NYAMASWA v. MUKAMUSONI

[Rwanda URUKIKO RW'IKIRENGA – RS/REV/CIV0001/15/CS (Hatangimbabazi, P.J., Gatete na Nyirandabaruta, J.) 21 Mata 2017]

Amategeko agenga imiburanishirize y'imanza z'imbonezamubano – Gusubirishamo urubanza ingingo nshya – Ikimenyetso gishya – Mu gihe ikimenyetso cyaburanishijwe mu nzego zibanza ntigihabwe ishingiro nticyafatwa nk'ikimenyetso gishya – Iyo umuburanyi azi ko hari inyandiko cyangwa ikindi kimenyetso cyamufasha mu rubanza, agomba kwihutira kukigeza ku rukiko nta kuzuyaza, bitabaye ibyo urubanza rukagera aho rubaye itegeko, niwe wirengera amakosa ye ariko aramutse ashatse kugikoresha nk' ikimenyetso gishya agomba kugaragaza ko icyo gihe bitashobokaga ku kibona – Itegeko N°21/2012 ryo ku wa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi iz'umurimo n'iz'ubutegetsi, ingingo yi 183(3).

Incamake y'ikibazo: Mukamusoni yareze Nyamaswa mu Rukiko Rwisumbuye rwa Gasabo avuga ko mu gihe yari afunze Nyamaswa yigabije imitungo ye akayisenya agashyiramo inyubako ze; muri urwo rubanza hanagobotsemo Rudasingwa na Mugorukeye bavuga ko mu mitungo iburanywa harimo iyabo.

Urukiko Rwisumbuye rwasanze ukugoboka nta shingiro gufite kuko harezwe utagombaga kuregwa; rukomeza ruvuga ko Nyamaswa yavogereye umutungo wa Mukamusoni mu gihe yari afunze maze rumutegeka kumuha ingurane iwanye n'amazu ye yasenywe.

Nyamaswa yajuririye Urukiko Rukuru avuga ko iyo mitungo yayishyuye amafaranga maze akayaha Zaninka umukobwa wa Mukamusoni kandi nawe yarazi ibyakozwe, Urukiko rwemeza ko urubanza rwajuririwe ruhindutse mu ngingo zarwo zose, Mukamusoni akaba agomba gutanga amagarama y'urubanza.

Mukamusoni yajuririye Urukiko rw'Ikirenga avuga ko Urukiko Rukuru rwashingiye ku bimenyetso bitariho, runavuga ko ibyo Zaninka yakoze aribyo maze rwemeza ko umutungo uburanwa ari uwa Nyamaswa.

Urukiko rw'Ikirenga rwemeje ko umutungo umuryango wa Nyamaswa uburana na Mukamusoni wawubonye mu buryo bunyuranyije n'amategeko maze rutegeka Nyamaswa guha Mukamusoni ingurane y'umutungo we.

Nyuma yaho Nyamaswa aboneye ibimenyetso bya kamparamaka bigaragaza neza akarengane yatewe n'urubanza bigizwe n'inyandiko y'iyimura n'ibaruwa yanditswe n'umujyi wa Kigali yatanze ikirego gisubirishamo ingingo nshya avuga ko iyo Urukiko rubona ibyo bimenyetso rutari kugera ku mwanzuro rwagezeho ko kandi inkiko zabanje zavugaga ko inyandiko azigaragariza atari umwimerere kuko nta mukono w'ubuyobozi wari uriho ariko ubu inyandiko yazanye yavuye mu Buyobozi, kubera ko yongerewe agaciro n'ibaruwa y'Umujyi wa Kigali kuko inyandikomvugo y'iyimurwa iherekejwe n'ibaruwa iriho kashe y'Umujyi wa Kigali .

Mukamusoni yiregura avuga ko icyo kimenyetso kitahabwa ishingiro kuko inyandiko ibanziriza y'umwimerere hamwe niyo bita iy'umwimerere zose zakorewe umunsi umwe icyo zitandukaniyeho akaba ari imikono y'aba *tekinisiye* ko kandi iyo nyandiko y'umwimerere itakwitwa iyu buyobozi kuko nta mukono na kashe Umuyobozi w'Umujyi wa Kigali yayishyizeho, ndetse ko n'Umuyobozi w'Akarere ka Gasabo ushinzwe igenamigambi atayishyizeho umukono, ko rero nta kigaragaza ko iyo nyandiko yatanzwe n'Ubuyobozi bw'Umujyi wa Kigali; ibyo akaba ari byo ashingiraho avuga ko

inyandiko yaburanishijwe ariyo bagaruye. Ababuranyi bose basoza basaba indishyi z'ikurikirana rubanza n'igihembo cy'Avoka.

