Me MUHIRE N'ABANDI v. KIGALI BUSINESS CENTER (KBC) LTD

[Rwanda URUKIKO RW'UBUJURIRE – RCOMAA 00090/2022/CA (Rukundakuvuga, P.J., Umugwaneza na Munyangeri, J.) 14 Ukwakira 2022]

Amategeko agenga imiburanishirize y'imanza z'ubucuruzi – Gutesha agaciro cyamunara – Kwandikira Umwanditsi Mukuru – Ibarwa ry'iminsi kwandikira Umwanditsi Mukuru bikorerwamo – Iminsi iri mu mabwiriza y'umwanditsi mukuru itaragaragarijwe uburyo ibarwa, ibarwa mu buryo bw'iminsi ikurikirana – Amabwiriza y'Umwanditsi Mukuru Nº 002/2021/0rg yo ku wa 29/06/2021 ahindura amabwiriza y'umwanditsi mukuru Nº 001/2020/org yo ku wa 12/05/2020 agenga ibyerekeye gucunga, gukodesha, kugurisha mu cyamunara, no kwegukana ingwate, ingingo ya 10 (39 bis).

Amategeko agenga imiburanishirize y'imanza z'ubucuruzi – Gutesha agaciro cyamunara – Gutakamba – Kwandikira umwanditsi Mukuru – Iyo handitswe amabaruwa menshi yuzuzanya – Mu gihe habonetse ibibazo birebana n'ubusabe bwashyikirijwe umuyobozi mu mabaruwa menshi yuzuzanya hakibazwa igomba guherwaho habarwa ibihe umuyobozi wandikiwe agomba kuba yasubirijemo, ibaruwa yanditswe bwa mbere niyo igomba guherwaho.

Incamake y'ikibazo: Kigali Business Center (KBC) Ltd yasabye inguzanyo mu mabanki abiri ari yo Banque Populaire du Rwanda Plc na Equity Bank Rwanda Plc, itanga ingwate ku mutungo utimukanwa ubaruye kuri UPI: 1/02/08/01/599; yaje kunanirwa kwishyura iyo myenda bituma umutungo yatanzeho ingwate utezwa cyamunara, bikozwe n'ushinzwe kugurisha ingwate Me Muhire Samuel, maze wegukanwa na Alliance Investment Group Ltd ndetse ushinzwe kugurisha ingwate akora raporo ya cyamunara ayishyikiriza umwanditsi Mukuru, maze yandikira Umwanditsi Mukuru imusaba gutesha agaciro iyo cyamunara, ndetse yongera kwandika indi baruwa yise ko yuzuza iya mbere, igaragaza ko mu mpamvu zituma isaba gutesha agaciro iyo cyamunara harimo n'ikibazo cy'ingano y'umwenda wishyuzwa. Nawe mu gusubiza ayo maburuwa yombi amenyesha Kigali Business Center (KBC) Ltd ko nta mpamvu ihari yatuma cyamunara iteshwa agaciro.

Nyuma yo kutishimira icyo cyemezo cy'umwanditsi Mukuru, Kigali Business Center yatanze ikirego mu Rukiko rw'ubucuruzi irega Me Muhire isaba Urukiko gutesha agaciro cyamunara yakorewe ku mutungo wayo kuko itubahirije amategeko.

Urwo Rukiko rwaciye urubanza rwemeza ko ikirego kitakiriwe kuko urega yarengeje igihe cyo gushyikiriza Umwanditsi Mukuru ikibazo cye n'igihe cyo kuregera Urukiko.

KBC Ltd yajuririye urwo rubanza mu Rukiko Rukuru rw'Ubucuruzi ivuga ko Urukiko rwirengagije ingingo ya 275 na 276 z'Itegeko Nº22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ziteganya uburyo ibihe bibarwa.

Urwo Rukiko rwemeje ko KBC Ltd yandikiye Umwanditsi Mukuru iminsi itanu ivugwa mu Mabwiriza y'Umwanditsi Mukuru itararenga. Rwemeje kandi ko ikirego cyatanzwe mu bihe biteganywa n'itegeko, rushingiye ku kuba ibyo bihe bigomba kubarwa uhereye ku gihe Umwanditsi Mukuru yaboneye ibaruwa, rutegeka ko urubanza rwajuririwe rwohererezwa Urukiko rw'ubucuruzi kugira ngo ruruburanishe mu mizi nta yindi ngwate y'amagarama itanzwe.

Me Muhire, Equity Bank Rwanda Plc, Banque Populaire du Rwanda Plc na Alliance Investment Group Ltd bajuririye mu Rukiko rw'Ubujurire bavugako Urukiko Rukuru rw'ubucuruzi rwakoresheje nabi

amategeko agenga uburyo bwo kubara ibihe byo gusaba Umwanditsi Mukuru gutesha agaciro cyamunara ndetse n'ibihe byo kuregera Urukiko, maze rwemeza ko Kigali Business Center (KBC) Ltd yubahirije ibihe kandi itarabyubahirije. Mu miburanire yabo bavuga ko iminsi itanu iteganyijwe mu ngingo ya 10 (39 bis) y'Amabwiriza y'Umwanditsi Mukuru idakwiye kubarwa mu buryo buteganywa mu ngingo ya 275 n'iya 276 z'Itegeko N° 22/2018 ryerekeye imiburanishirize y'imanza z'Imbonezamubano, iz'Ubucuruzi, iz'Umurimo n'iz'Ubutegetsi; ikaba ahubwo igomba kubarwa nk'iminsi ikurikiranye y'ingengaminsi *(consecutive calendar days/jours calendriers consécutifs);* bityo imikirize y'urubanza rujuririrwa ikaba igomba guteshwa agaciro kuko Kigali Business Center (KBC) Ltd yandikiye Umwanditsi Mukuru igihe giteganywa n'amategeko cyararenze.

KBC Ltd ivuga ko mu kubara ibihe by'iminsi 5 yo kwandikira Umwanditsi Mukuru hagaragazwa inenge kuri cyamunara yakozwe bigomba kubarwa hashingiwe ku ngingo ya 275 n'iya 276 z'Itegeko N° 22/2018 ryerekeye imiburanishirize y'imanza z'Imbonezamubano, iz'Ubucuruzi, iz'Umurimo n'iz'Ubutegetsi, ikavuga ko bitari ngombwa ko Umwanditsi Mukuru avuga ko iminsi itanu ivugwa mu ngingo ya 10 (39 Bis) ari iminsi y'akazi kuko iyo ngingo ikwiye gufatwa nk'iyuzuza iya 260 y'itegeko N° 22/2018 ryavuzwe haruguru, ikavuga kandi ko ingingo ya 274 y'iryo tegeko itirengagijwe kuko yo iteganya ko uretse mu gihe itegeko ribiteganya ukundi, ibihe bigomba kubarwa hakurikijwe iminsi y'akazi nyamara amabwiriza y'umwanditsi yo akaba atari itegeko.

