MUNYANEZA (IKIREGO CYO KWIHANA UMUCAMANZA)

[Rwanda URUKIKO RW'IKIRENGA – RS/RECUS/Civ 0001/13/CS (Mugenzi, P.J., Hatangimbabazi na Munyangeri N., J.) 18 Mata 2013]

Itegeko rigenga imiburanishirize y'imanza z'imbonezamubano – Inzitizi – Ubwihane bw'umucamanza – Kuregera ubwihane bigomba gukorwa mu gihe cy'iburanisha kandi mbere y'ipfundikirwa ry'urubanza – Itegeko n° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 102.

Incamake y'ikibazo: Mu gihe hari hategerejwe isomwa ry'urubanza RCAA 0028/12/CS mu Rukiko rw'Ikirenga rwari rwapfundikiwe kuwa 02/04/2013, Munyaneza akaba yari arukurikiranyemo SONARWA n'Ikigega Cyihariye cy'Ingoboka indishyi zikomoka ku mpanuka yagize guhera mu Rukiko Rukuru mu rubanza RPA 0024/05/HC/KIG; yandikiye Perezida w'Urukiko rw'Ikirenga amumenyesha ko yihannye umwe mu bacamanza bagize inteko yaburanishije urubanza rwe witwa Mukandamage Marie Josée kubera ko yabaye mu nteko yaburanishije Urubanza rwe mu Rukiko Rukuru.

Ashingira ubwo bwihane ku gace ka 7 k'ingingo ya 99 y'Itegeko n° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ndetse akavuga ko na nyuma y'iburanisha mu gihe urubanza rutarasomwa, ubwihane bukwiye kwakirwa kuko n'ubwo itegeko ryibagiwe kubiteganya, bitabuza umucamanza kuziba icyo cyuho kigaragara mu itegeko, nk'uko abyemererwa n'ingingo ya 6 y'Itegeko n° 21/2012 ryavuzwe haruguru.

Incamake y'icyemezo: 1. Kuregera ubwihane bigomba gukorwa mu gihe cy'iburanisha kandi mbere y'ipfundikirwa ry'urubanza, bityo ubwihane bukozwe nyuma y'icyo gihe buba butanzwe imburagihe kandi binyuranyije n'amategeko.

Ubwihane ntibwakiriwe.
Inteko iburanisha ntihindutse.

Amategeko yashingiweho:
Itegeko n° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 102.

Nta manza zifashishijwe.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Mu ibaruwa yandikiye Urukiko kuwa 04/04/2013, Munyaneza Aaron yamenyesheje Perezida w'Urukiko rw'Ikirenga ko yihannye Umucamanza Mukandamage Marie Josée,

umwe mu bagize inteko yaburanishije urubanza RCAA 0028/12/CS rugapfundikirwa kuwa 02/04/2013, hakaba hari hategerejwe isomwa ryarwo.

[2] Munyaneza avuga ko ubwo bwihane yabutewe n'uko uwo mucamanza yabaye mu nteko yaburanishije mu Rukiko Rukuru urubanza RPA 0024/05/HC/KIG, rwaciwe kuwa 05/10/2005, Munyaneza yari akurikiranyemo indishyi zikomoka ku mpanuka yagize, akaba ari nazo aburana na SONARWA na Fonds de Garantie muri uru rukiko. Asobanura ko ubwo bwihane bushingiye ku gace ka 7 k'ingingo ya 99 y'Itegeko rigenga imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ko "umucamanza wese bashobora kumwihana iyo yigeze kuba mu rubanza ari umucamanza, umwunzi, umushinjacyaha, umugenzacyaha, umuburanyi, umutangabuhamya, umuhuza, umusemuzi, inzobere cyangwa umukozi wo mu butegetsi bwa Leta".

[3] Isuzuma ry'ubwo bwihane ryabaye mu iburanisha mu ruhame kuwa 17/04/2013, Munyaneza yunganiwe na Me Uwimana Gisèle.

II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA

[4] Muri uru rubanza harasuzumwa iyakirwa (admissibilité) ry'ubwihane ku mucamanza Mukandamage Marie Josée, mbere yo kuba hasuzumwa ishingiro ryabwo, hakurikijwe ibiteganywa n'ingingo ya 103 y'Itegeko n° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ivuga ko Urukiko Umucamanza wihanwe arimo, rubanza gusuzuma niba ubwo bwihane bushobora kwakirwa.

[5] Ingingo ya 102, agace ka mbere, y'Itegeko n° 21/2012 ryavuzwe haruguru, iteganya ko ushaka kwihana umucamanza, aho urubanza rwaba rugeze hose, abitangira impamvu mu iburanisha.

[6] Ku kibazo cyo kuba Munyaneza yaratanze ikirego cy'ubwihane nyuma y'iburanisha, we n'umwunganira basubiza ko basanga na nyuma y'iburanisha mu gihe urubanza rutarasomwa, ubwihane bukwiye kwakirwa n'ubwo itegeko ryibagiwe kubiteganya, umucamanza akaba atabura kuziba icyo cyuho kigaragara mu itegeko, nk'uko abyemererwa n'ingingo ya 6 y'Itegeko n° 21/2012 ryavuzwe haruguru.

[7] Urukiko rurasanga, hashingiwe ku ngingo ya 102 y'Itegeko n° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ubwihane bwa Munyaneza butarakozwe mu gihe cy'iburanisha nk'uko iyo ngingo ibiteganya, kuko yabukoze kuwa 04/04/2013, iburanisha ry'urubanza ryarapfundikiwe kuwa 02/04/2013, rutegereje gusa gusomwa, bityo ubwihane bwe bukaba butakwemerwa kuko bwatanzwe imburagihe.

[8] Iby'uko Urukiko rwakwemera ubwihane butanzwe nyuma y'iburanisha, ku mpamvu zo kuziba icyuho cyaba kiri mu itegeko, Urukiko rurasanga nta cyuho ingingo ya 102 imaze kuvugwa igaragaza, kutayikurikiza uko iri, bikaba byaba ari kutubahiriza itegeko.

III. ICYEMEZO CY'URUKIKO

[9] Rwemeje ko ubwihane bwa Munyaneza butemewe kuko bwatanzwe nyuma y'igihe giteganywa n'amategeko;

[10] Rwemeje ko inteko yaburanishije urubanza RCAA 0028/12/CS ari yo igomba gukomeza isuzumwa ryarwo.