Incamake y'icyemezo: 1. Mu gihe ikimenyetso cyaburanishijwe mu nzego zibanza ntigihabwe ishingiro nticyafatwa nk'ikimenyetso gishya, bityo rero biragaragara ko icyo ikimenyetso Nyamaswa avuga ko ari gishya yakiburanishije mbere nticyahabwa agaciro kuko iyo nyandiko itariho umukono w'umuyobozi; ikaba ariyo yongeye gukoreshwa muri uru rwego nk'ikimenyetso gishya.

2. Iyo umuburanyi azi ko hari inyandiko cyangwa ikindi kimenyetso cyamufasha mu rubanza, agomba kwihutira kukigeza ku rukiko nta kuzuyaza, bitabaye ibyo urubanza rukagera aho ruba itegeko, niwe wirengera amakosa ye ariko aramutse ashatse kugikoresha nk' ikimenyetso gishya agomba kugaragaza ko igihe yaburanaga bitashobokaga ku kibona.

3. Amafaranga y'ikurikiranarubanza n'igihembo cy'avoka agenwa mu bushishozi bw'Urukiko mu gihe asabwe ari ikirenga.

Ikirego kigamije gusubirishamo urubanza ingingo nshya nticyakiriwe.
Amagarama y'urubanza ahwanye n'imirimo yakozwe mu rubanza.

Amategeko yashingiweho:
Itegeko - teka ryo kuwa 30 Nyakanga 1888 rigenga amasezerano cyangwa imirimo nshinganwa, ingingo ya 258.
Itegeko N°21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi iz'umurimo n'iz'ubutegetsi, ingingo yi 183 (3).

Urubanza rwifashishijwe:
Brasseries et Limonaderies du Rwanda (BRALIRWA) Ltd na Sindikubwabo Cyprien, RS/REV/COM 0001/13/CS, rwaciwe n'Urukiko rw'Ikirenga kuwa 26/02/2016.

Ibitekerezo by'abahanga:
Isabelle Desprès et Laurent Dargent, code de procédure civile, Dalloz, Paris, 2009, p.435.
Serge Guinchard, Droit et pratique de la procedure civile, édition 1999, page 1270, Nº6224.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Urubanza rwatangiririye mu Rukiko Rwisumbuye rwa Gasabo, Mukamusoni Astérie arega Nyamaswa Ephron kuba mu gihe yari afunze, yarigabije imitungo ye akayisenya akubakamo, hagobokamo Rudasingwa Emmanuel na Mugorukeye Annociata bavuga ko mu mitungo iburanwa harimo n'iyabo.

[2] Mu rubanza RC0049/07/YGI/GSBO rwaciwe kuwa 18/12/2009, Urukiko Rwisumbuye rwa Gasabo rwemeje ko mu kibanza cya Mugorukeye Annociata hatuwe n'uwitwa Musabye Sebera Vincent, naho kwa Rudasingwa Emmanuel hakaba hatuwe na Sentama Gasore, ikirego cyabo kikaba kidafite

ishingiro, kuko bareze Nyamaswa Ephron atari we bakwiye kurega. Rwemeje kandi ko Nyamaswa Ephron yavogereye umutungo wa Mukamusoni Astérie ajya kuwuturamo igihe yari afunze, atahahawe na Leta nk'uko abivuga, ko uwo bavuga baguze ariwe Zaninka, umukobwa wa Mukamusoni Astérie, atigeze ahabwa uburenganzira bwo guhagararira nyina mu mitungo ye yagurishijwe, maze rumutegeka guha Mukamusoni Astérie 29.935.545Frw ahwanye n'ingurane y'amazu ye yasenywe.

[3] Nyamaswa Ephron yajuririye mu Rukiko Rukuru, ruca urubanza RCA0058/10/HC/KIG ku wa 10/02/2012, rwemeza ko Nyamaswa Ephron yishyuye Zaninka amafaranga y'imitungo ya Nyina mu mwaka wa 2001, bikaba byarakozwe Mukamusoni abizi, rwemeza ko urubanza rwajuririwe ruhindutse mu ngingo zarwo zose, rutegeka Mukamusoni Astérie gutanga amagarama y'urubanza angana na 67.150Frw.