Ku kibazo cyo kumenya niba uregwa yararegeye Urukiko akererewe hakemurwa impaka ku ibaruwa mbarutso yo kubara ibihe byo gusubiza iyo umwanditsi Mukuru yandikiwe amabaruwa menshi, abajuriye bavugako KBC Ltd yandikiye Umwanditsi Mukuru amusaba gutesha agaciro cyamunara, yongera kwandika ibaruwa ya kabiri ifatwa nk'inyongera ku ibaruwa ya mbere bityo ibaruwa ya kabiri itandukanye n'iya mbere, bavugako Urukiko Rukuru rw'Ubucuruzi rutagombaga kuyiheraho mu kubara ibihe byo gutanga ikirego ahubwo haragombaga gushingirwa ku ibaruwa ya mbere.

Ku ruhande rw'uregwa (KBC Ltd) ivugako ibaruwa atari yo igenderwaho habarwa ibihe byo kuregera Urukiko ahubwo ikigenderwaho ari igisubizo cy'Umwanditsi Mukuru, akavuga kandi ko ibihe byo kuba Umwanditsi Mukuru yatanze igisubizo bigomba kubarwa uhereye igihe yaboneye ibaruwa ya nyuma.

Incamake y'icyemezo: 1. Iminsi iri mu mabwiriza y'umwanditsi mukuru itaragaragarijwe uburyo ibarwa, ibarwa mu buryo bw'iminsi ikurikirana.

2. Mu gihe habonetse ibibazo birebana n'ubusabe bwashyikirijwe umuyobozi mu mabaruwa menshi yuzuzanya hakibazwa igomba guherwaho habarwa ibihe umuyobozi wandikiwe agomba kuba yasubirijemo, ibaruwa yanditswe bwa mbere niyo igomba guherwaho.

Ubujurire bufite ishingiro.

Amategeko yashingiweho:

Itegeko Nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, Ingingo ya 260 igika cya 5.

Amabwiriza y'Umwanditsi Mukuru Nº 002/2021/0rg yo ku wa 29/06/2021 ahindura amabwiriza y'umwanditsi mukuru Nº 001/2020/org yo ku wa 12/05/2020 agenga ibyerekeye gucunga, gukodesha, kugurisha mu cyamunara, Ingingo ya 10 (39 bis).

Imanza zashingiweho:

Urubanza RADA 0001/11/CS; KIST v Hashakimana Anastase rwaciwe n'Urukiko rw'Ikirenga ku wa 27/04/2012,

Urubanza RCOMA 00026/2019/HCC; Ngabonziza Joseph v Rugimbana Jean Claude n'undi rwaciwe n'Urukiko rw'ubucuruzi ku wa 01/03/2019,

Urubanza RCOMA 00546/2022/HCC; UWERA Astrid v MUHAYIMANA Pelagie n'undi rwaciwe n'Urukiko Rukuru rw'Ubucuruzi kuwa 02/09/2022.

Urubanza

IMITERERE Y'URUBANZA

[1] Kigali Business Center (KBC) Ltd yasabye inguzanyo mu mabanki abiri ari yo Banque Populaire du Rwanda Plc na Equity Bank Rwanda Plc, itanga ingwate ku mutungo utimukanwa ubaruye kuri UPI : 1/02/08/01/599. Kigali Business Center (KBC) Ltd yaje kunanirwa kwishyura iyo myenda, bituma ku wa 02/08/2022 umutungo yatanzeho ingwate utezwa cyamunara, bikozwe n'ushinzwe kugurisha ingwate Me Muhire Samuel, maze wegukanwa na Alliance Investment Group Ltd.

[2] Ku wa 04/08/2022, Me Muhire Samuel yakoze raporo ya cyamunara ayishyikiriza umwanditsi Mukuru. Ku wa 09/08/2022 Kigali Business Center (KBC) Ltd yandikiye Umwanditsi Mukuru imusaba gutesha agaciro iyo cyamunara, ndetse no kuwa ku wa 10/08/2022 yongera kwandika indi baruwa yise ko yuzuza iya mbere, igaragaza ko mu mpamvu zituma isaba gutesha agaciro iyo cyamunara harimo n'ikibazo cy'ingano y'umwenda wishyuzwa. Umwanditsi Mukuru yasuribirije hamwe izo baruwa zombi ku wa 17/08/2022, amenyesha Kigali Business Center (KBC) Ltd ko nta mpamvu ihari yatuma cyamunara iteshwa agaciro.

[3] Ku wa 23/08/2022, Kigali Business Center (KBC) Ltd yatanze ikirego mu Rukiko Rw'Ubucuruzi irega Me Muhire Samuel, isaba Urukiko gutesha agaciro cyamunara yakorewe ku mutungo wayo kuko itubahirije amategeko. Equity Bank Rwanda Plc, Banque Populaire du Rwanda Plc na Alliance Investment Group Ltd zagobotse ku bushake muri urwo rubanza. Equity Bank Rwanda Plc na Banque Populaire du Rwanda Plc zitanga inzitizi yo kutakira ikirego cyatanzwe na Kigali Business Center (KBC) Ltd kuko yarengeje igihe cyo gusaba Umwanditsi Mukuru gutesha agaciro cyamunara. Me Muhire Samuel n'abagobotse bose batanze n'indi nzitizi yo kutakira ikirego kuko hatubahirijwe ibihe byo kuregera Urukiko.

[4] Mu rubanza RCOM 01314/2022/TC rwaciwe n'Urukiko rw'Ubucuruzi ku wa 06/09/2022, Urukiko rwemeje ko ikirego cya Kigali Business Center (KBC) Ltd kitakiriwe kuko yarengeje igihe cyo gushyikiriza Umwanditsi Mukuru ikibazo cyayo n'igihe cyo kuregera Urukiko.

