

KARANGWA v. MUKASHARANGABO ET AL

[Rwanda SUPREME COURT – RC0005/15/CS (Mutashya, P.J., Munyangeri and Gakwaya, J.) June 26, 2015]

Law determining the jurisdiction of courts – Jurisdiction of the supreme court – Objection of inadmissibility – The nature of the claim relating to provisional suspension of the execution of the judgment – Whether or not the Supreme Court is competent to hear summary procedure claims – The fact that the hearing of the claim relating to provisional suspension of execution of the judgment follows the rules of procedure for summary procedure claims, implies that such claims are of summary procedure claims in nature – The fact that the Supreme Court has jurisdiction to hear main claims related to case review due to injustice, implies decidedly that, it has also jurisdiction to hear summary procedure claims which are accessory to the main claim – Nothing is likely to prevent the process for summary procedure claim accessory to the main claim filed in accordance with extraordinary remedies to be followed even for claims for case review due to injustice – Considering that the Supreme Court judgment on summary procedure claim is not subject to appeal since its decisions are not subject to appeal, is not a ground for lack of jurisdiction by the Supreme Court over summary procedure claims – Organic Law N°03/2012/OL of 13/6/2012 determining the organisation, functioning and jurisdiction of the Supreme Court, articles 78, 85 and 89 – Law N°21/2012 of 14/06/2012 relating to civil, commercial, labour and administrative procedure, articles 316(2) and 317.

Law determining the jurisdiction of courts – Jurisdiction of the Supreme Court – Review of a judgment due to injustice – Parties in a case under review due to injustice – Provisional suspension of judgment execution – Even if it is the Office of the Ombudsman which requests for review of final judgments due to injustice to the Supreme Court, but during the hearing, the parties remain those who were involved in the final judgments and they are the ones who submit their submissions for allegations and defence to the court – Organic Law N°03/2012/OL of 13/6/2012 determining the organization, functioning and jurisdiction of the Supreme Court, article 85 – Law N°21/2012 of 14/06/2012 relating to civil, commercial, labour and administrative procedure, articles 179, 190, 214(2°) and 316.

Civil procedure – Provisional suspension of judgment execution – If the execution of the judgment is likely to result in damages to the detriment of some litigants in case they win the case, the Court may suspend the execution of the judgment in the interest of justice.

Facts: This case originates from the judgment RCA0221/05/HC/KIG - RCA0221/09/HC/KIG which was rendered by the High Court and decided that all children of Karimunda Gérard fathered with Mukasharangabo Eugénie, Nyirakamana Marciana and Mukandori Epiphanie should inherit his assets without any discrimination and therefore will share the whole property after its inventory for that purpose and that those who died shall be represented by their offsprings. Nyirakamana Marcianna who intervened in the case was not satisfied with the decision and informed the Office of the Ombudsman on the injustice comprised in the decision. The Office of the Ombudsman requested in writing the President of the Supreme Court to review the judgment due to injustice.

Meanwhile, the same judgment was being executed by the appointed liquidator of inheritance and among the decisions he was implementing includes the one relating to auction of all assets in order to facilitate the sharing of the proceeds among the heirs. After the Supreme Court recorded the claim, the counsel for Karangwa Denys filed a summary procedure claim

praying the court to provisionally suspend the execution of the judgment while the decision on case review due to injustice was still pending. He relies his prayers on the ground that there are minutes of a meeting held among some of the heirs only because there was misunderstanding between all heirs. The minutes indicate in articles 3 and 6 that the house located at Gikondo and other immovable properties should be auctioned in order to share the proceeds of sale. He further argues that the review of the judgment due to injustice would result in the decision which is contrary to the decision which is being executed, therefore all prior steps would be nullified while some properties would have already been auctioned.

At the beginning of the hearing, Counsel Twayigize Jean-Claude for some of defendant heirs raised an objection of inadmissibility of this summary procedure claim alleging that it does not consist of summary procedure nature as long as the main claim is inexistant. He further explains the lack of the main claim stating that the application for case review due to injustice on which the applicant relied on the request for the provisional suspension of the execution of the judgment was submitted by the Office of Ombudsman, therefore he is not a party to this case and the Office of Ombudsman is not party to the summary procedure. He also raised another objection stating that pursuant to articles 317, 320 and 322 of the Law N°21/2012 of 14/06/2012 relating to civil, commercial, social and administrative procedure, the Supreme Court is not competent to hear summary procedure claims as the legislator did not provide for it because it would deprive one party of the right to appeal as the claim would be heard for the first instance at the Supreme Court.

