gihe kitarenze iminsi cumi n'itanu (15) uhereye umunsi nyir'umutungo wagurishijwe yamenyesherejweho raporo ya cyamunara.

- Mu rwego rw'akarengane, Urukiko rw'Ikirenga rushobora guca urubanza ubundi rwari mu bubasha bw'inkiko zo hasi kubera ko igitekerezo cy'Umushingamategeko ubwo yashyiragaho inzira yo gusubirishamo urubanza ku mpamvu z'akarengane, cyari uko urukiko rwaregewe rukemura ibibazo byose biri mu rubanza umuburanyi yarugejejeho, aho kugirango rukemure igice kimwe, ikindi gisubire mu nkiko ziri hasi yarwo, bitume habaho imanza

zishobora kuzongera kugaruka mu karengane kandi byashobokaga ko ibibazo birangirizwa rimwe n'urukiko ruri ku rwego rwo hejuru.

Izindi manza zihuriye kuri uyu murongo urebana no kuba Urukiko rw'Ikirenga rushobora guca urubanza ubundi rwari mu bubasha bw'inkiko zo hasi :

- Urubanza rubanziriza urundi n° RS/INJUST/RCOM 00001/2019/SC rwaciwe ku wa 14/02/2024, haburana Bagaragaza Thaddée na bagenzi be.
- Urubanza rubanziriza urundi n° RS/Injust/RCOM 00007/2021/SC rwaciwe ku wa 29/04/2022, haburana Sikubwabo Raphaël na RDB.

3. Agaciro k'ingwate yanditswe n'Umwanditsi Mukuru (RDB).

Urubanza rwasuzumwe: Urubanza nº RS/INJUST/RCOM 00005/2024/SC rwaciwe ku wa 27/12/2024 haburana Kirehe Investment Company Ltd na Urwego Finance Cbc Ltd yahoze yitwa Urwego Bank Plc.

Ikibazo cyasuzumwe:

Kumenya niba umutungo utimukanwa ubaruwe kuri UPI: 5/05/04/2654 utarigeze utangwaho ingwate mu Rwego Finance.

Inkomoko y'ikibazo :

Tariki ya 08/12/2020, Kirehe Investment Company Ltd yagiranye amasezerano y'inguzanyo n'Urwego Finance CBC Ltd, iyiguriza 17.000.000 Frw yagombaga kwishyura mu gihe cy'imyaka ibiri (2) ku nyungu ya 21%. Uwo mwenda wishingiwe n'ingwate y'inyubako ya Kirehe Investiment Company Ltd yari ibaruwe kuri UPI:5/05/11/04/2654 iherereye mu Mudugudu wa Karambi, Akagari ka Kiyanzi, Umurenge wa Nyamugari, Akarere ka Kirehe, iyo ngwate ikaba yaranandikishijwe muri *Rwanda Development Board (RDB)*.

Kirehe Investment Company Ltd yaje kunanirwa kwishyura uwo mwenda, hanyuma ingwate yatanze igizwe n'inyubako yavuzwe haruguru ifite UPI: 5/05/11/04/2654 igurishwa muri cyamunara kugira ngo hishyurwe umwenda yahawe n'Urwego Finance CBC Ltd.

Nyuma yo kutishimira igurishwa ry'umutungo wayo,Kirehe Investiment Company Ltd yatanze ikirego mu Rukiko rw'Ubucuruzi irega Urwego Finance CBC Ltd, ivuga ko yatewe ibihombo kubera uburiganya bwakozwe mu iyubahirizwa n'iseswa ry'amasezerano kuko mu ngingo ya 3 y'amasezerano yo ku wa 08/12/2020 impande zombi zagiranye hateganyijwe ko Banki yari ifite uburenganzira bwo kwishyuza inguzanyo yose, inyungu zisanzwe n'inyungu z'ubukererwe igihe cyose Kirehe Investiment Ltd izaba yananiwe kwishyura mu gihe cy'iminsi 30 ikurikirana, ibarwa uhereye igihe yaherewe integuza ya nyuma iyisaba kwishyura inguzanyo yose, ariko ko bitabayeho. Yavuze ko kandi habayeho kugurisha umutungo utimukanwa muri cyamunara mu buryo budakwiye kuko yatanze ingwate y'ibikoresho byimukanwa bigizwe n'imodoka na Moto, ariko ko yaje gutungurwa n'uko hagurishijwe umutungo utimukanwa wayo kandi utaratanzweho ingwate.