[5] Kigali Business Center (KBC) Ltd ntiyanyuzwe n'icyo cyemezo ikijuririra mu Rukiko Rukuru rw'Ubucuruzi ivuga ko Urukiko rw'Ubucuruzi rwirengagije ingingo ya 275 na 276 z'Itegeko N^{O} 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ziteganya uburyo ibihe bibarwa. Inenga ko ibyo Urukiko rwavuze ko ikirego cyayo kitakirewe kubera ko Umwanditsi Mukuru atandikiwe mu gihe cy'iminsi 5 ikurikiranye kandi ikaba yararengeje ibihe byo kuregera Urukiko kuko yareze ihereye ku gihe yaboneye igisubizo cy'Umwanditsi Mukuru kandi uyu yari yarakererewe gusubiza.

[6] Mu rubanza RCOMA 00594/2022/HCC, rwaciwe ku wa 23/09/2022, Urukiko Rukuru rw'Ubucuruzi rwemeje ko Kigali Business Center (KBC) Ltd yandikiye Umwanditsi Mukuru iminsi itanu ivugwa mu Mabwiriza y'Umwanditsi Mukuru itararenga kuko iyo minsi ibarwa hakurikijwe ingingo ya 275 na 276 y'itegeko ryavuzwe haruguru. Rwemeje kandi ko ikirego cyayo cyatanzwe mu bihe biteganywa n'itegeko, rushingiye ku kuba ibyo bihe bigomba kubarwa uhereye ku gihe Umwanditsi Mukuru yaboneye ibaruwa ya Kigali Business Center Ltd yuzuza iya mbere. Rutegeka ko urubanza RCOM 01314/2022/TC rwajuririwe rwohererezwa Urukiko rw'ubucuruzi kugira ngo ruruburanishe mu mizi nta yindi ngwate y'amagarama itanzwe.

[7] Me Muhire Samuel, Equity Bank Rwanda Plc, Banque Populaire du Rwanda Plc na All Investment Group Ltd bajuririye icyo cyemezo mu Rukiko rw'Ubujurire, ubujurire bwabo buhu hamwe mu rubanza RCOMAA 00090/2022/CA.

[8] Iburanisha mu ruhame ryashyizwe ku wa 11/10/2022. Uwo munsi ugeze Me Abasa Fazili yitaba ahagarariye Me Muhire Samuel ; Banque Populaire du Rwanda Plc ihagarariwe na Me Mubangizi Frank ; Alliance Investment Group Ltd ihagarariwe na Me Kayigirwa Telesphore ; Equity Bank Rwanda Plc ihagarariwe na Me Karemera Frank naho Kigali Business Center (KBC) Ltd ihagarariwe na Me Karayiga William na Me Mudenge Richard.

[9] Mu bujurire bwabo abajuriye bavuga ko Urukiko Rukuru rw'Ubucuruzi Rwakoresheje nabi amategeko agenga uburyo bwo kubara ibihe byo gusaba Umwanditsi Mukuru gutesha agaciro cyamunara ndetse n'ibihe byo kuregera Urukiko, maze rwemeza ko Kigali Business Center (KBC) Ltd yubahirije ibihe kandi itarabyubahirije. Ikindi banenga ni uko Urukiko Rukuru rw'Ubucuruzi rwifashishije ingingo z'amategeko mpanabyaha zitajyanye n'ikibazo cyo gutesha agaciro cyamunara, rutagaragaje n'icyo runenga ibisobanuro byatanzwe n'Urukiko rw'Ubucuruzi. Me Muhire Samuel na Equity Bank Rwanda plc basaba gusubizwa amafaranga y'ikurikinarubanza n'igihembo cya Avoka ariko by'umwihariko Me Muhire Samuel agasaba n'indishyi zo gushorwa mu manza.

IBIBAZO BIGIZE URUBANZA N'ISESENGURA RYABYO

[10] Muri uru rubanza Urukiko rurasanga ibibazo bigize impaka bigomba gusuzumwa ari ibi bikurikira:

a) Kumenya niba Kigali Business Centre (KBC) Ltd yarandikiye umwanditsi Mukuru imusaba gutesha agaciro cyamunara, ikererewe ;

b) Kumenya niba Kigali Business Center (KBC) Ltd yararegeye Urukiko ikererewe.

c) Ibyereke indishyi, igihembo cy'Avoka n'ikurikiranarubanza

a) Kumenya niba Kigali Business Centre (KBC) Ltd yarandikiye umwanditsi Mukuru imusaba gutesha agaciro cyamunara, ikererewe

11] Equity Bank Rwanda Plc na Banque Populaire du Rwanda Plc zinenga uburyo Urukiko Rukuru rwabazemo ibihe byo kwandikira Umwanditsi Mukuru n'uburyo rwasesenguye ingingo ya 10 (39 bis) y'Amabwiriza y'Umwanditsi Mukuru Nº 002/2021/ORG yo ku wa 29/06/2021 ahindura amabwiriza y'umwanditsi mukuru Nº 001/2020/ORG yo ku wa 12/05/2020 agenga ibyerekeye gucunga, gukodesha, kugurisha mu cyamunara, no kwegukana ingwate.

[12] Ku bijyanye n'uburyo ibihe byabazwe, uhagarariye Equity Bank Rwanda Plc avuga ko Urukiko Rukuru rw'Ubucuruzi rwabaze iminsi itanu yo kwandikira Umwanditsi Mukuru ivugwa mu ngingo ya 10 (39 bis) y'Amabwiriza y'Umwanditsi Mukuru yavuzwe haruguru nk'aho ari iminsi y'akazi nyamara atari ko bimeza. Avuga ko iyo urebye muri ayo Mabwiriza usanga aho Umwanditsi Mukuru yashatse ko iminsi yateganyijwe ibarwa nk'iminsi y'akazi, yagiye abigaragaza. Atanga uregero rw'ingingo ya 8(2), iya 9, 10, 16, 20 n'iya 21 z'Amabwiriza y'Umwanditsi Mukuru Nº 001/2020/ORG yo ku wa 12/05/2020[1]. Asobanura ko rero ibyo byumvikanisha ko ahandi hose atabivuze iyo minsi ibarwa nk'uko ikurikirana.

[13] Uhagarariye Equity Bank Plc anenga kandi uburyo mu gusesengura ingingo ya 10 (39 bis) y'Amabwiriza y'Umwanditsi Mukuru yavuzwe haruguru, Urukiko Rukuru rw'Ubucuruzi bwayihuje n'ingingo ya 260 y'itegeko N^{O} 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi rwirengagije ko ayo mabwiriza ntaho ahuriye n'iryo Tegeko kuko yo ashingiye ku Itegeko Nº 10/2009 ryo ku wa 14/05/2010 ryerekeye ubugwate ku mutungo utimukanwa nk'uko ryahinduwe kugeza ubu.

