NYIRAROMBA v. NGIRINSHUTI

[Rwanda URUKIKO RW'IKIRENGA – RC0002/16/CS (Mugenzi, P.J., Gatete na Munyangeri, J.) 27 Mutarama 2017]

Amategeko agenga imiburanishirize y'imanza z'imbonezamubano – Inzitizi – Ibisabwa ngo ikirego cyakirwe – Inyungu – Inyungu urega agomba kuba afite kugira ngo ikirego cye cyakirwe, igomba kuba ari itaziguye kandi bwite, ku buryo rero abyemererwa gusa, ari uko inyungu zibangamiwe ari ize bwite, kandi n'icyemezo cyazafatwa n'Urukiko ari we ubwe cyagirira akamaro – Itegeko N^{o}21/2012 ryo ku wa 24/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 18(12^{o}).

Amategeko agenga imiburanishirize y'imanza z'imbonezamubano – Iyakirwa ry'ikirego cy'ingoboka – Iyo ikirego cy'iremezo kitakiriho kuko kitakiriwe, n'isuzuma ry'ikirego cy'ingoboka riba ritagishobotse – Itegeko N^{o}21/2012 ryo ku wa 24/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 119.

Incamake y'ikibazo: Uru rubanza rukomoka ku birego hagati ya Nyiraromba na Ngirinshuti aho Nyiraromba arega Ngirinshuti kumuhuguza imirima akomora kuri nyina. Urukiko rw'Akarere ka Kabagali rwemeje ko umurima urimo ikibanza Nyiraromba yubatsemo ari uwe naho indi mirima itatu iburanwa nta n'umwe muri bo uyigaragariza ibimenyetso.

Ababuranyi bombi bajuririye icyo cyemezo, Nyiraromba avuga ko Urukiko rabanza rutitaye ku bimenyetso yatanze byerekana ko iyo mirima iregerwa ayimaranye imyaka mirongo ine(40) naho Ngirinshuti akavuga ko Urukiko rubanza rwirengagije inyandiko yatanzwe na Nyiraromba igaragaza ingano y'ikibanza uyu yahawe, igishushanyo cy'ahaburanwa ndetse ngo rushingira ku ngingo zivuguruzanya. Anavuga kandi ko ngo rwirengagije ko iyo mirima yayitunze atarahunga aho ahungukiye akaba aribwo yasanze Nyiraromba yarayifashe.

Urukiko rwajuririwe rwemeje mu rubanza RCA0935/05/TP/GIT-RCA0913/05/TP/GIT ko ikirego kitakiriwe kuberako ababuranyi badafite ububasha bwo kuburana umutungo w'umuryango mu mazina yabo bwite. Rwanakuyeho kandi urubanza rujuririrwa kimwe n'umwanzuro wa Komite y'Abunzi kuko binyuranyije n'amategeko ndemyagihugu.

Nyiraromba ntiyarekeye aho ahubwo yongeye kuregera Urukiko rw'Ibanze rwa Ruhango avuga ko umurima umwe yawuhawe na nyina naho indi ibiri akaba ari iy'umuryango. Ngirinshuti we yireguye kuri iki kirego avuga ko imirima iregerwa yayihawe na Nyirabujangwe, uyu akaba ari nyirakuru akanaba nyina wa Nyiraromba.

Mu rubanza RC0191/09/TB/RHGO, uru Rukiko rwemeje ko Nyiraromba ariwe ufite uburenganzira ku mirima iburanwa kuko ayikomora ku babyeyi be bitabye Imana bityo ibyo kuba Ngirinshuti yarayihawe bikaba nta shingiro bifite.

Ngirinshuti yajuririye iki cyemezo mu Rukiko Rwisumbuye rwa Muhanga avuga ko Urukiko rubanza rwirengagije ibyategetswe mu mwanzuro wa Komite y'Abunzi, ko rutabajije abagize umuryango kandi ko Nyiraromba yaregaga mu izina rye mu gihe nyamara mu bunzi yari yareze abagize umuryango wa Nyirabujangwe na Habuhazi.