Ku itariki ya 02/09/2022, Urukiko rw'Ubucuruzi rwaciye urubanza RCOM 00379/2022/TC rwemeza ko ikirego cyatanzwe na Kirehe Investment Company Ltd nta shingiro gifite kuko nta buriganya bwabayeho mu iyubahirizwa n'iseswa ry'amasezerano y'inguzanyo Kirehe Investment Company Ltd yagiranye n'Urwego Finance CBC Ltd, kuko nta bimenyetso yagaragaje bihamya ko hatubahirijwe ibiteganywa mu ngingo ya 3 y'amasezerano irebana no kwishyuza inguzanyo nyuma y'iminsi 30 y'integuza kandi ko umutungo utimukanwa ubaruwe kuri UPI: 5/05/11/04/2654 watanzweho ingwate mu buryo bukurikije amategeko.

Kirehe Investment Company Ltd yajuririye icyo cyemezo mu Rukiko Rukuru rw'Ubucuruzi ivuga ko Urukiko rubanza rwirengagije ibisobanuro rwahawe bijyanye n'ingwate, no kuba rwarirengagije gutanga indishyi yasabye z'igihombo yatejwe n'Urwego Finance CBC Ltd maze urwo Rukiko rwemeza ko ubujurire bwatanzwe na Kirehe

Investment Company Ltd nta shingiro bufite, rwemeza ko nta gihindutse ku mikirize y'urubanza n° RCOM 00379/2022/TC rwaciwe ku itariki ya 02/09/2022 n'Urukiko rw'Ubucuruzi.

Kirehe Investment Company Ltd yasabye ko urubanza rusubirishwamo ku mpamvu z'akarengane, irabyemererwa, ruburanishwa n'Urukiko rw'Ikirenga.

Mu iburanisha ry'uru rubanza mu mizi hasuzumwe ibibazo byerekeranye no Kumenya niba umutungo utimukanwa ubaruwe kuri UPI:5/05/11/04/2654 utarigeze utangwaho ingwate mu Urwego Finance CBC Ltd, no kumenya niba indishyi zisabwa muri uru rubanza zatangwa (indishyi z'igihombo Kirehe Investiment Company Ltd yatejwe na Urwego Finance Bank CBC Ltd, n'indishyi z'igihembo cya Avoka n'ikurikiranarubanza).

Ku bijyanye no kumenya amasezerano yagombaga gushyirwa mu bikorwa hagurishwa umutungo wa Kirehe Investement Company Ltd, uyihagarariye yavuze ko ari ayo ku wa 08/12/2020 yavugaga ko ingwate Kirehe Investement Company Ltd yatanze ari imodoka na Moto, ko ari byo byagombaga kugurishwa, naho Urwego Finance CBC Ltd rukavuga ko amasezerano yagombaga gushingirwaho ari ayiswe *Abstract of Mortage agreement* yo ku wa 08/12/2020, agaragaza ko umutungo utanzweho ingwate ugizwe na UPI: 5/05/11/04/2654, unandikishwa muri RDB ku wa 09/12/2020.

Urukiko rw'Ikirenga rwemeje ko amasezerano afite agaciro ari ayiswe *Abstract of Mortage Agreement* yo ku wa 08/12/2020 kuko rwasanze yarasinyweho n'impande zombi bikorerwa imbere ya noteri, ikindi kandi iyo ngwate ikaba yaranditswe n'Umwanditsi Mukuru (RDB), ko ibyakozwe biteganywa n'ingingo ya 7 y'Itegeko n ° 34/2013 ryo ku wa 24/05/2013 ryerekeye ubugwate ku mutungo wimukanwa, iteganya ko: "*ubugwate bugira agaciro iyo bumaze kwandikwa n'Umwanditsi Mukuru*".