Concerning the merits of the case, he states that the claim was irregularly submitted since the claimant does not have any legal ground because he admits the execution of the judgment which is being conducted by the liquidator but his concern is only to suspend the auction. He further states that the house located at Gikondo is not being auctioned and that the liquidator is still identifying all heirs in order to collaborate with them, therefore it is uncomprehensible how the claimant does not need to collaborate with him.

Hakizimana John, counsel for the claimant declares the statements of the defendants without merit since there exists the main claim and the parties in this case concerning the summary procedure are the same as in the main claim. He states in addition that it is not the Office of the Ombudsman which seized the Court with the main claim, rather, the claimants that are parties in the summary procedure claims, therefore, the summary procedure is directly connexed to the application for review of judgment due to injustice. He further states that, whenever there is a main claim, any court may be seized through a summary procedure claim in order to preserve potential damages and that is not the first time for the Supreme Court to hear the summary procedure claims because there are other instances where the Supreme Court hears cases at the first instance where the law did not provide for appeal, therefore if in a civil case the judge finds that the law is silent, nothing prevents him/her from ruling *ex aequo et bono* considering the provisions of the law regarding the application for review.

Counsel Rusanganwa Jean-Bosco states that GT Bank Ltd intervened in the case to only indicate its credit which has to be considered at the time of assets sharing.

Held: 1. Considering that the hearing of the claim for the provisional suspension of the execution of the judgment is conducted as that of summary procedure claims, this entails that the legislator intended for those cases to be of summary procedure claims in nature. Such claim can be initiated before the court of appeal (ordinary appeal) if the Court at the first instance ordered the provisional execution of the judgment, or it can be initiated in the court which was seized by the third-party opposition claim as well as before the court seized by

application for review; meaning in case the judgment is subject to extraordinary way of appeal (third party opposition and application for review), become final.

2. Considering that article 85 of the Organic Law N°03/2012/OL of 13/6/2012 determining the organization, functioning and jurisdiction of the Supreme Court concerning the application for the provisional suspension of the execution of the appealed judgment is silent about review of a judgment due to injustice; pursuant to article 89 of the same Organic Law, nothing can prevent the provisions of the Law N°21/2012 of 14/06/2012 relating to civil, commercial, social and administrative procedure concerning the extraordinary ways of appeal to be applied in case of applications for review of a judgment due to injustice. Therefore, the party who lodged such claim can pray the court for provisional suspension of a judgment execution through a summary procedure claim.

3. Though it is the Office of the Ombudsman which initiates applications for final judgment review due to injustice to the Supreme Court, but in the course of hearing the parties remain the same as of those in the judgment under review due to injustice and the same parties provide court submissions. Therefore, parties in the judgment RC0005/15/CS are the same as those in the main case RS/REV/INJUST/CIV0007/15/CS except the Office of the Ombudsman which was not party to these cases.

4. Considering that the Supreme Court is competent to hear applications for review of final judgments due to injustice, it is undoubtedly that, as a Court seized with the main case which is not heard by other courts, has also jurisdiction to hear summary procedure claims which are accessory to that main claim.

5. Considering that all the heirs are in disagreement on the inheritance, and taking into account that those assets can be sold at any time, the Supreme Court finds that, in the interest of justice, it is necessary to suspend the execution of the judgment because its execution is likely to be detrimental to some of the heirs' interests in case they win the case initiated to the Supreme Court.

**Objection rejected.
Summary procedure claim admitted.
Court fees shall be paid by the respondents.**

Statutes and statutory instruments referred to:

Organic Law N°03/2012/OL of 13/6/2012 determining the organisation, functioning and jurisdiction of the Supreme Court, articles 78, 85 and 89.

Law N°21/2012 of 14/06/2012 relating to civil, commercial, labour and administrative procedure, articles 179, 190, 214(2°), 316(2°) and 317.

No case referred to.

Judgment

I. BRIEF BACKGROUND OF THE CASE

[1] On 30 April 2010, the High Court rendered the judgment RCA0221/05/HC/KIG - RCA0221/09/HC/KIG, in which it ruled that all children of Karimunda Gérard fathered from Mukasharangabo Eugénie, Nyirakamana Marciana and Mukandori Epiphane should inherit

him without any discrimination basis and share all assets to be valued at the time of succession and that those who died shall be represented by their offspring.