[14] Uhagarariye Banque Populaire du Rwanda Plc nawe avuga ko Urukiko Rukuru rw'Ubucuruzi rwabaze iyo minsi mu buryo buteganywa n'ingingo ya 275 n'iya 276 z'Itegeko N^{O} 22/2018 ryavuzwe haruguru rwirengagije ko ingingo ya 10 (39 bis) y'Amabwiriza y'Umwanditsi Mukuru iteganya iminsi itanu (5) uhereye ku munsi raporo ya cyamunara yatangiwe. Avuga ko uburyo iyo ngingo yanditse bwumvikanisha ko n'umunsi raporo yakiriweho ubarwa.

[15] Abajuriye bose bemeza ko iminsi itanu iteganyijwe mu ngingo ya 10 (39 bis) y'Amabwiriza y'Umwanditsi Mukuru yavuzwe haruguru idakwiye kubarwa mu buryo buteganywa mu ngingo ya 275 n'iya 276 z'Itegeko N^{O} 22/2018 ryerekeye imiburanishiriza y'imanza z'Imbonezamubano, iz'Ubucuruzi, iz'Umurimo n'iz'Ubutegetsi. Iyo minsi ikaba ahubwo igomba kubarwa nk'iminsi ikurikiranye y'ingengaminsi *(consecutive calendar days/jours calendriers consécutifs) ;* bityo imikirize y'urubanza rujuririrwa ikaba igomba guteshwa agaciro kuko bigaragara ko Kigali Business Center (KBC) Ltd yandikiye Umwanditsi Mukuru igihe giteganywa n'amategeko cyararenze.

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[1] Ingingo ya 8 yerekeye iyemezwa rya gahunda yo gucunga ingwate ivuga iminsi 7 y'akazi; iya 9 yerekeye imenyekanisha rya gahunda yo gucunga ingwate yemejwe ivuga iminsi 5 y'akazi; iya 10 yerekeye ivugururwa rya gahunda yo gucunga ingwate yemejwe iteganywa iminsi 7 y'akazi; iya 16 yerekeye iyemezwa rya raporo isoza icungwa ry'ingwate ivuga iminsi 7 y'akazi; iya 20 yerekeye iby'amasezerano y'ubukode bw'ingwate iteganywa iminsi 2 y'akazi yo gushyikiriza umwanditsi Mukuru kopi y'amasezerano naho iya 21 ivuga ku bijyanye no gutangira gushyirwa mu bikorwa kw'amasezerano y'ubukode bw'ingwate ikavuga iminsi 7 y'akazi.

[16] Abahagarariye Kigali Business Center (KBC) Ltd basubiza ko mu kubara ibihe by'iminsi itanu (5) ivugwa mu ngingo ya 10 (39bis) y'Amabwiriza y'Umwanditsi Mukuru Nº 002/2021/Org yo ku wa 29/06/2021 yavuzwe haruguru, hagomba gushingirwa ku ngingo za 275 na 276 z'Itegeko N^{O} 22/2018 ryo ku wa 29/04/2018 ; kandi ibyo Urukiko Rukuru rw'Ubucuruzi rukaba rwarabitanzeho umucyo uhagije mu bika bya 25 kugeza 35 by'urubanza rujuririrwa. Basobanura ko bitari ngombwa ko Umwanditsi Mukuru avuga ko iminsi itanu ivugwa mu ngingo ya 10 (39 Bis) ari iminsi y'akazi kuko iyo ngingo ikwiye gufatwa nk'iyuzuza iya 260 y'itegeko N^{O} 22/2018 ryavuzwe. Bakavuga ko kandi ingingo ya 274 y'iryo tegeko itirengagijwe kuko yo iteganya ko uretse mu gihe itegeko ribiteganya ukundi, ibihe bigomba kubarwa hakurikijwe iminsi y'akazi nyamara amabwiriza y'umwanditsi yo akaba atari itegeko. Bongeraho ko iyo Umwanditsi Mukuru aza gusanga Kigali Business Centre (KBC) Ltd yararengeje igihe cyo gusaba ko cyamunara iteshwa agaciro, yari kuyisubiza ko yarengeje igihe ; nyamara akaba atari ko yayisubije.

[17] Mu gusoza bagaragaza ko raporo ya cyamunara yakozwe ku wa 04/08/2022, Kigali Business Center (KBC) Ltd yandikira Umwanditsi Mukuru ku wa 09/08/2022, ku wa 10/08/2022 bandika ibaruwa yuzuza iya mbere. Hashingiwe ku biteganywa n'ingingo za 275 na 276 z'Itegeko N^{O} 22/2018 ryavuzwe haruguru, umunsi igikorwa cyakoreweho, iminsi y'impera z'icyumweru ndetse n'umunsi w'ikiruhuko wabaye ku itariki ya 05/08/2022 (Umunsi w'Umuganura) ntibarwa. Bityo, kwandikira Umwanditsi Mukuru bikaba byaragombaga gutangira kubarwa ku itariki ya 08/08/2022 ; Bikaba bigaragara ko Kigali Business Centre (KBC) Ltd yandikiye Umwanditsi Mukuru mu bihe biteganywa n'amategeko.

UKO URUKIKO RUBIBONA

[18] Impaka kuri iyi ngingo zishingiye ku kumenya niba iminsi itanu ivugwa mu mabwiriza y'umwanditsi Mukuru yo kwandika usaba gutesha agaciro cyamunara ari iminsi ikurikiranye cyangwa niba ari iminsi ibarwa hakurwamo iminsi y'ibiruhuko n'iminsi y'impera z'icyumweru. Impaka kandi zishingiye no ku kumenya niba umunsi raporo ya cyamunara yakiriweho ubarirwa muri iyo minsi itanu cyangwa utabarirwamo.