Urukiko rwasanze amasezerano y'iremezo avugwa na Kirehe Investment yo ku wa 08/12/2020 avuga ko bahaye Urwego Finance CBC Ltd ingwate igizwe n'imodoka Hulux ifite agaciro kangana na

12.00.000Frw na Moto AG 100 ifite agaciro ka 1.900.000 Frw, ko ari na yo yagombaga guhabwa agaciro uwo mutungo ukaba ari wo uherwaho ugurishwa, ko ibyo bitahabwa agaciro kuko izo ngwate zitigeze zandikwa n'Umwanditsi Mukuru (RDB), ikindi kandi ingwate ikaba itagira agaciro kari munsi y'umwenda.

Amategeko umurongo ushingiyeho:

- Ingingo ya 4 y'Itegeko n° 10/2009 ryo ku wa 14/05/2009 ryerekeye ubugwate ku mutungo utimukanwa nk'uko ryahinduwe kandi ryujuwe kugeza ubu.

Imirongo yatanzwe :

- Iyo hari ingwate yanditswe n'Umwanditsi Mukuru (RDB), hakaba n'indi ivugwa ariko itanditswe, iyanditse ni yo igira agaciro, ibiyikubiyemo nk'ingwate akaba ari byo biherwaho hishyurwa ufitiwe umwenda.

- Ingwate ntishobora kujya munsi y'agaciro k'umwenda ;

IMANZA Z'UMURIMO

1. Kumenya igihe umukozi afatwa nk'ugengwa n'amasezerano

Urubanza rwasuzumwe: Urubanza n° RS/INJUST/RSOC 00002/2024/SC rwaciwe ku wa 11/10/2024 haburana Ukwizagira Gaspard na bagenzi be na BAKHRESA Grain Milling Rwanda Ltd.

Ikibazo cyasuzumwe :

Kumenya niba amasezerano y'umurimo yarasheshwe mu buryo bunyuranyije amategeko.

Inkomoko y'ikibazo:

Ukwizagira Gaspard na bagenzi be bareze BAKHARESA Grain Milling Rwanda Ltd (BGM Rwanda) mu Rukiko Rwisumbuye rwa Gasabo, basaba ko yategekwa kubishyura indishyi kubera gusesa amasezerano y'akazi mu buryo bunyuranyije n'amategeko, integuza, imperekeza, konji batahawe, icyemezo cy'umukoresha no kubatangira imisanzu y'ubwiteganyirize muri RSSB. Basobanura ko kuva mu mwaka wa 2013 bari abakozi ba BGM Rwanda, bakora imirimo yo gupakira no gupakurura mu ruganda no gukora isuku, buri wese ahembwa umushahara ungana na 148.000 Frw ku kwezi, ariko ko umukoresha atigeze abaha amasezerano y'umurimo yanditse kandi akanabahemba mu ntoki.

Bakomeza bavuga ko byageze mu mwaka wa 2017 BGM Rwanda ibategeka kwandika basaba akazi bundi bushya, bagakorerwa amasezerano yanditse y'igihe kizwi cy'amezi 3, ariko bakomeza ka kazi bakoraga kandi bagabanyirizwa umushahara batabyumvikanyeho kuko buri wese yahembwaga nka nyakabyizi hagendewe ku ngano y'ibyo yapakiye cyangwa yapakuruye ku munsi.

BGM Rwanda yireguye ivuga ko abarega babeshya ko bayikoreye kuva mu mwaka wa 2013, kandi baratangiye kuyikorera ku itariki ya 01/01/2017 nk'uko bigaragazwa n'amasezerano y'akazi buri wese yashyizeho umukono ku wa 28/12/2016.

Urukiko rwaciye urubanza rwemeza ko ibirego byabo bifite ishingiro kuri bimwe, rutegeka BGM Rwanda guha buri wese urega muri uru rubanza 703.600 Frw akubiyemo amafaranga asimbura ikiruhuko, ay'igihembo cya Avoka n'ay'ikurikiranarubanza, hamwe na 20.000 Frw y'ingwate y'igarama.