Mu rubanza RCA0740/09/TGI/MHG rwo ku wa 19/03/2010, Urukiko rwemeje ko urubanza rujuririrwa rudahindutse, kuko Ngirinshuti atagaragaza ibimenyetso by'uko yahawe imirima itatu iburanwa na nyirakuru Nyirabujangwe.

Ngirinshuti amaze gutsindwa, yaje kurega Nyiraromba muri Komite y’Abunzi, avuga ko imirima Nyiraromba yamutsindiye harimo inzu ze maze abunzi bafata icyemezo birengagije ko Nyiraromba yatsindiye imirima n’ibiyirimo. Nyiraromba yaregeye umwanzuro w’abunzi mu Rukiko rw’Ibanze rwa Byimana, rwemeza mu rubanza RC0377/13/TB/BMN rwo ku wa 2/7/2013 rusobanurwa n’urubanza RC0159/15/TB/BYM, ko inzu eshatu zubatse kuri ubwo butaka ari iza Ngirinshuti.

Nyuma y’icibwa ry’izo manza zose, Nyiraromba yatanze ikirego mu Rukiko rw’Ikirenga, asaba gukemura impaka ziri hagati y’imanza RC0377/13/TB/BMA rwo ku wa 02/07/2013 rwasobanuwe n’urubanza RC0159/16/TB/BYM rwo ku wa 23/12/2015 zaciwe n’Urukiko rw’Ibanze rwa Byimana n’urubanza RCA070/09/TGI/MHG rwaciwe n’Urukiko Rwisumbuye rwa Muhanga ku wa 19/3/2010 kuko zivuguruzanya.

Yongeraho kandi ko Urukiko rw’Ibanze rwa Byimana rutagombaga kwakira ikirego cya Ngirinshuti kandi yaratsindiye ubutaka n’ibiriho, kandi ko rwishe amategeko kuko mu rubanza rusobanuza rwakiriye ikimenyetso cy’umuburanyi umwe, rufata icyemezo we adahamagajwe, bityo asaba ko izo manza zavanwaho hakubahirizwa urubanza RCA0740/09/TGI/MHG na RC0191/TB/RHGO kuko nta rundi rwazikuyeho, hanyuma Ngirinshuti akamugenera indishyi z’ibyakoreshejwe mu manza.

Nsabiyaremye Protais yagobotse ku bushake muri uru rubanza avuga ko mu mirima iburanwa harimo ikibanza yaguze acyubakamo inzu none ubu akaba asabwa kuyikuramo mu rwego rwo kurangiza urubanza RC0377/TB/BYM rwo ku wa 07/07/2014 rwaciwe n’Urukiko rw’Ibanze rwa Byimana.

Mu Iburanisha mu Rukiko rw’Ikirenga, uruhande rwa Ngirinshuti rwazamuye inzitizi ebyiri. Iya mbere ni uko mu nzego zose ikirego cya Nyiraromba kitari gikwiye kwakirwa kubera ko yaburanaga imitungo y’umuryango ayirega umuntu umwe. Iya kabiri yerekeranye no kuba Nyiraromba adafite inyungu n’ububasha byo gutanga ikirego mu Rukiko rw’Ikirenga kubera ko umutungo uburanwa waguzwe na Nsabiyaremye akaba ari nawe uwutunze, anawufitiye amasezerano y’ubukode bwa burundu, ndetse yaratesheje agaciro imanza zose zaburanywe n’irangizwa ryazo kuri uwo mutungo, bityo Nyiraromba akaba atakiwufiteho uburenganzira. Nyuma yo gusabwa ibisobanuro ku nzitizi yerekeranye no kuba ikirego kitari kuba cyarakiriwe mu nzego zose, Me Mberabagabo uhagaraiye Ngirinshuti yavuze ko iyo nzitizi bayiretse.

Nyiraromba yiregura avuga ko afite inyungu ndetse n’ububasha byo kurega, kuko uwo yagurishije umutungo atawufitemo amahoro, kandi akaba ari nawe uzi aho uherereye nk’uwawuburanye akanawutsindira.

Nsabiyaremye nawe avuga ko Nyiraromba afite ububasha n’inyungu muri uru rubanza, kubera ko ariwe wabaye umuburanyi, akaba akeneye ko ibidasobanutse bisobanuka, kandi ntahozwe ku nkeke n’uwo yagurishije, wabangamiwe mu burenganzira bwe nk’uwaguze.