[2] Nyirakamana Marciana submitted a claim to the Office of the Ombudsman alleging the injustice she faced in that judgment and on 5 November 2014, the Office of the Ombudsman wrote to the President of the Supreme Court requesting the review of the aforementioned judgment due to injustice.

[3] Meanwhile, Counsel Karambizi Canisius, the liquidator of the inheritance was executing the judgment and among the ruling of the judgment includes the auction of all assets to facilitate the sharing of the proceeds.

[4] On 28 April 2015, Hakizimana John counsel for Karangwa Denis, prayed the Court to suspend the execution of the judgment provisionally while its review due to injustice is still pending adjudication. He explains that the urgency relies on the fact that the adjudication on the application for review due to injustice would result in the decision which contradicts the ruling in the judgment under execution and therefore all execution steps be void while some assets would have already been auctioned.

[5] The hearing was held in public on 22 June 2015, Karangwa Denis, Nyirakamana Marciana, Karigirwa Edinas, Kantamage Jacqueline and Centre Motors Parts Ltd represented by counsel Hakizimana John while Mukasharangabo Eugénie, Mukashema Madeleine, Nyirashema Marie, Habimana Ildephonse's heirs (Shumbusho Fidèle and Habimana Nadine) represented by counsel Nsabimana JeanBaptiste, and the heirs of Bitwayiki Martin, Mukandekezi Alphonsine, Mukanoheli Mariana and those of Ntahobari Nasson represented by counsel Twayigize Jean Claude who also assisted Kalimunda Hakizimana Alphonse, while GT bank Ltd (ex-Fina bank Ltd) was represented by counsel Rusanganwa Jean Bosco.

[6] In the course of the hearing, Counsel Twayigize Jean Claude raised an objection of inadmissibility of the summary procedure claim since it is not among the summary procedure claims and that the Supreme Court is not competent to hear it. The Supreme Court decided to hear both this objection and summary procedure claim in merits.

II. ANALYSIS OF LEGAL ISSUES

A) To examine whether the claim initiated by Karangwa Denis is a summary procedure claim in nature.

[7] Counsel Twayigize Jean Claude states that in accordance with article 316 of Law N°21/2012 of 16/07/2012 relating to civil, commercial, social and administrative procedure, the summary procedure claim initiated by Karangwa Denis is not a summary procedure claim in nature due to the lack of the main claim to which it is attached. He explains the inexistence of the main claim by declaring that the claimant requests the suspension of the execution of the judgment basing on the application for judgment review due to injustice which was initiated by the Office of the Ombudsman that was not a party to the case, therefore he finds that according to the law, the claim should have been initiated by the claimant himself, who then would request for the suspension of the execution of the judgment.

[8] Counsel Twayigize Jean Claude keeps stating that pursuant to article 85 of the Organic Law N°03/2012/OL of 13/6/2012 determining the organisation, functioning and jurisdiction of the Supreme Court, the application for review mentioned by the claimant

should not be considered as a summary procedure claim since this article provides that a review of a final decision due to injustice shall not suspend the execution of the judgment, therefore he finds that it is impossible to initiate a summary procedure claim accessory to the application for final judgment review due to injustice. Therefore that summary procedure should not be admitted.

[9] Counsel Hakizimana John refutes the allegations of the defendants arguing that there is a main claim, especially that it has been prepared for hearing. He also states that the parties in this summary procedure claim are the same as those ones in the main claim. He further argues that it is not the Office of the Ombudsman which seized the court with that main claim, rather, it is the claimants who lodged the summary procedure claim, hence, this summary procedure claim is really accessory to the application for review of final judgment due to injustice.

[10] Regarding article 85 of the aforementioned Organic Law N°03/2012/OL of 13/6/2012, Counsel Hakizimana John states that they based the initiation of their summary procedure claim on article 316 of the aforementioned Law N°21/2012 of 16/07/2012 which provides that whenever there exists a main claim in a court and a need to have an interim ruling on a matter which requires urgent resolution, an action for summary procedure shall be filed in that same court. He further argues that this case being civil, if the judge finds that the legislator was silent (Loophole), it is not forbidden to rule by analogy in accordance with the provisions of the law relating to the review of final judgments.

[11] Counsel Nsabimana Jean Baptiste states that he concedes to the arguments of Counsel Twayigize Jean Claude since the summary procedure claim is accessory to the main claim submitted by the Office of the Ombudsman and in respect of which court fees were paid. He argues that the parties to the case have never initiated that claim and therefore parties are not identical in both cases.