BGM Rwanda yajuririye Urukiko Rukuru ivuga ko itigeze yemerera Umugenzuzi w'umurimo ko abaregwa bayikoreye kuva mu mwaka wa 2013, kandi ko Urukiko rwemeje ko abaregwa bakoreraga 148.000 Frw ku kwezi mbere ya 2017 nta bimenyetso rushingiyeho, isaba ko indishyi yaciwe zakurwaho. Ukwizagira Gaspard na bagenzi be buririye kuri ubwo bujurire basaba ko Urukiko Rukuru rwakwemeza ko amasezerano atanditswe bakoreragaho kuva muri 2013 yasheshwe mu buryo bunyuranyije n'amategeko, rukabagenera indishyi batahawe n'Urukiko Rwisumbuye.

Urukiko Rukuru rwemeje ko ubujurire bwa BGM Rwanda bufite ishingiro, ko urubanza rwajuririwe ruhindutse kuri byose, kuko rwasanze nta kimenyetso Ukwizagira Gaspard na bagenzi be bagaragarije Urukiko ko bari abakozi ba BGM Rwanda bahoraho kuva muri 2013, nka lisiti basinyagaho, bityo amasezerano yabo akaba atarigeze aseswa mu buryo bunyuranyije n'amategeko, kuko muri 2017 basinye amasezerano y'igihe kizwi ku bushake bwabo.

Ukwizagira Gaspard mu izina rya bagenzi be 15 yasubirishijemo urwo rubanza n° RSOCA 00295/2020/HC/KIG ku mpamvu z'akarengane, avuga ko Urukiko Rukuru rwashingiye ku kuba nta kimenyetso bagaragaje ko bari abakozi ba BGM Rwanda mu buryo buhoraho kuva muri 2013 kugeza bakorewe amasezerano mashya yanditse, rwirengagiza ibimenyetso batanze bigizwe n'amabaruwa anyuranye bagiye bandikira umukoresha wabo n'ayo bandikiye Umugenzuzi w'umurimo, ko ibyo bimenyetso bigaragaza ko mbere yo gukora amasezerano yanditse, bari basanganywe amasezerano y'umurimo atanditse y'igihe kitazwi, bahembwa umushahara ungana na 148.000 Frw ariko bawuhabwa mu ntoki. BGM Rwanda yaburanye ivuga ko abasubirishijemo urubanza ku mpamvu z'akarengane batigeze baba abakozi bayo mu buryo buhoraho mbere ya 2017.

Urukiko rwasuzumye ibibazo by'ingenzi bibiri bikurikira: Icyo kumenya niba Ukwizagira na bagenzi be bari bafite amasezerano y'umurimo y'igihe kitazwi ku buryo yaba yarasheshwe mu buryo bunyuranyije n'amategeko n'icyo kumenya niba hari amafaranga abarega batahembwe ku buryo BGM Rwanda yategekwa kuyishyura.

Ku birebana no kumenya niba Ukwizagira na bagenzi be baba bari bafite amasezerano atanditse y'igihe kitazwi, Urukiko rwasanze n'ubwo umukozi nta masezerano yanditse yaba afitanye n'umukoresha we, ariko amaze nibura igihe kigeze ku mezi atandatu yikurikiranye kandi mu buryo buhoraho amukorera, agomba gufatwa nk'umukozi ugengwa n'amasezerano kuko bihita byumvikana ko bayafitanye ariko atanditse. Ruvuga ko kugira ngo Urukiko rwemeze ko umukozi yakoraga agengwa n'amasezerano, umukozi uvuga ko agomba gufawa muri bwo buryo, agomba kugaragaza ibimenyetso byerekana ko yakoze koko mu gihe cy'amezi atandatu mu buryo buhoraho.

Urukiko rwasuzumye amabaruwa Ukwizagira na bagenzi be batanze rusanga atagaragaza ko babaye abakozi mu buryo buhoraho ba BGM Rwanda kuva muri 2013 kugeza muri 2017, bagengwa n'amasezerano atanditse y'igihe kitazwi, rwemeza ko nta masezerano y'umurimo yasheshwe mu buryo bunyuranyije n'amategeko, kuko nta kigaragaza ko yabayeho.