[4] Mukamusoni Astérie ntiyishimiye imikirize y'urubanza maze arujuririra mu Rukiko rw'Ikirenga avuga ko umucamanza wo mu Rukiko Rukuru yashingiye ku bimenyetso bitariho yemeza ko umutungo uburanwa ari uwa Nyamaswa Ephron, anemeza ibyo Zaninka yakoze agurisha imitungo ye kandi ataribyo.

[5] Mu rubanza RCAA0022/12/CS rwaciwe ku wa 09/01/2015, Urukiko rw'Ikirenga rwemeje ko umutungo umuryango wa Nyamaswa Ephron uburana na Mukamusoni Astérie wawubonye mu buryo bunyuranye n'amategeko, rwemeza ko urubanza RCA0058/10/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 10/02/2012, ruhindutse mu ngingo zarwo zose, rutegeka Nyamaswa Ephron guha Mukamusoni Astérie 19.542.300Frw y'ingurane.

[6] Nyamaswa Ephron yatanze ikirego gisubirishamo ingingo nshya urwo rubanza rwaciwe n'Urukiko rw'Ikirenga, avuga ko kuva aho urubanza ruciriwe habonetse ibimenyetso bya kamarampaka bigaragaza neza akarengane yatewe n'urubanza, avuga ko ikirego cye gishingiye ku ngingo ya 186,3º y'Itegeko Nº21/2012 ryo ku wa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ibyo bimenyetso bikaba ari inyandiko mvugo y'iyimura (expropriation) n'ibaruwa yanditswe n'Umujyi wa Kigali.

[7] Urubanza rwaburanishijwe mu ruhame ku wa 14/03/2017, Nyamaswa Ephron yunganiwe na Me Nsengiyumva Niyondora na Me Rwihandagaza Richard naho Mukamusoni Astérie ahagarariwe na Ntigurirwa François.

II. IKIBAZO KIGOMBA GUSUMWA N'ISESENGURWA RYACYO

Kumenya niba hari ibimenyetso bishya byatanzwe na Nyamaswa Ephron byatuma urubanza RCAA0022/12/CS rusubirishwamo ingingo nshya.

[8] Nyamaswa Ephron avuga ko kuva aho urubanza ruciriwe habonetse ibimenyetso bya kamarampaka bigizwe n'inyandiko mvugo y'iyimura (expropriation) n'ibaruwa iyiherekeza yatanzwe n'Umujyi wa Kigali isubiza ibaruwa yo ku wa 12/03/2015, yanditswe n'umugore we Mukeshimana Georgette.

[9] Me Nsengiyumva Niyondora avuga ko hari inyandiko-mvugo y'iyimurwa ifitanye isano n'ibaruwa y'umujyi wa Kigali. Avuga ko mu rubanza rusabirwa gusubirishwamo ingingo nshya, Urukiko rwemeje ko ubutaka Nyamaswa n'umuryango we batuyemo yabubonye mu buryo bunyuranije

n'amategeko; ko nta yimurwa ryigeze ribaho mu gace ka Kimironko hagamijwe kwimura abantu bari bafite utuzu twubatse nabi ngo hubakwe inzu zijyanye n'Umujyi wa Kigali, ariko ko ku wa 12/3/2015, Umujyi wa Kigali wamwandikiye ibaruwa imwereka ibijyanye n'iyimurwa ryagombaga gukorwa ku wa 28/04/2001, ikanagaragaza uwishyuwe n'uwishyuye, ko aba "techiniciens" b'Umujyi wa Kigali bakoze iyo nyandikomvugo y'iyimurwa (expropriation) banayishyiraho umukono n'ubwo Umuyobozi w'Umujyi wa Kigali atayisinyeho. Ibi ngo bivanaho imvugo z'abatangabuhamya bavuze ko nta yimurwa ryabaye mu gace ka Kimironko.

[10] Me Nsengiyumva Niyondora avuga ko iyo Urukiko rw'Ikirenga rugira iki kimenyetso rutari kugera ku mwanzuro rwagezeho mu rubanza rusabirwa gusubirishwamo ingingo nshya, kuko no mu bika bya 14 na 15 by'urubanza rwaciwe n'Urukiko Rwisumbuye rwa Gasabo harimo fotokopi y'inyandikomvugo y'iyimurwa itariho umukono w'aba "technicens", urwo Rukiko rukaba rwaravuze ko nta mwimerere wayo uhari, ibi nabyo bikaba bikuraho imvugo y'uko ibimenyetso batanze byari byaraburanishijwe, kuko na nyuma yaho Nyamaswa Ephron yabonye Historique yishyuriyeho, iza yiyongera ku bimenyetso bishya bagaragaje.