[19] Ingingo ya 10 (39 bis) y'Amabwiriza y'Umwanditsi Mukuru Nº 002/2021/0rg yo ku wa 29/06/2021 ahindura amabwiriza y'umwanditsi mukuru Nº 001/2020/org yo ku wa 12/05/2020 agenga ibyerekeye gucunga, gukodesha, kugurisha mu cyamunara, no kwegukana ingwate iteganya ko ... Ubifitemo inyungu ufite icyo anenga cyamunara cyangwa imigendekere yayo, ashobora, mu minsi itanu (5) uhereye ku munsi yakiriyeho raporo ya cyamunara, gusaba mu nyandiko Umwanditsi Mukuru ko asuzuma inenge yagaragajwe akayifataho icyemezo gikwiye. Usaba agenera kopi uwashinzwe gucunga ingwate.

[20] Muri iyi ngingo Umwanditsi Mukuru yateganyije igihe cy'iminsi itanu ariko ntiyasobanura niba ari iminsi isanzwe ikurikiranye cyangwa niba ari iminsi y'akazi. Kugeza ubu kandi nta rubanza rwaciwe kuri iki kibazo ngo rugitangeho umurongo, haba mu Rukiko rw'Ikirenga cyangwa mu Rukiko rw'Ubujurire. Urukiko Rukuru rwo mu gucyemura iki kibazo mu rubanza rujuririrwa rwasobanuye ko iminsi ivugwa mu ngingo ya 10 (39bis) y'amabwiriza y'umwanditsi Mukuru igomba kubarwa ivanywemo iminsi y'impera z'icyumweru n'iminsi y'ikiruhuko, kuko iyo ngingo yongewe mu mabwiriza nk'iyuzuza ibivugwa mu ngingo ya 260 y'itegeko Nº 002/2018 ryerekeye imiburanishiriza y'imanza z'imbonezamubona, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ko rero ibihe biteganywa muri iyo ngingo bigomba kubarwa hakurikijwe uburyo buteganywa n'iryo tegeko.

[21] Koko rero, ingingo ya 260 ivugwa mu gika cyayo cya 5 iteganywa ko guhagarika no gutesha agaciro cyamunara ku mitungo igurishwa hashingiwe ku cyemezo cyo kugurisha ingwate cyatanzwe n'Umwanditsi Mukuru, bisabwa Umwanditsi Mukuru. Umwanditsi Mukuru atanga igisubizo mu gihe kitarenze iminsi itatu (3) y'akazi...". Kuba rero iyo ngingo itaravuze igihe Umwanditsi Mukuru abisabwamo, byumvikana nk'aho amabwiriza y'umwanditsi Mukuru asa n'asobanura iminsi Umwanditsi Mukuru agomba kwandikirwamo. Uru Rukiko rurasanga icyakora kwemeza ko aya mabwiriza ashyira mu bikorwa ibivugwa mu ngingo ya 260 atari byo, kuko nk'uko bigaragara mu irangashingiro ryayo, ayo mabwiriza ashingiye ku Itegeko N° 10/2009 ryo ku wa 14/05/2010 ryerekeye ubugwate ku mutungo utimukanwa nk'uko ryahinduwe kugeza ubu, cyane cyane mu ngingo yaryo ya 19. Bikaba byumvikana ko bishoboka rwose kugena Ibihe bivugwa muri ayo mabwiriza hatitawe ku biteganywa mu itegeko ryerekeye imiburanishiriza y'imanza z'imbonezamubona, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi.

[22] Uru Rukiko rusanga iyo urebye imanza zaciwe ku byerekeye ibarwa ry'ibindi bihe biri mu mabwiriza y'Umwanditsi Mukuru aho atasobanuye uko bibarwa usanga izo manza zaremeje ko ibyo bihe bibarwa mu buryo bw'iminsi ikurikiranye. Urugero ni nk'urubanza RCOMA 00546/2022/HCC rwaciwe 02/09/2022, haburana Uwera Astrid na Muhayimana Pelagie n'undi[2], aho Urukiko Rukuru rw'Ubucuruzi rwasuzumaga niba iminsi icumi (10) yo gutangaza cyamunara ivugwa mu ngingo ya 29 y'Amabwiriza y'Umwanditsi Mukuru N° 001/2020/ORG yarubahirijwe, rukemeza ko yubahirijwe rubaze iminsi 10 mu buryo bw'iminsi ikurikiranye. Hari kandi urubanza RCOMA 00026/2019/HCC rwaciwe n'urwo Rukiko ku wa 01/03/2019, haburana Ngabonziza Joseph na Rugimbana Jean Claude n'undi, rwasuzumye niba ibihe by'iminsi 7 yavugwaga mu ngingo ya 12 y'Amabwiriza y'Umwanditsi Mukuru N°03/2010/ORG yo ku wa 16/11/2010 yarubarijwe naho rwemeza ko yubahirijwe rubaze iminsi ikurikiranye[3].

[23] Icyo izo manza zihuriyeho ni uko zitanga umucyo ku byerekeye kubara ibihe biri mu mabwiriza y'umwanditsi Mukuru iyo atagaragaje uko bibarwa ; akaba ari nawo mucyo wagombaga kumurikira Urukiko Rukuru rw'Ubucuruzi mu rubanza rujuririrwa. Koko rero, nk'uko biteganywa mu mabwiriza

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[2] Muri uru rubanza mu ibika bya 25-26 Urukiko rwasesenguye niba ibihe by'iminsi 10 biteganyijwe mu ngingo ya 29 y'amabwiriza y'Umwanditsi Mukuru byarubahirijwe, maze rusanga amatangazo yaratangajwe ku wa 25/5/2022 kuri ISANGO STAR, no ku wa 26/5/2022 kuri Amakuru Media Ltd, ipiganwa ritangira ku wa 06/6/2022. Maze rwemeza ko harimo iminsi icumi ko rero ibihe biteganywa n'amategeko byubahirijwe.

[3] Muri uru rubanza kuva mu gika cya 13-17, Urukiko rwasesenguye impamvu y'iminsi 7 iteganywa mu ngingo yari iya 12 y'Amabwiriza y'Umwanditsi Mukuru n°03/2010/ORG yo ku wa 16/11/2010 agenga ibyerekeye gukodesha, kugurisha muri cyamunara ndetse no kwegukana ingwate, maze runasuzuma niba iyo minsi yarubahijwe. Rusanga hari aho y'ubahirijwe n'aho itubahirijwe. Nko ku bireba cyamunara yagombaga kuba ku wa 18/08/2017 itangazo ryayo rikagezwa ku murenge ku wa 11/08/2017, rwemeje ko ko aho ngaho iyo minsi yubahirijwe. Kandi bigaragara ko habazwe iminsi ikurikiranye.

ya Perezida w'Urukiko rw'Ikirenga[4], Urukiko ruba rugomba gukurikiza umurongo usanzwe mu manza ku bibazo bisa n'ibyo rusuzuma. Kuba rero Urukiko Rukuru rw'Ubucuruzi rwaranyuranyije n'uwo murongo nta mpamvu imara impaka ku buryo budasubirwaho rushingiyeho, uru Rukiko rusanga ari amakosa agomba gukosorwa, hakemezwa ko iminsi iri mu mabwiriza y'umwanditsi mukuru itaragaragarijwe uburyo ibarwa, ibarwa mu buryo bw'iminsi ikurikirana nk'uko urwo Rukiko rusanzwe rubigenza.

