

MPORANYI v. USENGIMANA

[Rwanda URUKIKO RW'IKIRENGA – RCOMAA
0014/15/CS (Kayitesi, P.J., Karimunda na Ngagi, J.) 23 Kamena
2017]

Amategeko agenga imiburanishirize y'imanza z'ubucuruzi – Izina ry'ubucuruzi – Ububasha bwo kurega mu Rukiko – Izina ry'ubucuruzi ntirigira ubuzimanagatozi ku buryo ryatanga ikirego mu rukiko, ahubwo ikirego gitangwa na nyir'ubucuruzi mw'izina rye kuko ari we ufite ubuzimagatozi bumuhesha ububasha bwo kurega arengera inyungu z'ubucuruzi bwe akorera muri iryo zina.

Incamake y'ikibazo: Entreprise Usengimana Richard yaguze imigabane muri SORAS Group Ltd, nyuma iza kurega umuyobozi wayo Mporanyi Charles mu Rukiko rw' Ubucuruzi rwa Nyarugenge ivuga ko yamuhenze ubwo yamugurishaga imigabane muri SORAS Group Ltd, inasaba Urukiko kumuhatira kwishyura ikinyuranyo cy'igiciro yaguriyeho imigabane. Uru Rukiko rwabanje gusuzuma ibijyanye no kumenya niba Entreprise Usengimana Richard ifite ububasha bwo kurega, rusanga atari sosiyete y'ubucuruzi cyangwa ikigo gifite ubuzimagatozi ku buryo yakwemererwa kurega cyangwa kuregwa, ahubwo ari izina ry'ubucuruzi rihesha nyiraryo ububasha bwo kurega ku giti cye, kubwibyoye, Urukiko rwemeza ko ikirego kitakiriwe.

Entreprise Usengimana ntiyishimiye imikirize y'urubanza maze ijurira mu Rukiko Rukuru rw'Ubucuruzi ivuga ko Urukiko rubanza rwanze kwakira ikirego cyayo kubwo kwirengagiza amategeko n'ibimenyetso yarushyikirije ivuga ko iyo *entreprise*

yanditswe muri *Rwanda Development Board* kandi ikaba ifite ubuzimagatozi. Mporanyi nawe yatanze inzitizi yo kutakira ubujurire bwa Enterprise Usengimana avuga ko itujuje ibisabwa kugirango yitwe umuburanyi.

Urukiko Rukuru rw'Ubucuruzi rwemeje ko ubujurire bwa Enterprise Usengimana bukwiye kwakirwa kuko rwasanze ntakigaragaza ko iyo entreprise itandukanye na nyirayo, Urukiko rwemeza ko ikirego cya Enterprise Usengimana cyagombaga kwakirwa kuko Usengimana ari izina akoresha mu bucuruzi bwe, akaba afite ubuzimagatozi, bityo ko adakwiye kwangirwa gutanga ikirego akoresheje izina ry'ubucuruzi bwe, bityo ko ikirego kigomba gusubira mu Rukiko rw'Ubucuruzi rwa Nyarugenge maze rukaburanishwa.

Mporanyi Charles ntiyanyuzwe, maze ajurira mu Rukiko rw'Ikirenga avuga ko Urukiko Rukuru rw'Ubucuruzi rwatandukiriye ruvuga ko Enterprise Usengimana itagomba gutandukanywa na nyirayo, kubera ko izina ry'ubucuruzi ritarega kuko riba ridafite ubuzima gatozi, ahubwo harega nyiraryo. Enterprise Usengimana Richard yisobanura ivuga ko isanga nta kiyibuza nka *institution* kugira ubuzima gatozi kuko ari izina ry'ubucuruzi ryatanzwe n'urwego rwa Leta rubifitiye ububasha.

Mporanyi Charles yasabye indishyi zo gushorwa mu manza nta mpamvu, naho Enterprise Usengimana yo ikavuga ko nta shingiro zifite kuko icyo avoka ahemberwa ari ugukurikirana urubanza.