[11] Me Rwihandagaza Richard nawe wunganira Nyamaswa Ephron yasobanuye ko icyatumye mbere hose batarasabye icyo kimenyetso Umujyi wa Kigali kugeza aho urubanza ruciriwe mu Rukiko rw'Ikirenga, aruko baburana mu Rukiko Rwisumbuye bagaragaje ibibazo Nyamaswa Ephron yari afite byo kubona ikimenyetso, bikaba ngombwa ko basaba ko Umujyi wa Kigali ugobokeshwa bibwira ko nuza mu rubanza uzavuga ku bijyanye n'iyimurwa ryabaye nk'uko bigaragara mu gika cya 6, urupapuro rwa 2 rw'urubanza rwaciwe n'Urukiko Rwisumbuye rwa Gasabo, bigaragaza ko nubwo icyo kimenyetso cyabonetse ariko cyabonetse mu buryo bugoranye.

[12] Avuga kandi ko inyandiko ya kabiri bazanye yavuye mu Buyobozi (administration), kubera ko yongerewe agaciro n'ibaruwa y'Umujyi wa Kigali kuko inyandikomvugo y'iyimurwa iherekejwe n'ibaruwa iriho kashe y'Umujyi wa Kigali. Akaba asanga iyo umucamanza aza kugira icyo kimenyetso gishya bazanye, yari gufata icyemezo gitandukanye n'icyo yafashe.

[13] Me Ntigurirwa François, uhagarariye Mukamusoni, avuga ko ikimenyetso gishya cyatanzwe n'urega nta shingiro gifite, kubera ko inyandiko ibanziriza iy'umwimerere (draft) yaburanishijwe mu Rukiko Rwisumbuye rwa Gasabo (igika cya 14 cy'Urubanza), ko inyadiko ya fotokopi n'iyo bita iy'umwimerere zose zakozwe ku itariki imwe yo ku wa 28/01/2001, bivuze ko zose ari "draft", akaba atari ingingo nshya kuko iyo "draft" yaburanishijwe mu nkiko zose, ko icyo izo nyandiko zombi zigaragaza ari uwishyuwe n'umubare w'amafaranga yishyuwe, aho zitandukaniye akaba aruko iyatanzwe mbere itagaragaza aho abahawe amafaranga basinye mu gihe ku yiswe iy'umwimerere igaragaraho imikono y'abahawe amafaranga ku wa 21/5/2001, naho ubundi nta cyahindutse, kikaba rero atari ingingo nshya kuko cyaburanywe.

[14] Me Ntigurirwa asobanura kandi ko impamvu iyo nyandikomvugo isinye itafatwa nk'ikimenyetso gishya kandi uwareze agaragaza ko mbere Urukiko rwari rwanze kuyiha agaciro kuko itari isinye, ariko icyo bise "document final" ifite itariki imwe na "draft"; ko icyahindutse ari imikono y'aba "techniciens" ziyongereyeho, naho ubundi ko "draft", na "document final" zakorewe umunsi umwe. Avuga kandi ko iyo nyandiko idakwiye kwitwa iy'ubutegetsi (document administratif) kubera ko nta mukono na kashe Umuyobozi w'Umujyi wa Kigali yayishyizeho, ndetse ko n'Umuyobozi w'Akarere ka Gasabo ushinzwe igenamigambi (planning) atayishyizeho umukono, ko rero nta kigaragaza ko iyo nyandiko yatanzwe n'Ubuyobozi bw'Umujyi wa Kigali; ibyo akaba ari byo ashingiraho avuga ko inyandiko yaburanishijwe

ariyo bagaruye, yongeraho ko hasuzumwa n'impamvu inyandiko imwe iriho imikono y'aba "techniciens" babiri, ku yindi ntibeho kandi byarakorewe umunsi umwe, asaba Urukiko kwemeza ko icyo kimenyetso atari gishya.

[15] Ku byerekeye ikimenyetso abo baburana batanze cya "historique" yerekana ko hari amafaranga Nyamaswa Ephron yavanye kuri banki, avuga ko nta kigaragaza ko ayo mafaranga yari agenewe kwishyura abimuwe (expropriation), ko n'itariki y'iyimurwa idahura n'iyo amafaranga yavaniweho kuri Banki, ko kandi niyo yaba yarayatanze, ko Urukiko rwemeje ko yajya gusaba amafaranga uwo yayahaye, kuko abayakiriye batatumwe na Mukamusoni Astérie.