Ku birebana n'ikibazo cyo kumenya niba hari amafaranga abarega batahembwe ku buryo BGM Rwanda yategekwa kuyishyura, Urukiko rwasanze nta kimenyetso abarega barushyikirije kigaragaza ko babaye abakozi ba BGM Rwanda kuva muri 2013 kugeza muri 2017 mu buryo buhoraho kuko na *historiques bancaires* bashingiraho nk'ikimenyetso, bigaragara ko zihera mu mwaka wa 2017, hakaba nta n'imwe igaragaza ko mbere y'uwo mwaka bahembwaga buri kwezi 148.000 Frw bavuga.

Ingingo z'amategeko umurongo ushingiyeho:

-Ingingo ya 1, agace ka 33, n'iya 15 z'Itegeko n° 13/2009 ryo ku wa

27/05/2009 rigenga umurimo mu Rwanda.
-Ingingo ya 12, igika cya mbere, y'Itegeko n° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi nk'uko ryahinduwe kugeza ubu.

Umurongo watanzwe :

- N'ubwo umukozi nta masezerano yanditse yaba afitanye n'umukoresha we, ariko amaze nibura igihe kigeze ku mezi atandatu yikurikiranye kandi mu buryo buhoraho amukorera, agomba gufatwa nk'umukozi ugengwa n'amasezerano kuko bihita byumvikana ko bayafitanye ariko atanditse.
- Kugira ngo Urukiko rwemeze ko umukozi yakoraga agengwa n'amasezerano atanditse, umukozi uvuga ko agomba gufatwa muri ubwo buryo, agomba kugaragaza ibimenyetso byerekana ko yakoze koko mu gihe cy'amezi atandatu mu buryo buhoraho.

Urundi rubanza bihuriye kuri uyu murongo:

- Urubanza n° RS/INJUST/RSOC 00006/2022/SC rwaciwe ku wa 14/04/2023, haburana Nsengiyumva Ismaël na HAYTON Ltd.

2. **Kumenya uko ubuzime cyangwa ubusaze bwo gukurikirana umushahara bubarwa n'impamvu zishobora kubuhagarika**

Urubanza rwasuzumwe: Urubanza n° RS/INJUST/RSOC 00001/2024/SC rwaciwe ku wa 29/11/2024 haburana Rwagasore Richard na BPR Bank Rwanda Plc

Ikibazo cyasuzumwe:

Kumenya niba Rwagasore Richard akwiye kwishyurwa amafaranga y'ibirarane by'imishahara ku mwanya wa *Credit Officer*.

Inkomoko y'ikibazo:

Rwagasore Richard yareze BPR Bank Rwanda Plc mu Rukiko Rwisumbuye rwa Nyarugenge asaba guhabwa ikinyuranyo cy'amafaranga atahembwe n'inyungu zayo. Asobanura ko yabaye umukozi wa BPR Bank Rwanda Plc kuva ku wa 09/07/2009 kugeza ku wa 31/01/2019 ku myanya itandukanye ariyo: *Cashier, Head Cashier, Credit Officer, Sub-Branch Manager* ndetse na *Branch Manager;* ariko ko ikibazo yakigize igihe yavanwaga ku mwanya wa *Head Cashier* agashyirwa ku wa *Credit Officer*, ariko agakomeza guhembwa umushahara wa *Head Cashier,* ndetse n'igihe yavanwaga ku mwanya wa *Sub-Branch Manager* agashyirwa ku wa *Branch Manager*, ariko nabwo agakomeza guhembwa umushahara wa *Sub-Branch Manager*.

BPR Bank Rwanda Plc yireguye ivuga ko umushahara Rwagasore Richard asaba ku mwanya wa *Credit Officer* nta shingiro ufite kuko habaye ubuzime bwo kuwuregera. Naho ku mwanya wa *Branch Manager*, umushahara yahawe ugaragara mu ibaruwa imuha akazi, kandi umwanya wa *Branch Manager* B yahawe ukaba utandukanye n'uwa *Branch Manager* A, ko bidashoboka kugereranya imishahara y'abakozi badafite uburambe bumwe.