Incamake y'icyemezo: 1. Izina ry'ubucuruzi ntirigira ubuzimanagatozi ku buryo ryatanga ikirego mu Rukiko, ahubwo ikirego gitangwa na nyir'ubucuruzi mw'izina rye kuko ari we

ufite ubuzimagatozi bumuhesha ububasha bwo kurega arengera inyungu z'ubucuruzi bwe akorera muri iryo zina.

**Ubururire bufite ishingiro.
Ikirego cyatanze na Entreprise Usengimana Richard
nticyagombaga kwakirwa;
Urubanza rwajuririwe ruvanyweho;
Amagarama aherereye kuri Entreprise Usengimana.**

Amategeko yashingiweho:

Itegeko N° 21/2012 ku wa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 2.
Itegeko N° 07/2009 ryo ku wa 27/04/2009 ryerekeye amasosiyete y'ubucuruzi, ingingo ya 375.

Imanza zifashishijwe:

Julia Shop v Ecobank Rwanda Ltd, RCOMAA 0042/14/CS, rwaciwe n'Urukiko rw'Ikirenga ku wa 18/03/2016 igika cya 19 na 22.

Association Momentanée SOBETRA SARL & SOBTRA (U) Ltd v Office Rwandais des Recettes (RRA), RCOMA 0064/11/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 28/11/2012, igika cya 16.

Free Zone, Co, Ltd v Association Momentanée (Joint Venture) «H3E» RCOMA 0064/12/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 03/06/2016, igika cya 39.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Uru rubanza rwatangiriye mu Rukiko rw'Ubucuruzi rwa Nyarugenge, Entreprise Usengimana Richard isaba ko Mporanyi Charles ahatirwa kwishyura 318.433.000Frw y'ikinyuranyo cy'igiciro cy'imigabane yayo yaguze muri SORAS Group Ltd, kubera ko Entreprise Usengimana Richard ivuga ko yahenzwe ubwo yagurishwaga imigabane 4.260.

[2] Urwo Rukiko rwabanje gusuzuma ibijyanye no kumenya niba Entreprise Usengimana Richard ifite ububasha bwo kurega, rusanga atari sosiyete y'ubucuruzi cyangwa ikigo gifite ubuzimagatozi ku buryo yakwemererwa kurega cyangwa kuregwa, ahubwo ari izina ry'ubucuruzi rihesha nyiraryo ububasha bwo kurega ku giti cye, rwemeza ko ikirego cya Entreprise Usengimana Richard kitakiriwe.

[3] Entreprise Usengimana Richard yajuririye Urukiko Rukuru rw'Ubucuruzi ivuga ko Urukiko rubanza rwanze kwakira ikirego cyayo kubwo kwirengagiza amategeko n'ibimenyetso yarushyikirije kuko nubwo ari iya Usengimana Richard, iyo «entreprise» yanditswe muri *Rwanda Development Board* kandi ifite ubuzimagatozi.

[4] Mporanyi Charles yabanje gutanga inzitizi yo kutakira ubujurire bwa Entreprise Usengimana Richard avuga ko itujuje ibisabwa kugirango yitwe umuburanyi hashingiwe ku biteganywa n'ingingo ya 18 y'Itegeko N° 07/2009 ryo ku wa 27/04/2009 ryerekeye amasosiyete y'ubucuruzi ryariho ikirego gitangwa, n'ingingo ya 2, iya 142 n'iya 355, agace ka 10, z'Itegeko N°21/2012 ryo ku wa 14/06/2012 ryerekeye

imiburanishirize y’imanza z’imbenezamubano, iz’ubucuruzi, iz’umurimo n’iz’ubutegetsi.

[5] Urukiko Rukuru rw’Ubucuruzi rwasanze ntakigaragaza ko Entreprise Usengimana Richard itandukanye na nyirayo, kuko atari ishyirahamwe, umuryango cyangwa ikigo bisabwa inyungu, ububasha n’ubushobozi bwo kurega nk’uko biteganywa n’ingingo ya 2 y’Itegeko N° 21/2012 ryo ku wa 14/06/2012 ryerekeye imiburanishirize y’imanza z’imbenezamubano, iz’ubucuruzi, iz’umurimo n’iz’ubutegetsi, bityo ko itagomba no gusabwa ibiteganywa n’ingingo ya 18 y’Itegeko N°07/2009 ryo ku wa 27/04/2009 ryerekeye amasosiyete y’ubucuruzi kugirango igire ububasha n’ubushobozi byo gutanga ikirego, rwanzura ko ntakibuza Entreprise Usengimana Richard cyangwa Usengimana Richard ubwe kugira ububasha n’ubushobozi bwo kurega no kuregwa kuko ari izina ry’ubucuruzi ry’umuntu ku giti cye, ubujurire bwe bukaba bukwiye kwakirwa, bukaburanishwa mu mizi.