UKO URUKIKO RUBIBONA

[16] Ingingo ya 186,3º y'Itegeko N°21/2012 ryo ku wa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi iz'umurimo n'iz'ubutegetsi, iteganya ko mu mpamvu zituma urubanza rusubirishwamo ingingo nshya harimo "…iyo kuva aho urubanza ruciriwe habonetse ibimenyetso bya kamarampaka bigaragaza neza akarengane katewe n'urubanza rusabirwa gusubirwamo; icyo kimenyetso cyaba kiri mu nyandiko zatanzwe mu rubanza ariko urukiko ntirukibone cyangwa cyaragaragajwe nyuma".

[17] Dosiye igaragaza ko hari ibaruwa Mukeshimana Georgette yandikiye Umujyi wa Kigali ku wa 16/02/2015, awusaba inyandikomvugo yo kwimura abantu yo ku wa 28/04/2001. Umujyi wamusubije mu ibaruwa yo kuwa 12/03/2015, ko, uhereye ku ibaruwa yanditse, yohererejwe inyandikomvugo y'iyimurwa rya Zaninka na Umubyeyi Marie Claire.

[18] Dosiye igaragaza ko mu rubanza RCAA0022/12/CS, rwaciwe n'Urukiko rw'Ikirenga ku wa 09/01/2015 (igika cya 9), Nyamaswa Ephron yavuze ko mu mwaka wa 2001, yaguze na Zaninka ikibanza yabonye nk'umugabane cyari gifite metero 18 kuri metero 35 ku mafaranga 350.000Frw, maze kugira ngo icyo kibanza cyuzure biba ngombwa ko afata metero 12 ku kibanza cya Mukamusoni Astérie cyarimo inzu ishaje ahatangira ingurane ihwanye na 418.000Frw.

[19] Dosiye igaragaza na none ko mu rubanza No RC 0049/07/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ku wa 18/12/2009 (igika cya 12), Me Rwihandagaza Richard wari uhagarariye Nyamaswa Ephron yavuze ko uwo ahagarariye yahawe umutungo bizwi n'ubuyobozi, akaba yarahawe ibyangombwa nyuma yo kwimura (expropriation) byakozwe n'inzego zibishinzwe. Mu gika cya 13, avuga ko kwimura bidakorwa gusa mu nyungu rusange, ko habaho n'ubwumvikane bw'abantu, mu gika cya 15 akaba asobanura ko impamvu impapuro za "expropriation" zitagaragaza itariki yakoreweho nta n'ubuyobozi bwayisinyeho, babimuhaye kugira ngo barebe niba uwo baburana abyemera, ko umwimerere wasigaye mu buyobozi bw'Umujyi wa Kigali.

[20] Ku bijyanye n'ikimenyetso gishya cy'inyandikomvugo y'iyimurwa (PV d'expropriation) Nyamaswa Ephron yatanze asubirishamo urubanza ingingo nshya, Urukiko rurasanga iyo nyandiko itafatwa nk'ikimenyetso gishya, kubera ko mu Rukiko Rwisumbuye rwa Gasabo iyo nyandiko ya "expropriation" yari yatanzwe itariho umukono w'umuyobozi w'Umujyi wa Kigali, akaba ariyo yongeye gukoresha muri uru rwego nk'ikimenyetso gishya, kandi bigaragara ko yari yayiburanishije mbere ntihabwe agaciro.

[21] Urukiko rurasanga hagendewe ku bimaze kuvugwa, ikimenyetso cy'ibaruwa Mukeshimana Georgette umugore wa Nyamaswa, yandikiwe n'Umujyi wa Kigali kuwa 12/3/2015, hasubizwa iyo yari yawandikiye ku wa 16/02/2015, awusaba inyandikomvugo yo ku wa 28/04/2001, yo kwimura abantu, aho wamwoherereje iyo nyandikomvugo n'ubundi idasinyweho n'Umuyobozi ubishinzwe, itafatwa nk'ikimenyetso gishya hashingiwe ku biteganywa mu ngingo ya 186, 3° y'Itegeko N°21/2012 ryo ku wa 14/06/2012 ryavuzwe haruguru, no ku bisobanuro byatanzwe, kuko iyo nyandikomvugo yaburanishijwe kandi iyo baruwa ubwayo yonyine ikaba ntacyo yamara itari kumwe n'iyo nyandikomvugo.