Urukiko Rwisumbuye rwa Nyarugenge rwemeje ko ikirego cya Rwagasore Richard ku bijyanye n'umwanya wa *Credit Officer* kitakiriwe ngo gisuzumwe kubera ubuzime, rwemeza kandi ko ikirego cye ku birebana n'umwanya wa *Branch Manager* kidafite ishingiro.

Rwagasore Richard yajuririye Urukiko Rukuru avuga ko Urukiko rubanza rwirengagije ibimenyetso bigaragaza ko nta buzime bwabaye, kandi ko hari abakozi bari bafite uburambe bungana n'ubwe ndetse n'abo yaburushaga, ariko bahembwaga umushahara uruta uwe. Urukiko Rukuru rwemeje ko ubujurire butakiriwe kubera ko habaye ubuzime, rwemeza ko urubanza rwajuririwe rudahindutse.

Rwagasore Richard yasubirishijemo urwo rubanza ku mpamvu z'akarengane avuga ko atishyuwe amafaranga y'ibirarane

by'imishahara ku mwanya wa *Credit Officer*, naho BPR ikavuga ko habaye ubuzime bwo kuyakurikirana. Avuga kandi ko yari akwiye kwishyurwa amafaranga y'ibirarane by'imishahara ku mwanya wa *Branch Manager B*, hashingiwe ku mushahara wahabwaga abo bakoraga ku mwanya umwe; BPR ikavuga ko umushara yahawe yari yawumvikanyeho n'umukoresha we. Ibi bibazo nibyo byasuzumwe hamwe n'ikibazo cy'inyungu Rwagasore Richard asaba avuga ko zabaririrwa ku birarane by'imishahara yishyuza.

Ikibazo cyo kumenya niba harabaye ubuzime ku kirego cyo kwishyuza amafaranga y'ibirarane ku mwanya wa *Credit Officer*, Urukiko rwasanze igihe cy'ubuzime bw'iyishyurwa ry'imishahara gitangira kubarwa guhera umunsi umukozi yagombaga guhemberwaho, cyangwa igihe ufite uburenganzira yamenyeye cyangwa yashoboraga kumenya impamvu zatuma abukurikirana.
Rwagaragaje kandi ko ubuzime bw'imishahara bubarwa nk'ubuzime bw'ubundi burenganzira bwite cyangwa uburenganzira ku bintu, kandi ko impamvu zishobora guhagarika ubuzime zigenwa mu buryo bufunze (limitativement) n'Itegeko n° 13/2009 rigenga umurimo mu Rwanda, izo mpamvu akaba ari enye gusa: kuba umukoresha yakoze umubaruro w'amafaranga, kuba umukoresha n'umukozi bemeranyijwe ko ari umwenda, kuba urubanza rw'umukozi rukiri mu rukiko no kuba ibiro bigenzura umurimo byasabwe kubakiranura bitaratanga umwanzuro wabyo.

Urukiko rushingiye kuri izo mpamvu rwagaragaje ko ubuzime budahagarikwa n'ibaruwa isaba kwishyurwa umushahara yohererejwe umukoresha, ruvuga ko ibi bihindura umurongo wari warafashwe mu rubanza rwaciwe n'uru Rukiko ku wa 08/07/2022, SONARWA yaburanagamo na RUGINA Jason, aho Urukiko rwari rwavuze ko mu bihagarika ubuzime harimo no kwibutsa umukoresha ko amafaranga ahembwa ari munsi y'ayo umukozi uri mu mwanya nk'uwe akwiye guhembwa.

Kuri iki kibazo Urukiko rwasanze harashize imyaka irenga itandatu Rwagasore Richard adakurikirana uburenganzira bwe ku birarane by'imishahara, akaba kandi atagaragaza ko hari impamvu mu

zivugwa mu zarondowe haruguru yaba yarahagaritse ubuzime kuko ibaruwa yandikiye BPR ku wa 14/03/2013 itafatwa nk'iyahagaritse ubuzime, kandi uretse n'ibyo, nyuma y'uko ayanditse hashize imyaka irenga itanu atarongera gukurikirana ikibazo cye, rwemeza ko Rwagasore Richard adakwiye kwishyurwa amafaranga y'ibirarane by'imishahara ku mwanya wa *Credit Officer* kubera ko habaye ubuzime bwo kuyakurikirana.