[6] Urukiko Rukuru rw’Ubucuruzi rwakomereje iburanisha ku kibazo cy’ububasha (qualité), mu cyemezo RCOMA 500/15/HCC cyafashwe ku wa 31/10/2014, rusanga Entreprise Usengimana Richard ari izina Usengimana Richard akoresha mu bucuruzi bwe, bityo ko mu gihe Usengimana Richard ubwe afite ubuzimagatozi adakwiye kwangirwa gutanga ikirego akoresheje izina ry’ubucuruzi bwe, rwemeza ko ikirego cyagombaga kwakirwa, rutegeka ko urubanza rusubira mu Rukiko rw’Ubucuruzi rwa Nyarugenge kugira ngo ruburanishwe.¹

¹ Urukiko rwashingiye ku ngingo ya 171 y’Itegeko N° 21/2012 ryo ku wa 14/06/2012 ryerekeye imiburanishirize y’imanza z’imbenezamubano, iz’ubucuruzi, iz’umurimo n’iz’ubutegetsi.

[7] Mporanyi Charles ntiyanyuzwe n'icyo cyemezo akijuririra mu Rukiko rw'Ikirenga avuga ko:

a) Urukiko Rukuru rw'Ubucuruzi rwibeshye ruvuga ko Entreprise Usengimana Richard ari izina ry'ubucuruzi ryakoreshwa nk'izina bwite nyamara Entreprise Usengimana Richard yaravugaga ko ifite ubuzima gatozi butandukanye n'ubwa nyirayo kuko yanditswe muri *Rwanda Development Board*.

b) Urukiko Rukuru rw'Ubucuruzi rwavuze ko Usengimana Richard adakwiye gutandukanywa n'ibikorwa bye by'ubucuruzi akora mu izina rya Entreprise Usengimana Richard nyamara iyo « *entreprise* » atari izina ry'ubucuruzi rifite ubuzima gatozi nkuko urwo Rukiko rwabivuze ku buryo ryagira ububasha bwo kurega mu mwanya wa nyiraryo kuko urega agomba no kugira umwirondoro wuzuye ugaragaza ko ari umuntu (*personne morale ou physique dotée de personnalité juridique*), kandi ibyo bikaba bidafitwe na Entreprise Usengimana Richard.

[8] Iburanisha mu ruhame ryabaye ku wa 04/10/2016, Mporanyi Charles aburanirwa na Me Ruzindana Ignace naho Entreprise Usengimana Richard iburanirwa na Me Idahemuka Tharcisse.

[9] Urukiko rwabanje gusuzuma inzitizi y'iburabubasha yazamuwe na Me Idahemuka Tharcisse wavugaga ko nta gaciro k'ikiburanwa ka nibura 50.000.000Frw kagenwe n'Inkiko zibanza cyangwa se ngo kabe karagiweho impaka, ariko ko niyo ubujurire bwaba buri mu bubasha bw'uru Rukiko butakwagirwa kuko hajuririwe icyemezo cy'agateganyo ku nzitizi kandi bene ibyo byemezo bijuririrwa hamwe n'urubanza mu mizi.

[10] Mu rubanza rubanziriza urundi rwaciwe ku wa 11/11/2016, Urukiko rwasanze inzitizi zatanzwe nta shingiro zifite, rwemeza ko iburanisha mu mizi rizakomeza ku wa 21/01/2017. Uwo muni ugeze, Me Mugabonabandi Jean Maurice yabwiye Urukiko ko yasimbuye Me Idahemuka Tharcisse wivanye mu manza zose za Entreprise Usengimana Richard kandi ko, uretse kuba aribwo akibona dosiye, Urugaga rw'aba Avoka rutaramwemerera kuburana urwo rubanza, asaba ko rwimurwa kugirango yitegure iburanisha ariko anabone uruhushya rwo kuburana.