[12] Counsel Nsabimana Jean Baptiste further argues that the provision of article 85 of the aforementioned Organic Law N°03/2012/OL of 13/6/2012 is imperative.

[13] Counsel Rusanganwa Jean Bosco states that the Supreme Court has decided on the issue of identification of parties as far as application for judgment review due to injustice is concerned, where it ruled that the Office of the Ombudsman is not the applicant to the Supreme Court, and in accordance with articles 80 and 81 of the aforementioned Organic Law N°03/2012/OL of 13/6/2012, it is the President of the Supreme Court who decides on the recording of this claim in court's registry.

[14] Counsel Rusanganwa Jean Bosco states in addition that the application for judgment review due to injustice does not entail the suspension of the execution of the judgment, but he is of the view that all cases relating to application for review are almost similar and he finds that in this case, the Court should apply the provisions relating to the application for review.

OPINION OF THE COURT

[15] Article of Organic Law N°03/2012/OL of 13/6/2012 determining the organization, functioning and jurisdiction of the Supreme Court provides that "With regard to matters not provided for in this Organic Law relating to rules of procedure applicable to proceedings

before the Supreme Court, the rules of procedure governing proceedings before other ordinary courts shall apply”.

[16] Article 316 of Law N°21/2012 of 14/06/2012 relating to civil, commercial, social and administrative procedure provides that “When there is need to have an interim ruling on a matter which requires urgent resolution, an action shall be filed in accordance with the ordinary procedure regarding principal suits, before an urgent applications judge in the jurisdiction where the urgent measure is required in accordance with ordinary summons procedure”.

[17] The Supreme Court finds that pursuant to article 214(2°) of the aforementioned Law N°21/2012 of 14/06/2012, it is undoubtedly comprehensible that the provisional suspension of the execution of the judgment is the claim which is heard in accordance with the procedure for summary procedure claims, and this implies that the legislator intended for such claims to be considered as summary procedure claims. The court also finds that such claim may be filed to the appellate Court (appeal as an ordinary remedy) in case the first instance court decided the provisional execution of the judgment, or it would be filed to the court which was seized by a third party opposition claim and to the court which is seized by the application for review of final judgment, consequently in case of a judgment subject to extraordinary procedures of appeal (third party opposition and application for review) become final.

[18] The Supreme Court finds that such claims are filed when the party has filed a main claim or an ordinary appeal or a third-party opposition or an application for review.

[19] The Supreme Court finds that Karangwa Denis has filed a summary procedure claim requesting the suspension of the execution of the judgment RCA0221/05/HC/KIG - RCA0221/09/HC/KIG while the application for judgment review due to injustice is still pending and furthermore, that claim of application for judgment review due to injustice was recorded in the appropriate court registry on RS/REV/INJUST/CIV0007/15/CS, implying that the summary procedure claim which is recorded on RC0005/15/CS is accessory to the main claim RS/REV/INJUST/CIV0007/15/CS.

[20] The Supreme Court finds that, considering that the judgment RC0005/15/CS related to summary procedure claim requesting the provisional suspension of the execution of the judgment RCA0221/05/HC/KIG - RCA0221/09/HC/KIG is accessory to the judgment RS/REV/INJUST/CIV0007/15/CS related to the review of the judgment RCA0221/05/HC/KIG - RCA0221/09/HC/KIG due to injustice; the statements of counsel Twayigize Jean Claude are without merit.

[21] In addition, considering that the legislator has fairly determined the claim for provisional suspension of execution of the judgment as a summary procedure claim in nature in respect of which summon to appear should be served within two (2) working days and consequently the court should decide within forty eight (48) days computed from the day of the last hearing; the Supreme Court finds that the statements of Counsel Twayigize Jean Claude according to which the claim submitted by Karangwa Denis is not a summary procedure claim cannot be considered.

[22] The Supreme Court finds that albeit article 85 of the aforementioned Law N°03/2012/OL of 13/6/2012 is silent about the application for review of a judgment due to injustice, but pursuant to article 89 of the aforementioned Organic Law, there is nothing likely to prevent the provisions relating to extraordinary ways of appeal, especially article

179, litera 5 and 6 and article 190 of the aforementioned Law N°21/2012 of 14/06/2012 to be applied to cases concerning applications for review of a judgment due to injustice. This implies that the party who filed the application for review of a judgment due to injustice can pray the Court to urgently order the provisional suspension of the execution of the judgment.