Incamake y’icyemezo: 1. Inyungu urega agomba kuba afite kugira ngo ikirego cye cyakirwe, igomba kuba ari itaziguye kandi bwite, ku buryo rero abyemererwa gusa, ari uko inyungu zibangamiwe ari ize bwite, kandi n’icyemezo cyazafatwa n’Urukiko ari we ubwe cyagirira akamaro. Ugaragaza inyungu muri ubwo buryo akaba ari nawe ugira uburenganzira bwo gusaba umucamanza kumuha ibyo aregera. Kuba rero urega asaba ko hakemurwa ivuguruzanya ry’imanza yaburanyemo umutungo utimukanwa yamaze kugurisha, ikirego cye ntikigomba kwakirwa kuko nta nyungu bwite kandi itaziguye afite yatuma agira ububasha bwo kuwuregera.

2. Ibirego by'ingoboka mu manza z'abandi ntibyakirwa iyo bidafite ubusobekerane n'ikirego cy'iremezo, bityo iyo icy'iremezo kitakiriho kuko kitakiriwe, n'isuzuma ry'ubwo busobekerane riba ritagishobotse, ibi kandi binahura n'ihame ry'uko ibishamikiye ku cy'ibanze bigikurikira (l'accessoire suit le principal), akaba ariyo mpamvu ikirego cyo kugoboka mu rubanza nacyo kitakiriwe.

Inzitizi ifite ishingiro.
Ikirego cy'ingoboka nticyakiriwe.
Amagarama aherereye ku wareze.

Amategeko yashingiweho:
Itegeko N°21/2012 ryo ku wa 24/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 18(12°) n'iya 119.

Nta manza zifashishijwe.

Inyandiko z'abahanga zifashishijwe:
Mélina Douchy - Oudot, Procédure civile, 2ème édition, Paris, 2006, p.106, N°127; p.108, N°129.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Mu Rukiko rw'Akarere ka Kabagali, Nyiraromba yareze Ngirinshuti ko yamuhuguje imirima ayita iye avuga ko yayihawe na nyirakuru, mu rubanza RC0200/05/TD/KAB rwo ku wa 28/04/2005, Urukiko rwemeje ko umurima urimo ikibanza Nyiraromba yubatsemo ari uwe, kuko yawuhawe na Nyirabujangwe Sarah nk'uko na Ngirinshuti abyemera, rwemeza ko indi mirima itatu iburanwa ntawe ugaragaza ibimenyetso by'uko ari iye, runemeza ko ababuranyi bombi bagomba kuyiragirana kugeza igihe nyirayo azayigaragariza ikimenyetso.

[2] Ababuranyi bombi barajuriye, Nyiraromba avuga ko ibimenyetso yahaye Urukiko bitanditswe, rukirengagiza ko imirima ari iye, akaba ayimaranye imyaka 40, Ngirinshuti, we avuga ko Urukiko rwirengagije inyandiko umuburanyi we yatanze igaragaza ingano y'ikibanza Nyiraromba yahawe, ntirwita ku gishushanyo cy'ahaburanwa, rukoresha ingingo zivuguruzanya kandi rwirengagiza ko iyo mirima yayitunze mbere y'intambara, ariko ahungutse asanga Nyiraromba ayitunze.

[3] Mu rubanza RCA0935/05/TP/GIT-RCA0913/05/TP/GIT rwo ku wa 18/09/2008, Urukiko rwemeje ko ikirego kitakiriwe kuko ababuranyi badafite ububasha bwo kuburana iby'umuryango mu izina ryabo, rwemeza ko urubanza rujuririrwa ndetse n'umwanzuro wafashwe na Komite y'Abunzi ku wa 30/06/2005 bivanyweho kuko binyuranyije n'amategeko ndemyagihugu.

[4] Nyiraromba yongeye gutanga ikirego mu Rukiko rw'Ibanze rwa Ruhango, aregera imirima itatu, akavuga ko umwe yawuhawe na nyina, indi ibiri ikaba ari iy'umuryango, naho Ngirinshuti akavuga ko yayihawe na Nyirabujangwe, nyirakuru, akaba nyina wa Nyiraromba.