Ikibazo cyo kumenya niba Rwagasore Richard akwiye kwishyurwa amafaranga y'ibirarane by'imishahara ku mwanya wa Branch Manager B, Urukiko rwasanze abantu bakora umurimo umwe bagomba guhembwa kimwe nta vangura iryo ari ryo ryose, ko igishobora gushingirwaho hatangwa imishahara itandukanye ku bakozi bakora akazi kamwe harimo uburambe (ancienneté), ubunararibonye (expérience) n'impamyabumenyi (diplôme) maze rusanga kuba Rwagasore Richard, Murekatete Marie Rose, Nyirabahire Béatrice na Ngirinshuti Emile barakoraga mu gihe kimwe ku mwanya wa Branch Manager B, ariko Rwagasore Richard agahembwa umushahara muto ugereranyije n'uw'abandi ari ukumuvangura kuko bose bari ku rwego rumwe rwa Branch Manager B.

Urukiko rwasanze nta bimenyetso BPR yabashije gutanga byerekana ko kuba Rwagasore Richard yarahawe umushahara muto ugereranyije n'uwahabwaga abandi bakozi bari ku rwego rumwe kandi bakora imirimo imwe, byari bishingiye ku mpamvu zumvikana kandi zifatika; bityo akaba akwiye kwishyurwa amafaranga y'ibirarane by'imishahara atahawe ku mwanya wa Branch Manager B.

Ingingo z'amategeko umurongo ushingiyeho:

- Ingingo ya 30, igika cya 2, y'Itegeko Nshinga rya Repubulika y'u Rwanda
- Ingingo ya 83 y'Itegeko n° 13/2009 ryo ku wa 27/05/2009 rigenga umurimo mu Rwanda.

Umurongo watanzwe :

- Ubuzime cyangwa ubusaze bwo gukurikirana imishahara bubarwa nk'ubusaze bw'ubundi burenganzira bwite cyangwa uburenganzira ku bintu ;

- Igihe cy'ubuzime bw'iyishyurwa ry'imishahara gitangira kubarwa guhera umunsi umukozi yagombaga guhemberwaho cyangwa igihe ufite uburenganzira yamenyeye cyangwa yashoboraga kumenya impamvu zatuma abukurikirana;

- Impamvu zishobora guhagarika ubuzime (interruption de prescription) zigenwa mu buryo bufunze (limitativement) n'itegeko rigenga umurimo mu Rwanda ku buryo nta yindi mpamvu yemerwa ;

- Ubuzime ntibuhagarikwa n'ibaruwa isaba kwishyurwa umushahara yohererejwe umukoresha. Ibi bikaba bihindura umurongo ugaragara mu rubanza rwaciwe n'uru Rukiko ku wa 08/07/2022, SONARWA Life Assurance Company Ltd yaburanagamo na RUGINA Jason, aho Urukiko rwari rwavuze ko mu bihagarika ubuzime harimo no kwibutsa umukoresha ko amafaranga ahembwa ari munsi y'ayo umukozi uri mu mwanya nk'uwe akwiye guhembwa.

IMANZA Z'UBUTEGETSI

1. Gutanga Ikirego hashingiwe ku ngingo y'itegeko yakuweho

Urubanza rwasuzumwe: urubanza nº RAD 00002/2024/SC rwaciwe ku wa 24/01/2025 haburana Twagiramungu Eric na Rugemanshuro Regis

Ikibazo cyasuzumwe

Kumenya niba ikirego cyatanzwe na Twagiramungu Eric kitakwakirwa

Inkomoko y'ikibazo:

Twagiramungu Eric yareze RSSB mu Rukiko rw'Ikirenga arusaba ko rwategeka icyo kigo kumuha indishyi zikomoka ku mpanuka y'akazi yakoze, harimo insimburamushahara, pansiyo y'izabukuru ndetse n'indishyi zinyuranye.