[11] Iburanisha ryimuriwe ku wa 21/03/2017. Uwo muni usanga inteko ituzuye, rwimurirwa ku wa 23/05/2017. Kuri uwo muni, iburanisha ribera mu ruhame, Mporanyi Charles aburanirwa na Me Ruzindana Ignace naho Entreprise Usengimana Richard iburanirwa na Me Mugabonabandi Jean Maurice wabanje kumenyesha Urukiko ko yasubiye ku rwandiko rwe rwageze ku Rukiko ku wa 17/03/2017 aho yavugaga ko yivanye mu rubanza kubera ko atari gushobora kubahiriza ibyo yasabwaga n'Urugaga rw'Abavoka kugirango aruburane.

II. IKIBAZO KIGIZE URUBANZA N'ISESENGURWA NGURWA RYACYO

II.1. Kumenya niba Entreprise Usengimana Richard yari ifite ububasha bwo kuregera Urukiko

[12] Me Ruzindana Ignace, uburanira Mporanyi Charles, avuga ko Urukiko Rukuru rw'Ubucuruzi rwatandukiriyeye ruvuga ko Entreprise Usengimana Richard itagomba gutandukanywa na nyirayo aho kwemeza cyangwa gutesha agaciro ibyavugwaga

n'ubu bikivugwa na Usengimana Richard ko Entreprise Usengimana Richard ari «société» cyangwa «institution». Asobanura ko izina ry'ubucuruzi ritarega kuko riba ridafite ubuzima gatozi ahubwo ko harega nyiraryo, uyu akaba ari nawo murongo uru Rukiko rwatanze mu rubanza *Rwanda Free Zone, Co, Ltd yaburanaga na Association momentanée (joint-venture)*, akaba arusaba gushingira kuri uwo murongo no ku ngingo ya 2 y'Itegeko N° 21/2012 ryo ku wa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbenezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, rukemeza ko Entreprise Usengimana Richard idafite ububasha bwo kurega, rugatesha agaciro urubanza rwajuririwe hakagumaho imikirize y'urubanza rwaciwe n'Urukiko rw'Ubucuruzi rwa Nyarugenge.

[13] Me Mugabonabandi Jean Maurice, uburanira Entreprise Usengimana Richard, avuga ko Urukiko Rukuru rw'Ubucuruzi rutatandukiriye kuko rwaciye urubanza ku kibazo cy'ububasha (qualité) rwari rwashikirijwe, rukaba rutari rutegetswe kugendera ku mvugo z'ababuranyi gusa. Asobanura ko yasobanuje muri *Rwanda Development Board* bamubwira ko ibyangombwa bihabwa za «entreprises» ari «certificats», ko nubwo byamuteye urujijo kuko bamubwiye ko bihabwa abacuruzi baciriritse, asanga nta kibaza Entreprise Usengimana Richard nka «institution» kugira ubuzima gatozi kuko ari izina ry'ubucuruzi ryatanzwe n'urwego rwa Leta rubifitiye ububasha, ariko ko uru Rukiko ruramutse rubibonye ukundi, rwakwemeza ko «certificat» yahawe Entreprise Usengimana Richard, nk'izina ry'ubucuruzi, iyihesha ububasha bwo gukora amasezerano, kugura no kugurisha imigabane ikwiye no kuyihesha ububasha bwo kurega mu Rukiko nk'uko byemejwe mu gika cya gatanu cy'urubanza rujuririrwa.

UKO URUKIKO RUBIBONA

[14] Ingingo ya 2 y'Itegeko N°21/2012 ku wa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbenezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsu iteganya ko ikirego kitemerwa mu Rukiko iyo urega adafite ububasha, inyungu n'ubushobozi bwo kurega.

[15] Ingingo ya 375 y'Itegeko N° 07/2009 ryo ku wa 27/04/2009 ryerekeye amasosiyete y'ubucuruzi ryakurikizwaga ikirego gitangwa, iteganya ko ibyerekeye iyandikisha, imiterere n'imikorere by'ibikorwa by'ubucuruzi bukorwa n'abantu badashobora kwinjiza nibura ibihumbi icumi ku muni (10.000 Frw) bigenwa n'Iteka rya Minisitiri ufite ubucuruzi mu nshingano ze.