[22] Urukiko rurasanga kandi niyo iyo nyandikomvugo yafatwa nk'aho atariyo yaburanishijwe ku mpamvu gusa yuko noneho iriho imikono y'abatekinisiye, nabwo ntiyafatwa nk'ikimenyetso gishya cyatuma urubanza RCAA0022/12/CS rusubirishwamo ingingo nshya, kuko Nyamaswa Ephron uyiburanisha yari asanzwe azi ko ihari nyamara ntiyayisaba ngo ayifashishe, kuva urubanza ruburanishwa mu Rukiko Rwisumbuye kugeza aho ruburanishijwe mu rwego rwa nyuma n'Urukiko rw'Ikirenga ndetse rugahinduka itegeko. Akaba ataranagaragaza ko bitashobokaga kubona iyo nyandiko yita ikimenyetso gishya ngo agikoreshe mu rubanza yaburanaga mu gihe rwari rutaraba itegeko.

[23] Iby'uko ikimenyetso cyashoboraga kwifashishwa urubanza rutaraba itegeko kitafatwa nk'ikimenyetso cyatuma urubanza rusubirishwamo ingingo nshya niko n'abahanga mu mategeko nka Serge GUINCHARD babibona, aho avuga ko iyo umuburanyi uzi ko hari inyandiko cyangwa ikindi kimenyetso cyamufasha mu rubanza, agomba kwihutira kukigeza ku rukiko nta kuzuyaza. Ko iyo atabyitayeho urubanza rukagera aho rusozwa, ariwe wirengera amakosa ye, kandi icyo gihe isubirishamo ry'urubanza ingingo nshya riba ritagishobotse. Akomeza asobanura ko n'iyo ikimenyetso kiri muri dosiye nshinjabyaha igikurikiranwa ku buryo kidashobora kuboneka ako kanya, umuburanyi ugikeneye agomba gusaba Urukiko kuba ruhagaritse urubanza.

[24] Ibi bihura n'umurongo wafashwe n'uru Rukiko mu zindi manza rwaciye, nko mu rubanza RS/REV/COM 0001/13/CS, aho rwavuze ko "…rubanza rwatangiriye mu Rukiko rwa Mbere rw'Iremezo rwa Kigali muri 2000, rugera mu Rukiko Rukuru rw'Ubucuruzi muri 2009, rucibwa bwa nyuma n'Urukiko rw'Ikirenga muri 2010, muri iyo myaka icumi, BRALIRWA Ltd ikaba itagaragaza icyayibujije kugana inzira yatumye ibona ibimenyetso ishingiraho ikirego cyayo, cyangwa ngo igaragaze ko yabigerageje bikananirana…".

Kumenya niba indishyi Mukamusoni Asteri asaba muri uru rubanza yazihabwa.

[25] Me Ntigurirwa uhagarariye Mukamusoni Astérie avuga ko Nyamaswa akwiye kugenera uwo ahagarariye indishyi zingana na 4.500.000Frw hashingiwe ku ngingo ya 258 y'Itegeko ryo kuwa 30 Nyakanga 1888 rishyiraho Igitabo cya gatatu cy'urwunge rw'amategeko mbonezamubano, zikubiyemo 2.000.000Frw z'igihembo cya Avoka, 2.000.000Frw z'indishyi z'akababaro kubera kumusiragiza mu nkiko, na 500.000Frw y'ikurikiranarubanza.

[26] Abahagarariye Nyamaswa Ephron bavuga ko izo ndishyi zidakwiye ahubwo ariwe uzikwiye.

UKO URUKIKO RUBONA

[27] Urukiko rusanga kuba Nyamaswa Ephron yarasubirishijemo urubanza ingingo nshya, byaratumye hari ibyo Mukamusoni Astérie atakaza kuko byabaye ngombwa gukurikirana urubanza no gushaka Avoka wo kumuburanira, bityo hashingiwe ku ngingo ya 258 yavuzwe haruguru, akaba

agomba kumuha 700.000Frw y'ikurikiranarubanza n'igihembo cya Avoka, agenwe mu bushishozi bw'urukiko kuko ayo yatse ari ikirenga.

III. ICYEMEZO CY'URUKIKO.

[28] Rwemeje ko ikirego cya Nyamaswa Ephron kigamije gusubirishamo urubanza ingingo nshya kitakiriwe.

[29] Rutegetse Nyamaswa Ephron guha Mukamusoni Astérie 700.000Frw y'ikurikiranarubanza n'igihembo cya Avoka.

[30] Rutegetse ko 100.000Frw Nyamaswa Ephron yatanze arega ahwanye n'imirimo yakozwe muri uru rubanza.