[24] Naho ku bijyanye no kumenya niba umunsi igikorwa cyakoreweho nawo ubarirwa mu minsi iteganywa mu ngingo ya 10 39(bis) y'amabwiriza y'Umwanditsi Mukuru, Urukiko rusanga imvugo *"uhereye"* ikunze kugaruka mu mategeko mu bijyanye n'ibarwa ry'ibihe, haba mu itegeko ryerekeye imiburanishiriza y'imanza mbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi (275)[5] ndetse no mu itegeko ryerekeye imiburanishirize y'imanza nshinjabyaha (ingingo ya 262)[6], ayo mategeko agaragaza ko umunsi igikorwa cyakoreweho utabarirwa mu bihe byateganyijwe mu minsi. Uru rukiko rusanga rero nta mpamvu idasanzwe yatuma imvugo **"**uhereye**"** igaragara mu mabwiriza y'Umwanditsi Mukuru yavuzwe, yo yumvikana ukundi.

[25] Muri uru rubanza raporo ya cyamunara yatanzwe ku wa 04/08/2022, Kigali Business Centre (KCB) Ltd yandikira umwanditsi Mukuru bwa mbere ku wa 09/08/2022, yongera kumwandikira ibaruwa yuzuza iya mbere ku wa 10/08/2022.

[26] Hakurikijwe ko ibihe bigomba kubarwa mu buryo bw'iminsi ikurikiranye nk'uko byasobanuwe haruguru, bivuze ko ibaruwa Kigali Business Centre (KCB) Ltd yanditse ku wa 09/08/2022 yanditswe mu gihe giteganywa n'amategeko ; naho iyanditswe ku italiki ya 10/08/2022 bigaragara ko yanditswe igihe giteganyijwe n'amategeko cyararenze.

b) Kumenya niba Kigali Business Center (KBC) Ltd yararegeye Urukiko ikererewe.

[27] Uhagarariye Me Muhire Samuel avuga ko Urukiko Rukuru rw'Ubucuruzi rwabaze Ibihe byo kuregera Urukiko, ruhereye ku ibaruwa ya Kigali Business Center (KBC Ltd) yo ku wa 10/08/2022, nyamara iyo baruwa yari iya kabiri. Avuga ko iyo usesenguye ibyo amategeko ateganya usanga Umwanditsi Mukuru yandikirwa inshuro imwe gusa, ahubwo uwamwandikiye yasanga hari ibyo yanditse mbere bidasobanutse akaba yakwandika indi baruwa ya kabiri ifatwa nk'inyongera ku ya mbere, akaba ari nabyo Kigali Business Center (KBC) Ltd yakoze. Avuga ko n'iyo ibaruwa yo ku wa 10/08/2022 yakwitwa ibaruwa ya kabiri itandukanye n'iya mbere, Urukiko Rukuru rw'Ubucuruzi

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[4] Amabwiriza nº 001/2021 yo ku wa 15/03/2021 ya Perezida w'Urukiko rw'Ikirenga agenga itangazwa ry'imanza mu cyegeranyo cy'ibyemezo by'inkiko, mu ngingo yayo ya 9-igika cya kabiri ateganya ko *"Buri mucamanza ategetswe kubahiriza umurongo usanzweho, waba uwo ku rwego rw'Urukiko arimo, cyangwa urwisumbuyeho uko inkiko zigenda zisumbana."* Aya mabwiriza wayasanga: https://www.judiciary.gov.rw/fileadmin/Publications/Laws/3__Amabwiriza_CJ_-_Ibyegeranyo.pdf

[5] Iyi ngingo ya 275 y'itegeko no 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi 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. »

rutagombaga kuyiheraho mu kubara ibihe byo gutanga ikirego, kuko inenge iyikubiyemo y'ingano y'umwenda Kigali Business Center (KBC) Ltd yatanze nk'impamvu yo gutesha agaciro cyamunara, itigeze iyishyikiriza Urukiko. Ibyo bikaba bisobanuye ko na Kigali Business Center (KBC) Ltd ubwayo yayitesheje agaciro ; ikaba rero itaragombaga gushingirwaho mu kubara ibihe byo kuregera Urukiko, ahubwo haragombaga gushingirwa ku ibaruwa yo ku wa 09/08/2022.

[28] Avuga kandi ko Urukiko Rukuru rw'Ubucuruzi rwakoresheje ingingo ya 9 y'itegeko ryerekeye imiburanishiriza y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ruvuga ko nta tegeko ririho rigena uburyo bwo kubara ibihe iyo handitswe amabaruwa menshi, maze rwiyambaza ingingo ya 7 yo mu itegeko ry'imiburanishirize y'imanza nshinjabyaha yerekeye igihe cyo gutangira kubara ubusaze bw'ikirego cy'ikurikiranacyaha : ibintu bidafite aho bihuriye n'impaka ziri muri uru rubanza.

[29] Equity Bank Rwanda Plc, Banque Populaire du Rwanda Plc na Alliance Investment Group Ltd bavuga ko usaba gutesha agaciro cyamunara ashobora kwandika inshuro zose ashaka mu gihe ari mu bihe biteganywa n'itegeko ariko ibaruwa ye ya mbere ikaba ari yo iherwaho habarwa ibihe byo kuba yashubijwe, kuko izindi zose aba ari inyongera. Bavuga ko rero kuba Umwanditsi Mukuru atarasubirije igihe uhereye ku ibaruwa ya mbere, ibihe byo kuregera Urukiko byagomba gutangira kubarwa uhereye ku munsi wa nyuma Kigali Business Center (KBC) Ltd yagombaga kuba yaboneyeho igisubizo ; bityo bitewe n'uko yanditse bwa mbere ku wa 09/08/2022, igihe ntarengwa yagombaga kuba yaherewe igisubizo cyari ku wa 12/08/2022. Ibihe byo kuregera urukiko bikaba byaragombaga kubarwa kuva kuri iyo tariki, aho kubarwa hagendewe ku gisubizo cyaje gikerererewe. Basobanura ko rero, uhereye ku munsi bagombaga kuba baboneye igisubizo itariki 12/08/2022, ukavanamo iminsi y'impera z'icyumweru n'iminsi y'ibiruhuko yemewe, Kigali Business Center (KBC) Ltd itagombaga kurenza itariki ya 22/08/2022 itararegera Urukiko ; nyamara ikaba yarareze icyerererewe ku wa 23/08/2022.