[16] Ingingo ya 2 y'Iteka rya Minisitiri N°02/09/MINICOM ryo ku wa 08/05/2009 ryerekeye ubucuruzi bukorwa n'abantu badafite ubushobozi buhagije, ivuga ko igikorwa cy'ubucuruzi hakurikijwe iri teka ni igikorwa cy'umuntu wese yaba umugore cyangwa umugabo ukora ibikorwa by'ubucuruzi, byanditswe hakurikijwe ibiteganywa n'iri teka harimo kugura no kugurisha, gutanga serivisi cyangwa se ikindi gikorwa icyo aricyo cyose mu buryo buhoraho gikorwa hagamijwe kubona inyungu.

[17] Inyandiko zigize dosiye y'urubanza zigaragaza ko ku wa 17/03/2014, mu izina ry'umuyobozi wayo, Entreprise Usengimana Richard ibaruwe kuri «*Enterprise code* » 100058249, yareze uwitwa Mporanyi Charles mu Rukiko rw'Ubucuruzi rwa Nyarugenge, isaba ko rumuhatira kwishyura 318.433.000Frw akomoka ku kinyuranyo cy'igiciro cya

276.900.000Frw cy'imigabane 4260 yamugurishije akishyura 595.335.000Frw n'indishyi zitandukanye (cote 6).

[18] Inyandiko zigize dosiye y'urubanza zigaragaza kandi ko ku wa 10/07/2011, Ikigo gishinzwe Iterambere mu Rwanda (RDB), gishingiye ku ngingo ya 10 y'Iteka rya Minisitiri N° 02/09/MINICOM ryo ku wa 08/05/2009 ryerekeye ubucuruzi bukorwa n'abantu badafite ubushobozi buhagije,² cyahaye Entreprise Usengimana Richard icyemezo cy'iyandikishwa "*Certificate of Entreprise Registration*", yandikwa kw'izina (Enterprise Name) rya Usengimana Richard, igomba gukorera kw'izina ry'ubucuruzi (Business Name) rya Usengimana Richard (cote 62).

[19] Urukiko rurasanga Iteka rya Minisitiri N° 02/09/MINICOM ryo ku wa 08/05/2009 ryibukijwe hejuru ryashingiweho Entreprise Usengimana Richard ihabwa icyemezo cy'iyandikishwa ryerekeye ubucuruzi bukorwa n'abantu ku giti cyabo, ingingo ya mbere y'iryo Teko ikaba isobanuye neza ko rireba iyandikisha, imiterere n'imikorere by'ibikorwa by'Ubucuruzi bukorwa n'abantu badashobora kwinjiza nibura amafaranga ibihumbi cumi (10.000frw) ku muni, ingingo yaryo ya 10 ikaba ivuga ko mu kwandika bene aba bacuruzi mubyo bagaragaza harimo amazina y'uwiyandikisha, izina ry'ubucuruzi igikorwa cy'ubucuruzi

² Iyo ngingo iteganya ko «Icyemezo cy'iyandikwa kigomba kugaragaza ibi bikurikira : a) - Inimero y'iyandikwa ry'igikorwa cy'ubucuruzi; b) Amazina y'uwiyandikisha; c) Izina ry'ubucuruzi, igikorwa cy'ubucuruzi gikorwamo n'iry'umucuruzi d) - Isobanura rigufi kandi ryumvikana ry'igikorwa cy'ubucuruzi cyandikishijwe; e)Icyicarizo y'ubucuruzi n'aho bukorwaga; f) Itariki igaragaza igihe icyemezo gitangiye; g) Umukono na kashe by'Umwanditsi Mukuru cyangwa abamuhagarariye; h)Urwego igikorwa cy'ubucuruzi kibarirwamo.»

gikorerwamo n'iry'umucuruzi, byumvikanisha ko umucuruzi wiyandikishije muri ubu buryo atafatwa ko aba yandikishije sosiyete y'ubucuruzi ahubwo abikora agamije gushyira ku mugaragaro (formaliser) ibikorwa bye by'ubucuruzi.