Mu rubanza RC0191/09/TB/RHGO rwo ku wa 09/10/2009, Urukiko rwemeje ko Nyiraromba ariwe ufite uburenganzira ku mirima itatu iburanwa kuko ayikomora ku babyeyi be bitabye Imana, ko uguhabwa kwa Ngirinshuti nta shingiro gufite.

[5] Ngirinshuti yajuririye Urukiko Rwisumbuye rwa Muhanga, avuga ko Urukiko rwamwambuye imirima ye itatu, rwirengagiza umwanzuro w'abunzi kandi warafashwe bagiye ku kiburanwa, ntirwabaza abagize umuryango kandi rwirengagiza ko mu Rukiko Nyiraromba yareze mu izina rye kandi mu bunzi yari yareze abagize umuryango wa Nyirabujangwe na Habuhazi.

[6] Mu rubanza RCA0740/09/TGI/MHG rwo ku wa 19/03/2010, Urukiko rwemeje ko urubanza rujuririrwa rudahindutse, kuko Ngirinshuti atagaragaza ibimenyetso by'uko yahawe imirima itatu iburanwa na nyirakuru Nyirabujangwe, uyu nawe akaba abihakana mu nyandiko yageze kuri Kanto ya Murama ku wa 24/09/1990, bikanagaragara mu rubanza RCAA2505/07/HC/NYA, hakaba n'inyandiko yo ku wa 03/10/1984 Nyirabujangwe yandikiye Nyiraromba ko amuhaye umurima ho ishimwe. Urubanza rwarangijwe n'umuhesha w'inkiko ku wa 09/05/2010.

[7] Ngirinshuti Emmanuel yaje kurega Nyiraromba mu bunzi, avuga ko aho yamutsindiye harimo amazu ye, abunzi bafata icyemezo birengagije ko Nyiraromba yatsindiye imirima n'ibiyirimo. Nyiraromba yaregeye umwanzuro w'abunzi mu Rukiko rw'Ibanze rwa Byimana, mu rubanza RC0377/13/TB/BMN rwo ku wa 2/7/2013 rusobanurwa n'urubanza RC0159/15/TB/BYM, rwemeje ko amazu atatu yubatse kuri ubwo butaka bufite ubuso bwa 20m kuri 40m ari aya Ngirinshuti Emmanuel, nk'uko bigaragazwa n'inyandiko yo ku wa 15/6/1985 yerekana ko Nyirabujangwe Sarah yahamuhaye akahubaka akoresheje inguzanyo ya Banki.

[8] Nyiraromba yatanze ikirego mu Rukiko rw'Ikirenga, asaba gukemura impaka ziri hagati y'urubanza RC0377/13/TB/BMA rwo ku wa 02/07/2013 rwasobanuwe n'urubanza RC0159/16/TB/BYM rwo ku wa 23/12/2015 zaciwe n'Urukiko rw'Ibanze rwa Byimana bivuguruzanya n'urubanza RCA070/09/TGI/MHG rwaciwe n'Urukiko Rwisumbuye rwa Muhanga ku wa 19/3/2010, akibaza kandi niba Urukiko rw'ibanze rwa Byimana rushobora kuvuguruza Urukiko Rwisumbuye.

[9] Avuga kandi ko Urukiko rw'Ibanze rwa Byimana rutagombaga kwakira ikirego cya Ngirinshuti kandi yaratsindiye ubutaka n'ibiriho, Urukiko kandi rukaba rwarishe amategeko kuko mu rubanza rusobanuza rwakiriye ikimenyetso cy'umuburanyi umwe, rufata icyemezo we adahamagajwe, asaba ko izo manza zavanwaho hakubahirizwa urubanza RCA0740/09/TGI/MHG na RC0191/TB/RHGO kuko nta rundi rwazikuyeho, hanyuma Ngirinshuti akamugenera indishyi z'ibyakoreshejwe mu manza zingana na 900.000Frw.