[23] Except that, even if the law was silent, it is not forbidden to the applicant to request for it if he/she finds it beneficial since the law does not prohibit it, therefore to request it does not contravene the provision of article 85 of the aforementioned Organic Law.

[24] Regarding the statements of counsel Twayigize Jean Claude which mention that the summary procedure claim filed by Karangwa Denis should not have been admitted because the parties in this case are different from parties in the main claim relating to the review of judgment due to injustice; the Supreme Court finds that though it is the Office of the Ombudsman which addresses applications for review of final judgments due to injustice to this Court, but in the course of the hearing, parties to the case remains the same as in the case under review and it is up to them to submit court briefs, therefore the arguments of counsel Twayigize Jean Claude should not be considered since parties in the summary procedure claim RC0005/15/CS were the same as in the main claim RS/REV/INJUST/CIV0007/15/CS apart from the Office of the Ombudsman which was not party to those cases.

[25] Considering the statements mentioned in previous paragraphs, the Supreme Court finds that the objection of inadmissibility of the summary procedure claim raised by Counsel Twayigize Jean-Claude is without merit.

B) To examine whether the Supreme Court has jurisdiction to hear summary procedure claims.

[26] Counsel Twayigize Jean Claude states that pursuant to articles 317, 320 and 322 of Law N°21/2012 of 14/06/2012 relating to civil, commercial, labour and administrative procedure, the Supreme Court is not competent to hear summary procedure claims as the law is silent.

[27] Counsel Twayigize Jean Claude explains that the fact that the law is silent is not a mistake, rather, its provision would lead to the prevention of one of the parties of the right to appeal since there is no other way of appeal available in case the summary procedure claim is heard at the first instance by the Supreme Court. He finally states that there is no any provision of the law which assigns the Supreme Court the jurisdiction to hear the summary procedure claim at the first instance and in accordance with article 317 of the aforementioned Law N°21/2012 of 14/06/2012, the Supreme Court is not among competent courts to be filed with summary procedure claims.

[28] Counsel Hakizimana John states that when there exists a main claim, any court may be seized with a summary procedure claim in order to avoid loss. He further states that it is not the first time for the Supreme Court to hear such claim and that there are other case instances whereby the Supreme Court hears cases at the first instance in case the law does not provide for appeal. He finally argues that there is no any obstruction towards the Supreme Court to decide on summary procedure claim especially that there will be a decision on the main claim.

[29] Counsel Rusanganwa Jean Bosco states that the law established a list of courts which have jurisdiction to hear summary procedure claims but the Supreme Court does not appear

among them. However, he finds that in order to resolve this issue, the Supreme Court should apply the provision of article 6 of the aforementioned Law N°21/2012 of 14/06/2012.

OPINION OF THE COURT

[30] Article 317(1) of the aforementioned Law N°21/2012 of 14/06/2012, provides that “The President of the Primary Court or another designated judge shall hear summary procedure cases that fall within the jurisdiction of that Court and thereafter take a decision”. Its paragraph 2 states that “The President of the Intermediate Court, Commercial Court or another designated judge shall hear summary procedure cases that fall within the jurisdiction of that court and thereafter take a decision”, while its paragraph 3 reads that “The President of the High Court, the Commercial High Court or another designated judge shall hear summary procedure cases that fall within the jurisdiction of that court and thereafter take a decision”.

[31] The Supreme Court finds that article 317 of the aforementioned Law N°21/2012 of 14/06/2012 does not mention Supreme Court because its jurisdiction and functioning are determined by a specific Organic Law, therefore it is comprehensible that the provisions of that article which relate to the jurisdictions of court concern the lower courts to the Supreme Court (Primary Court, Intermediate Court and High Court). It finds however that pursuant to article 89 of the aforementioned Organic Law N°03/2012/OL of 13/6/2012, the provisions of article 316 of the above mentioned Law N°21/2012 of 14/06/2012 should be applied even to the Supreme Court.

[32] The Supreme Court finds that in accordance with article 78 of the Organic Law N°03/2012 of 13/06/2012 determining the organization, functioning and jurisdiction of the Supreme Court, the latter has jurisdiction to hear applications for review of final judgment due to injustice.

[33] It finds therefore that as above explained, the fact that the Supreme Court is competent to hear applications for review of final judgments due to injustice, it undoubtedly implies that as a court seized with the main claim which does not fall within the jurisdiction of any other court, it has also jurisdiction to hear summary procedure claims which are accessory to the main claim of which it is seized with.