[20] Urukiko rurasanga rero kuba Enterprise Usengimana Richard ari izina ry'ubucuruzi bivuze ko yo ubwayo nta buzimagatozi ifite ku buryo yatanga ikirego mu Rukiko, ariyo mpamvu ikirego kigomba gutangwa na nyir'ubucuruzi cyangwa nyiri «*entreprise*» ariwe Usengimana Richard kuko ari we ufite ubuzimagatozi bumuhesha ububasha bwo kurega arengera inyungu z'ubucuruzi bwe akorera muri iryo zina. Uyu murongo kandi niwo uru Rukiko rwakomeje gushimangira mu manza zitandukanye nko mu rubanza Julia Shop yaburanaga na Ecobank Rwanda Ltd,³ urwo Association Momentanée SOBETRA SARL & SOBTRA (U) Ltd yaburanaga na Office Rwandais des Recettes (RRA)⁴ n'urwo Rwanda Free Zone, Co, Ltd yaburanaga na Association Momentanée (Joint Venture) «H3E»,⁵ aho rwagiye ruvuga ko izina ry'ubucuruzi cyangwa ishyirahamwe ry'igihe gito ridafite ubuzimanagatozi bitagira uburenganzira cyangwa inshingano imbere y'amategeko, bivuze ko bidashobora kurega mu Inkiko ahubwo ko nyir'ubucuruzi ari we ushobora kurega mu mwanya w'izina rye ry'ubucuruzi cyangwa w'ishyirahamwe rye kandi ko iyo bitakozwe bityo

³ Reba urubanza RCOMAA 0042/14/CS hagati ya Julia Shop na Ecobank Rwanda Ltd rwaciwe n'Urukiko rw'Ikirenga ku wa 18/03/2016 igika cya 19 na 22.

⁴ Urubanza N° RCOMA 0064/11/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 28/11/2012, igika cya 16.

⁵ Urubanza N° RCOMA 0064/12/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 03/06/2016, igika cya 39.

Urukiko rukwiye gufata ko rwaregewe n'udafite ububasha rukemeza ko ikirego kitakiriwe.

[21] Urukiko rurasanga kandi uyu murongo ari nawo ushimangirwa n'abahanga mu mategeko y'ubucuruzi aho bavuga ko ubucuruzi bw'umuntu ku gite cye budashobora kugira ubuzimagatozi butandukanye n'ubw'ubukora kandi ko «*entreprise*» y'umuntu yandikishijwe nk'izina ry'ubucuruzi idafite ububasha bwo kwitangira ikirego ubwayo ahubwo ko harega nyirayo mu izina rye, nabyo bishimangira ko *Entreprise Usengimana Richard* itari ifite ububasha bwo kurega,⁶ bityo ikirego cyayo kikaba kitaragombaga kwakirwa.

[22] Urukiko rurasanga Urukiko Rukuru rw'Ubucuruzi rwaribeshye aho rwavuze, mu gika cya gatanu cy'urubanza rujuririrwa, ko *Usengimana Richard* “*adakwiye kwangirwa gutanga ikirego akoresheje iryo zina [Entreprise Usengimana Richard], yemerewe kwitwa mu bikorwa bye by'ubucuruzi [...]*”

⁶ « L'entreprise individuelle est donc celle exploitée par un commerçant physique seul, c'est-à-dire sans associé. [...] une telle entreprise individuelle n'a pas de personnalité juridique distincte de celle de la personne physique qui l'exploite. L'entreprise individuelle, à la différence de la société n'a donc pas la personnalité morale. » Jean-Pierre BERTREL et Marina BERTREL, *Droit des sociétés*, in *Droit de l'Entreprise*, Paris, Wolters Kluwer France SAS, 2010, p.382. « [...] l'entreprise individuelle ne possède pas de la personnalité juridique et n'est pas sujet de droit. En conséquence, elle ne peut pas être titulaire de droits réels et fait partie du patrimoine personnel de l'entrepreneur. Elle ne peut également pas ester en justice. Les actions en justice sont intentées par l'entrepreneur. » Reba Le commerçant, entrepreneur individuel « traditionnel » kuri <http://www.distripedie.com/distripedie/spip.php> [byasomwe ku wa 20/06/2017].