[10] Me Ndagijimana Viateur, mu mwanya wa Nsabiyaremye Protais, wagobotse ku bushake avuga ko mu haburanwa harimo ikibanza yaguze na Nyiraromba ku 650.000Frw, akaba afitemo inzu y'agaciro ka 25.173.880Frw, ubu akaba asabwa gukuramo ibikorwa bye mu rwego rwo gushyira mu bikorwa urubanza RC0377/TB/BYM rwo ku wa 07/07/2014 rwaciwe n'Urukiko rw'Ibanze rwa Byimana. Asaba kutavogerwa ku burenganzira afite ku kibanza N°6818, akanagenerwa indishyi za 800.000Frw kubera gusiragizwa mu manza, 1.000.000Frw y'igihembo cya Avoka.

[11] Urubanza rwaburanishijwe mu ruhame ku wa 13/12/2016, Nyiraromba Marthe ahagarariwe na Me Kayirangwa Marie Grậce, Ngirinshuti Emmanuel ahagarariwe na Me Mberabagabo Balinda Richard.

[12] Ku ruhande rwa Ngirinshuti bagaragaje inzitizi ebyiri, bavuga ko mu nzego zose ikirego cya Nyiraromba kitari gikwiye kwakirwa kubera ko yaburanaga imitungo y'umuryango ayirega umuntu umwe, inzitizi ya kabiri ikaba yerekeranye no kuba Nyiraromba adafite inyungu n'ububasha byo gutanga ikirego mu Rukiko rw'Ikirenga kubera ko imitungo aburana yaguzwe, ikaba itunzwe na Nsabiyaremye.

[13] Nyuma yo gusabwa ibisobanuro ku nzitizi yerekeranye no kuba ikirego kitari kuba cyarakiriwe mu nzego zose, Me Mberabagabo Balinda Richard yavuze ko iyo nzitizi bayiretse, Urukiko rukaba rugiye gusuzuma inzitizi yerekeranye no kumenya niba Nyiraromba yaba adafite inyungu n'ububasha byo gutanga ikirego yashyikirije Urukiko rw'Ikirenga.

II. IKIBAZO KIGIZE URUBANZA N'ISESENGURWA RYACYO

Kumenya niba Nyiraromba afite inyungu n'ububasha byo gutanga ikirego gisaba gukemura ivuguruzanya ryaba riri mu manza RC0377/13/TB/BMN rwo ku wa 02/7/2013 na RCA0740/09/TGI/MHGA rwo ku wa 19/03/2010.

[14] Me Mberabagabo uburanira Ngirinshuti avuga ko ikirego cya Nyiraromba kidakwiye kwakirwa kubera ko nta nyungu n'ububasha afite ku mutungo uburanwa, kuko nyuma yo kuwutsindira mu rubanza rwabaye itegeko, yawugurishije Nsabiyaremye, akaba nta burenganzira agifite bwo kuwuburana, ko ahubwo uwaguze uwo mutungo aramutse abangamiwe mu burenganzira bwe ariwe warega, maze akagobokesha uwo baguze.

[15] Avuga ko Nsabiyaremye waguze uwo mutungo ariwe ufite amasezerano y'ubukode bwa burundu, akaba yaratesheje agaciro imanza zose zaburanywe n'irangizwa ryazo kuri uwo mutungo, bikaba binaboneka mu mwanzuro wa Nyiraromba n'uwa Nsabiyaremye, aho bombi bagaragaza ko umutungo uburanwa ari uwabo.

[16] Me Kayirangwa avuga ko Nyiraromba aburanira afite inyungu ndetse n'ububasha byo kurega, kuko uwo yagurishije umutungo atawufitemo amahoro, kandi akaba ari nawe uzi ahari uwo mutungo, nk'uwahaburanye akanahatsindira.

[17] Me Ndagijimana Viateur uburanira Nsabiyaremye nawe avuga ko Nyiraromba afite ububasha n'inyungu muri uru rubanza, kubera ko ariwe wabaye umuburanyi, akaba akeneye ko ibidasobanutse bisobanuka, kandi ntahozwe ku nkeke n'uwo yagurishije, wabangamiwe mu burenganzira bwe nk'uwaguze.

UKO URUKIKO RUBIBONA

[18] Ingingo ya 18, agace ka 12, y'Itegeko N°21/2012 ryo ku wa 24/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi,

iteganya ko ikirego kitakirwa ngo cyandikwe mu bitabo by'Urukiko iyo cyatanzwe n'utabifitiye ububasha (qualité), ubushobozi cyangwa inyungu (intérêt).