[30] Abahagarariye Kigali Business Center (KBC) Ltd bavuga ko ibaruwa atari yo igenderwaho habarwa ibihe byo kuregera Urukiko ahubwo ikigenderwaho ari igisubizo cy'Umwanditsi Mukuru nk'uko ingingo ya 260, igika cya nyuma y'Itegeko N^{O} 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ibiteganya, na cyane ko kurega bishingira ku kutanyurwa n'icyemezo cy'umwanditsi Mukuru. Basobanura ko Umwanditsi Mukuru yasubije ku wa 17/08/2022, Kigali Business Center (KBC) Ltd itanga ikirego cyayo ku wa 23/08/2022, kuko umunsi wa 20/08/2022, na 21/08/2022, yari iminsi y'impera z'icyumweru ikaba itabarwa nk'uko biteganywa n'ingingo ya 275 na 276 z'Itegeko N^{O} 22/2018 ryo ku wa 29/04/2018 ryavuzwe haruguru.

[31] Abahagarariye Kigali Business Centre (KBC) Ltd bavuga kandi ko uretse n'ibyo, bidakwiye no gufatwa ko umwanditsi Mukuru yatinze gusubiza kuko nk'uko Urukiko Rukuru rw'Ubucuruzi rwabisobanuye, ibihe byo kuba Umwanditsi Mukuru yatanze igisubizo bigomba kubarwa uhereye igihe yaboneye ibaruwa ya nyuma ni ukuvuga ku wa 10/08/2022. Bakavuga ko ibyo abarega bitwaza ko impamvu zari muri iyo baruwa ya nyuma Kigali Business Center (KBC) Ltd itigize iyigarukaho mu byatumye iregera Urukiko, nta shingiro bikwiye guhabwa kuko nta kibuza ko ishobora kunyurwa n'ibisobanuro yahawe kuri iyo ngingo igasanga bitari ngombwa kongera kubishyikiriza Urukiko. Bityo, bakaba basanga nta kosa Urukiko Rukuru rw'Ubucuruzi rwakoze rigomba gukosorwa n'Urukiko rw'Ubujurire.

UKO URUKIKO RUBIBONA

[32] Impaka kuri iyi ngingo zishingiye ku kumenya ibaruwa mbarutso yo kubara ibihe byo gusubiza iyo umwanditsi Mukuru yandikiwe amabaruwa menshi. Mu yandi magambo, ese iminsi itatu yo kuba umwanditsi Mukuru yasubije uwasabye gutesha agaciro cyamunara itangira kubarwa ryari iyo Umwanditsi Mukuru yandikiwe inshuro zirenze imwe ? Ese iyo asubije akererewe, ibihe byo kuregera urukiko byo bihera he bibarwa ? Ku gisubizo cye cyangwa ku gihe ntarengwa yagombaga kuba yasubirije ?

[33] Ingingo ya 260 igika cya 5 y'Itegeko Nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, iteganya ko … Guhagarika no gutesha agaciro cyamunara ku mitungo igurishwa hashingiwe ku cyemezo cyo kugurisha ingwate cyatanzwe n'Umwanditsi Mukuru, bisabwa Umwanditsi Mukuru. Umwanditsi Mukuru atanga igisubizo mu gihe kitarenze iminsi itatu (3) y'akazi. Iyo hari utishimiye igisubizo cy'Umwanditsi Mukuru cyangwa udahawe igisubizo mu gihe giteganywa muri iki gika, abitangira ikirego mu Rukiko rw'Ubucuruzi hakurikijwe ibivugwa muri iyi ngingo, mu gihe kitarenze iminsi itanu (5) y'akazi uhereye igihe yamenyeye icyo gisubizo.

[34] Iyi ngingo yumvikanisha ko umwanditsi Mukuru ashobora gusubiza cyangwa ntasubize mu gihe cy'iminsi itatu giteganyijwe. Iyo iyo minsi itatu ishize adasubije, uwamwandikiye aba agomba guhita aregera urukiko mu gihe kitarenze iminsi itanu. Naho iyo asubije muri icyo gihe giteganyijwe, utanyuzwe n'igisubizo cye aregera urukiko mu minsi itanu ihereye igihe yaboneye igisubizo. Ibi binasobanuye ko iyo umwanditsi mukuru atinze gusubiza bidaha uwanenze cyamunara uburenganzira bwo kubanza gutegereza igisubizo cye kugira ngo azabone kuregera urukiko.

[35] Ku byerekeye ibaruwa ikwiye guherwaho mu kubara ibihe byo kuba Umwanditsi Mukuru yatanze igisubizo iyo handitswe amabaruwa yuzuzanya, uru Rukiko rusanga ikibazo gisa nk'iki cyarasuzumwe mu rubanza RADA 0001/11/CS ku wa 27/04/2012[6], aho Urukiko rw'Ikirenga rwemeje ko iyo habaye gutakambira umuyobozi inshuro nyinshi**,** itakamba rya mbere rikozwe ari ryo riherwaho habarwa igihe cyo kuregera urukiko gitangira kubarwa. Uwo murongo ni nawo wagiye ukurikizwa mu manza zakurikiyeho[7]. Bityo, ku bibazo birebana n'ubusabe bwashyikirijwe umuyobozi mu mabaruwa yuzuzanya, uru Rukiko rukaba rusanga ibaruwa ya mbere ariyo igomba guherwaho habarwa ibihe umuyobozi wandikiwe agomba kuba yasubirijemo.