kuko iryo zina ari iry'umuntu ufite ubizima gatozi [...],” kubera ko, nk’uko byasobanuwe haruguru kandi byemejwe n’Urukiko rw’Ubucuruzi rwa Nyarugenge, iryo zina ubwaryo nta buzimagatozi rifite ku buryo ryaregera Urukiko, hagombaga kurega Usengimana Richard nyir’ubucuruzi, bivuze ko hashingiwe ku biteganywa n’ingingo ya 2 igika cya 1 y’Itegeko N° 21/2012 ryo ku wa 14/06/2012 ryerekeye imiburanishirize y’imanza z’imbonezamubano, iz’ubucuruzi, iz’umurimo n’iz’ubutegetsu hareze udafite ububasha ariyo mpamvu ikirego kitagombaga kwakirwa.

[23] Hashingiwe ku ngingo z’amategeko n’ibisobanuro byatanze haruguru Urukiko rurasanga, urubanza RCOMA 500/14/HCC rwaciwe n’Urukiko Rukuru rw’Ubucuruzi ku wa 31/10/2014 rugomba guteshwa agaciro rukavaho, Usengimana Richard yazifuzaga kurega akazatanga ikirego mu izina rye aho gutanga ikirego mu izina ry’umuyobozi wa Entreprise Usengimana Richard.

II.2. Kumenya niba Mporanyi Charles yahabwa indishyi asaba.

[24] Me Ruzindana Ignace avuga ko Mporanyi Charles yashowe mu manza nta mpamvu akaba abisabira amafaranga y’ikurikiranarubanza ya 1.000.000Frw n’igihembo cya Avoka kingana na 2.000.000Frw mu Rukiko Rukuru rw’Ubucuruzi no mu Rukiko rw’Ikirenga.

[25] Me Mugabonabandi Jean Maurice avuga ko amafaranga y’ikurikiranarubanza Mporanyi Charles asaba nta shingiro afite kuko icyo Avoka ahemberwa ari ugukurikirana urubanza, ahubwo ko asaba uru Rukiko kuvuga ko Entreprise Usengimana Richard yari ifite ububasha bwo kurega nk’uko Urukiko Rukuru

rw'Ubucuruzi rwabibonye, rukagera Entreprise Usengimana Richard igihembo cya Avoka cya 1.000.000Frw.

UKO URUKIKO RUBIBONA

[26] Urukiko rurasanga amafaranga y'ikurikiranarubanza n'igihembo cya Avoka asabwa na Mporanyi Charles ayakwiriye kuko yagombye gukurikirana iby'uru rubanza kandi yiyambaza Avoka uhembwa, cyakora kuba atagaragaza ibimenyetso by'uko ayo asaba ariyo akwiriye, mu bushishozi bw'Urukiko, akaba agenewe amafaranga ibihumbi magana atatu (300.000Frw) y'ikurikiranarubanza n'ibihumbi magana atanu (500.000Frw) y'igihembo cya Avoka, yose hamwe akaba ibihumbi magana inani (800.000Frw).

III. ICYEMEZO CY'URUKIKO

[27] Rwemeje ko ubujurire bwatanzwe na Mporanyi Charles bufite ishingiro;

[28] Rwemeje ko ikirego cyatanzwe na Entreprise Usengimana Richard kitagombaga kwakirwa;

[29] Rwemeje ko urubanza RCOMA 500/14/HCC rwaciwe n'Urukiko Rukuru rw'Ubucuruzi ku wa 31/10/2014 rwajuririwe ruvuyeho;

[30] Rutegetse Entreprise Usengimana Richard guha Mporanyi Charles amafaranga y'ikurikiranarubanza angana n'ibihumbi magana atatu (300.000Frw) n'ay'igihembo cya Avoka angana n'ibihumbi magana atanu (500.000Frw), yose hamwe akaba ibihumbi magana inani (800.000Frw);

[31] Rutegetse Entreprise Usengimana Richard gusubiza Mporanyi Charles amafaranga ibihumbi ijana (100.000Frw) y'ingwate y'amagarama yishyuye aregera uru Rukiko.