Mu rubanza nº RS/INJUST/RAD 00004/2018/SC rwaciwe ku wa 30/07/2019, Urukiko rw'Ikirenga rwemeje ko ubumuga Twagiramungu Eric afite yaba ubw'umubiri bungana na 20%, ndetse n'ubwo mu mutwe bungana na 80%, bwombi bukomoka ku mpanuka y'akazi yagize ku wa 23/11/2012; maze rutegeka RSSB guha Twagiramungu Eric 29,758 Frw buri kwezi; ruvuga ko RSSB igomba gukomeza kumuvuza indwara zose zikomoka ku mpanuka y'akazi yagize ku wa 23/11/2012; rutegeka RSSB kumuha 11,800,000 Frw akubiyemo indishyi zingana na 12,000,000 Frw habanje kuvanwamo 2,000,000 Frw yahawe nk'uko yategetswe n'uru Rukiko mu rubanza rubanziriza urundi rwaciwe ku wa 28/05/2019, 300,000 Frw y'ikurikiranarubanza na 1,500,000 Frw y'igihembo cya Avoka.

Mu bihe bitandukanye Twagiramungu Eric yatanze ibirego mu Rukiko rw'Ikirenga, bwa mbere arega RSSB ariko ikirego nticyandikwa; atanga n'ikirego cy'inyandiko nsobanurakirego itanzwe n'umuburanyi umwe, hagobokeshwa ku gahato Umuyobozi Mukuru wa RSSB, maze Urukiko rwemeza ko ikirego cyatanzwe na Twagiramungu Eric nta shingiro gifite, rwemeza ko nta kigaragaza ko Umuyobozi Mukuru wa RSSB yanze gushyira mu bikorwa ibyategetswe n'Urukiko mu rubanza nº RS/INJUST/RAD 00004/2018/SC.

Twagiramungu Eric yarongeye arega Rugemanshuro Régis ubwe nk'Umuyobozi Mukuru wa RSSB asaba Urukiko rw'Ikirenga ko

rwamutegeka gushyira mu bikorwa icyemezo cy'Urukiko rw'Ikirenga cyafashwe mu rubanza nº RS/INJUST/RADA 00004/2018/SC rwaciwe ku wa 30/07/2019.

Mu iburanisha ry'urubanza mu mizi, Urukiko rwasuzumye ikibazo kirebana no kumenya niba ikirego cyatanzwe na Twagiramungu Eric gikwiye kwakirwa, maze rusanga ikirego cye kitakwakirwa kuko ingingo ya 184 y'Itegeko nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, yashingiyeho arega Rugemanshuro Régis ubwe nk'Umuyobozi Mukuru wa RSSB, yarakuweho n'ingingo ya mbere y'Itegeko n° 007/2023 ryo ku wa 22/01/2024 rihindura Itegeko nº 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru, rwanzura ko inzitizi yo kutakira ikirego yatanzwe na Rugemanshuro Régis ifite ishingiro.

Ingingo z'amategeko umurongo ushingiyeho:

- Ingingo ya mbere y'Itegeko n° 007/2023 ryo ku wa 22/01/2024 rihindura Itegeko nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi.

Umurongo watanzwe :

- Ikirego gishingiye ku ngingo y'itegeko yakuweho nticyakirwa

UMWANZURO

Kugira ngo intego yo guhuriza hamwe iyi mirongo igerweho, abagana inkiko n'abatanga ubutabera (Abacamanza, Abashakashatsi n'Abanditsi b'inkiko…) bakwiye kujya bayifashisha mu gihe cyose batanga cyangwa basuzuma ibirego bihuje imiterere n'ibyatanzweho umurongo.

Kubera ko umurongo watanzwe n'Urukiko ushobora guhinduka bitewe n'impamvu zitandukanye, abifuza kwifashisha imirongo yatanzwe n'Urukiko bakwiye kujya bihatira kumenya ibyemezo by'inkiko uko byagiye bikurikirana, kugira ngo binababafashe kumenya impinduka zabaye ku mirongo yagiye itangwa mbere.