[36] Muri uru rubanza Kigali Business Center Ltd yandikiye Umwanditsi Mukuru bwa mbere ku italiki 09/08/2022, uhereye kuri iyo taliki ukabara iminsi itatu usanga Umwanditsi Mukuru yaragombaga gusubiza bitarenze itariki 12/08/2022, ariko ntiyasubiza icyo gihe ahubwo asubiza ku wa 17/08/2022. Ibyo bivuze ko igihe cyo kuregera urukiko cy'iminsi itanu giteganywa n'itegeko cyagombaga kubarwa uhereye ku italiki ya 12/08/2022, uwo munsi utabariwemo. Bityo, ikirego kikaba

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[6] Reba mu gika cya 14 cy' Urubanza RADA 0001/11/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 27/04/2012 haburana KIST na Hashakimana Anastase

[7] Reba Urubanza RADA 0029/11/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 16/05/2014 haburana Gwakaya Emmanuel na Kaminuza y'u Rwanda

kitaragombaga kurenza itariki 22/08/2022 kitaratangwa. Nyamara nk'uko bigaragara Kigali Business Centre (KBC) Ltd yo ikaba yaratanze ikirego cyayo ku wa 23/08/2022.

[37] Kubera izo mpamvu, Urukiko rw'Ubujurire rusanga Kigali Business Centre (KBC) Ltd Itarubahirije ibihe biteganywa n'amategeko, mu kuregera Urukiko. Bityo Urukiko Rukuru rw'Ubucuruzi rukaba rwaribeshye mu kwemeza ko ikirego cyayo cyagombaga kwakirwa mu Rukiko rw'Ubucuruzi.

c) Ibyereke indishyi, igihembo cy'avoka n'ikurikirana rubanza

[38] Uhagarariye Me Muhire Samuel asaba Urukiko gutegeka Kigali Business Center (KBC) Ltd kumuha 1.000.000 Frw y'igihembo cy'Avoka na 500.000 Frw y'ikurikiranarubanza hamwe na 2.000.000 Frw yo kumushora mu manza nta mpamvu.

[39] Equity Bank Rwanda Plc nayo ivuga ko mu gihe Urukiko rwasanga ubujurire bwayo bufite ishingiro, rwategeka Kigali Business Centre (KBC) Ltd kuyisubiza amafaranga yatanze muri uru rubanza kuva mu rwego rwa mbere kugeza kuri uru rwego angana na 3.000.000 Frw y'igihembo cya Avoka na 1.000.000frw y'ikurikiranarubanza.

[40] Kigali Business Centre KBC Ltd ivuga ko indishyi Me Muhire Samuel asaba zidakwiye guhabwa ishingiro, kuko ari we wakoze amakosa yo guteza cyamunara mu buryo budakurikije amategeko. Ivuga kandi ko n'indishyi Equity Bank Rwanda Plc isaba nta shingiro zifite kuko ariyo yizanye ku bushake muri uru rubanza.

[41] Kigali Business Centre KBC Ltd nayo ivuga ko kuba abajuriye baratsinzwe ku mpamvu zumvikana ariko bagakomeza kuyishora mu manza zitari ngombwa, abajuriye bose bakwiye gutegekwa kuyiha 3.000.000 Frw y'igihembo cya Avoka ndetse na 1.000.000 Frw y'ikurikiranarubanza.

UKO URUKIKO RUBIBONA

[42] Ingingo ya 111 y'Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye Imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ko ikirego cy'amafaranga y'ikurikiranarubanza ari ikirego gishamikira ku kirego cy'iremezo kigamije kwishyuza ibyakoreshejwe mu rubanza.

[43] Urukiko rurasanga amafaranga y'igihembo cya Avoka n'ay'ikurikiranarubanza Me Muhire Samuel yasabye ayakwiye kuko kuva imanza zatangira kugeza ubu yashatse Avoka wamuhagarariye muri izi manza akanazikurikira. Bityo akaba agenewe mu bushishozi bw'Urukiko 700.000 Frw y'igihembo cya Avoka n'amafaranga y'ikurikiranarubanza angana na 300.000 Frw, kuko atagaragaza ibimenyetso bihamya ko amafaranga ibihumbi magana atanu asaba ari yo yatakaje mu gukurikirana urubanza.

[44] Naho ku bireba Equity Bank Plc, Urukiko rurasanga ubwo urubanza rwatangiraga mu Rukiko rw’Ubucuruzi, Kigali Business Center Ltd itarigeze irega Equity Bank Plc, ahubwo iyi ari yo yagobotse ku bushake bwayo muri izi manza. Bityo yaba igihembo cya Avoka ayihagarariye ndetse n’ibyo yatakaje muri izi manza ikaba ntawe ikwiye kubiryoza.

[45] Ku bireba Kigali Business Center Ltd, Urukiko rurasanga amafaranga y’igihembo cya Avoka ndetse n’ay’ikurikiranarubanza ntayo yahabwa kuko ari yo yareze ikererewe, bityo ikaba ikwiye no kwirengera ibyo yatakaje muri izi manza.

[46] Naho ku byerekeye indishyi zisabwa na Me Muhire Samuel zo gushorwa mu manza, Urukiko rurasanga atazikwiye kuko mu kuregera urukiko nta kigaragaza ko Kigali Business Center yari igamije kuruhanya gusa, ahubwo yari igamije kurengera uburenganzira bwayo.

III. ICYEMEZO CY’URUKIKO

[47] Rwemeje ko ubujurire bwa Me Muhire Samuel, ubwa Equity Bank Plc, ubwa Banque Populaire du Rwanda Plc, Alliance Investment Group Ltd bifite ishingiro ;

[48] Rwemeje ko urubanza RCOMA 00594/2022/HCC rwaciwe n'Urukiko Rukuru rw'Ubucuruzi ku wa 23/09/2022, ruhindutse ;

[49] Rwemeje ko ikirego cyatanzwe na Kigali Business Center (KBC) Ltd cyo gutesha agaciro cyamunara yakozwe na Me Muhire Samuel, ku wa 02/08/2022, ikorewe ku mutungo ufite UPI 1/02/08/01/599, kitagombaga kwakirwa mu Rukiko rw’Ubucuruzi ;

[50] Rwemeje ko indishyi zo gushorwa mu manza zasabwe na Me Muhire Samuel kimwe n’izasabwe na Kigali Business Center Ltd nta shingiro zifite ;

[51] Rutegetse Kigali Business Center guha Muhire Samuel, amafaranga y’u Rwanda Miliyoni imwe (1.000.000 Frw) akubiyemo ay’igihembo cya Avoka n’ay’ikurikiranarubanza ;

[52] Rutegetse Kigali Business Center (KBC) Ltd gusubiza Me Muhire Samuel, ingwate y’amagarama yatanze kuri uru rwego.