[34] The Supreme Court finds that as the law has provided that the applications for review of final judgments due to injustice shall be heard at the first and last instance by this court, this is not likely to prevent parties to submit summary procedure claims because such a claim is only intended to pray the Court to take a provisional decision while the main claim is still pending and it is likely to be overruled by the decision on the merits of the case. In addition, the fact that the urgent decision of the Supreme Court is not appealable because its decisions are not subject to appeal, is not a ground to substantiate that it has no jurisdiction to hear summary procedure claims.

[35] Considering the above arguments, this objection of inadmissibility of the summary procedure claim initiated by Karangwa Denis as raised by counsel Twayigize Jean Claude is without merit.

C) To examine whether the execution of the judgment RCA0221/05/HC/KIG - RCA0221/09/HC/KIG would be provisionally suspended pending the decision on the application for review of a final judgment due to injustice.

[36] Counsel Hakizimana John states that Karangwa Denis prays the Court to provisionally order the suspension of the execution of that judgment whereas the decision on its application for review due to injustice still pending. He explains that the existant urgency relies on fact that the decision on the review of that judgment could result in contradiction with the decision in the course of execution and this is likely to make void all execution steps whereas some of the assets would have been auctioned.

[37] Counsel Hakizimana John also states that there are minutes of meeting which was held among some of the heirs because there were disputes among them. They indicate in clauses 3 and 6 that the house located in Gikondo and other immovable assets should be auctioned and proceeds thereto be shared.

[38] Counsel Twayigize Jean-Claude states that the claim was irregularly submitted because the claimant admits that he has no concern with the subject matter of the claim and he agrees with the execution of the judgment which is being performed by a liquidator but his only wish is to avoid the auction. He keeps saying that the house located in Gikondo is not on sale and that no any other house was auctioned because the liquidator is still identifying all heirs. He concludes his statements mentioning that the liquidator collaborates with heirs and he does not realize why they do not need to collaborate with him.

[39] Counsel Nsabimana Jean Baptiste states that the judgment was rendered in 2010, and it was decided that all assets be shared among all heirs. He states in addition that Karangwa Denis was satisfied with that ruling but thereafter, he files this claim, therefore no urgent measure is manifest in this case.

[40] Counsel Rusanganwa Jean Bosco states that GT Bank Ltd appeared to only justify the existence of its credit encumbrances on assets to be shared.

OPINION OF THE COURT

[41] The Supreme Court finds that according to article 3 of the minutes of late Kalimunda Gérard's heirs meeting which was held on 25 July 2014, the participants decided that the management of the inheritance, which includes the uncompleted warehouse located in Gikondo, is impossible because the heirs are in disagreement, and therefore they decided to initiate the auction of all assets for the sharing of the proceeds among all heirs.

[42] Considering the arguments mentioned in the previous paragraph, the Supreme Court finds that as all the heirs disagree on the total of the assets left by Kalimunda Gérard and indeed some of them claim that he has granted to them some of assets before his death, therefore they should not be included in the inheritance, and this being the ground of injustice declared in the judgment RCA0221/05/HC/KIG - RCA0221/09/HC/KIG; considering that those assets could be sold at any time, the Supreme Court finds that in the interest of justice, it is fair to suspend the execution of the aforementioned judgment since its execution is likely to be detrimental to some of the heirs' interests in case they win the case they initiated in the Supreme Court.

[43] Considering these grounds, the Supreme Court finds that the action initiated by Karangwa Denis has merit, therefore the execution of the judgment should be suspended until the decision of the judgment on merit as long as the adjudication by this Court is still pending.

III. DECISION OF THE COURT

[44] The Supreme Court decides that the objections raised by Kalimunda, Hakizimana Alphonse and the heirs of Bitwayiki Martin, Mukandekezi Alphonsine, Mukanoheri Mariana and those of Ntahobari Nasson represented by counsel Twayigize Jean Bosco, is without merit.

[45] The Supreme Court decides that the summary procedure claim initiated by Karangwa Denis has merit.

[46] The Supreme Court orders the suspension of the execution of the judgment RCA0221/05/HC/KIG - RCA0221/09/HC/KIG until the ruling of the judgment RS/REV/INJUST/CIV0007/15/CS.

[47] The Supreme Court orders Kalimunda Hakizimana Alphonse and the heirs of Bitwayiki Martin, Mukandekezi Alphonsine, Mukanoheli Mariana and those of Ntahobari Nasson to pay court fees amounting to 100,000Frw.