[19] Urukiko rurasanga, nk'uko bisobanurwa n'abahanga mu mategeko, inyungu urega agomba kuba afite kugira ngo ikirego cye cyakirwe, ari itaziguye (direct) kandi bwite (personnel), ku buryo rero urega abyemererwa gusa, ari uko inyungu zibangamiwe ari ize bwite, kandi n'icyemezo cyazafatwa n'Urukiko ari we ubwe cyagirira akamaro[1], ugaragaza inyungu muri ubwo buryo, akaba ari nawe ugira ububasha bwo kurega, bwumvikana nk'uburenganzira bumwemerera kuba yasaba umucamanza kumuha ibyo aregera[2].

[20] Ku byerekeye Nyiraromba, wareze asaba ko hakemurwa ivuguruzanya ry'imanza yaburanyemo imitungo itimukanwa, maze nyuma yo kuyitsindira no kuyihabwa mu irangizarubanza, akayigurisha Nsabiyaremye, nawe waje kuyibonera ibyangombwa by'ubutaka, Urukiko rurasanga, hakurikijwe ibimaze gusobanurwa haruguru, inyungu Nyiraromba avuga, yo kuba uwo waguze abuzwa amahoro n'abandi muri uwo mutungo, kandi ari we wawumugurishije nta shingiro ifite, kuko uwo mutungo utakiri uwe, kuba ashaka gufasha uwo yawugurishije kutawuhungabanywamo n'abandi, nk'uko abiburanisha, bikaba bitabonekamo inyungu ye bwite, itaziguye, yatuma agira ububasha bwo kurega.

[21] Urukiko rurasanga rero, hashingiwe ku ngingo ya 18, agace ka 12 y'Itegeko N°21/2012 ryo ku wa 24/06/2016 ryibukijwe haruguru, ikirego cya Nyiraromba kitagomba kwakirwa ngo gisuzumwe, kuko adafite inyungu n'ububasha byo kuregera ikemurwa ry'ivuguruzanya ryaba riri mu manza RC0377/13/TB/BMN rwo ku wa 02/7/2013 na RCA0740/09/TGI/MHGA rwo ku wa 19/03/2010.

[22] Urukiko rurasanga kandi, mu gihe ikirego cy'ibanze cyatanzwe na Nyiraromba kitakiriwe, n'icyo kugoboka cyatanzwe na Nsabiyaremye kidashobora kwakirwa, kuko ingingo ya 109 y'Itegeko N°21/2012 ryo ku wa 14/06/2012 ryibukijwe haruguru, iteganya ko ibirego by'ingoboka mu manza z'abandi bitakirwa iyo bidafite ubusobekerane n'ikirego cy'iremezo, bikumvikana rero ko iyo icy'iremezo kitakiriho kuko kitakiriwe, n'isuzuma ry'ubwo busobekerane riba ritagishobotse, ibi kandi bikanahura n'ihame ry'uko ibishamikiye ku cy'ibanze bigikurikira (l'accessoire suit le principal).

III. ICYEMEZO CY'URUKIKO

[23] Rwemeje ko inzitizi yatanzwe na Ngirinshuti Emmanuel yo kutakira ikirego cya Nyiraromba Marthe ifite ishingiro;

[24] Rwemeje ko ikirego cyatanzwe na Nyiraromba Marthe, kitakiriwe;

[25] Rwemeje ko ikirego cyo kugoboka mu rubanza cyatanzwe na Nsabiyaremye Protais kitakiriwe;

[26] Rutegetse ko amagarama y'urubanza aherera kuri Nyiraromba Marthe.

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[1]"Une personne ne peut saisir une juridiction que dans la mesure où elle souffre d'une lésion de ses intérêts propres et où le résultat de l'action lui profitera personnellement": Mélina Douchy - Oudot, Procédure civile, 2ème édition, Paris, 2006, p.106, N°127.

[2]"A la qualité pour agir toute personne qui a un intérêt à agir… l'intérêt donne au demandeur la qualité pour agir. …. Il est le titre qui donne la prérogative de demander raison au juge d'une prétention". Ibidem, p.108, N°129.