# MUKARUGWIZA v NZAMUGURA N'ABANDI

[Rwanda URUKIKO RW'IKIRENGA – RS/INJUST/RC 00019/2018/SC– (Mugenzi, P.J, Kayitesi, na Cyanzayire, J.) 15 Gashyantare 2019]

*Amategeko agenga imiburanishirize y'imanza mbonezamubano – Inzitizi zikuraho urubanza – Kureka ikirego – Ni ukwiyemeza kudakomeza gukurikirana mu nkiko ibyo waregaga uwo muburana kandi ko icyo uwaretse ikirego aba avuyeho atari inzira runaka yo kukinyuzamo ahubwo ari icyo yaregeraga ubwacyo, kuwo yaregaga. – Itegeko Nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz 'ubucuruzi iz'umurimo n'iz'ubutegetsi, ingingo ya 122.*

*Amategeko agenga imanza zasabiwe gusubirishwamo ku mpamvu z'akarengane – Gusubirishamo ku mpamvu z'akarengane urubanza rwaciwe ku rwego rwa nyuma – Impamvu zo gusubirishamo ku mpamvu z'akarengane – Uwibujije izindi nzira z'ubujurire zisanzwe n'izidasanzwe, ntiyemerewe gusubirishamo urubanza ku mpamvu z'akarengane.*

**Incamake y'ikibazo**: Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Gasabo Nzamugura, Ingabire n'Umubyeyi bareze Mukase Mukarugwiza imitungo itandukanye yasizwe n'ababyeyi babo Nyampeta na Mukasonga bavuga ko yayihariye. Abana bakomoka kuri Nyampeta na Mukarugwiza barugobotsemo naho abo Nyampeta yabyaranye na Mukakimanuka bahatiwe kurugobokamo, bose basaba kugira uruhare ku mutungo wa se. Urukiko rwemeje ko umutungo uburanwa ugomba kugabanywa abana bose ba Nyampeta n'umugore we Mukarugwiza kuko atigeze ayitangaho irage cyangwa umunani.

Mukarugwiza yajuririye Urukiko Rukuru ndetse n'undi mwana wa Nyampeta witwa Wihogora agoboka mu rubanza ku bushake, agamije ko nawe yagira uburenganzira ku mutungo wa se maze Uru Rukiko rwemeza ko ubwo bujurire nta shingiro bufite ko hagumyeho urubanza rwaciwe n'Urukiko Rwisumbuye uretse ko ku bazungura hiyongereyeho Wihigora wari wagobotse muri uru rubanza rw'ubujirire.

Uregwa yajuririye Urukiko rw'Ikirenga rwemeza ko ubujurire bwe nta shingiro bufite, rwemeza ko ubujurire bwuririye ku bundi bwatanzwe n'Abaregwa bufite ishingiro kuri bimwe, rwemeza ko imikirize y'urubanza rwaciwe n'Urukiko Rukuru, narwo rwari rwemeje ko imikirize y'Urukiko Rwisumbuye idahindutse, ihamyeho uretse ku byerekeye amafaranga y'ubukode bw'amazu y'i Remera ahindutse.

Uregwa yandikiye Urwego rw'Umuvunyi asaba ko urubanza rwaciwe n'Urukiko rw'Ikirenga rusubirwamo ku mpamvu z'akarengane aho rwasanze mu guca urwo rubanza harashingiwe ku itegeko ryavuyeho aho gukurikiza irishya. Nyuma y'Uko urwo rwego rwandikiye Perezida w'Urukiko rw'Ikirenga, rusaba ko urwo rubanza rusubirwamo ku mpamvu z'akarengane, yarabyemeje rwandikwa mu bitabo byabugenewe kugira ngo ruzongere ruburanishwe.

Mu iburanisha mu ruhame habanje gusuzumwa inzitizi yatamwe n'umwe mu bana aba Nyampeta yo kutakira ikirego cyatanzwe n'Uregwa kuberako yiyambuye ububasha bwo kurega, ubwo yarekaga urubanza rwo gusubirishamo urubanza ingingo nshya.

Uwatanze iyo nzitizi avuga ko kuba Uregwa yararetse icyo kirego yari yashyikirije Urukiko rw'ikirenga ari ikimenyetso cy'uko atari agikeneye gukomeza kuburana, dore ko imyanzuro ya mbere yaburanishaga muri icyo kirego cy'ingingo nshya ari nayo yagaruye mu gusubirishamo urubanza ku mpamvu z'akarengane. Akomeza avuga ko Itegeko rigenga imiburanishirize y'imanza mbonezamubano ibuza gukoresha icyarimwe inzira ebyiri z'ubujurire, bivuze ko kuba Uregwa yari yaratanze ikirego, byakumiraga ko haza ikindi, kandi ko uwibujije izindi nzira z'ubujurire, atemerewe gusubirishamo urubanza ku mpamvu z'akarengane. Akomeza avuga ko kuba Uregwa avuga ko ibirego yatanze atari bimwe kandi bitanatanzwe ku buryo bumwe, nta shingiro bifite.

Abarega bavuga ko kureka ikirego ari uburenganzira bw'umuburanyi, ko kuregera gusubirishamo urubanza ingingo nshya no kurusubirishamo ku mpamvu z'akarengane ari ibintu bitandukanye, bakaba basanga ikirego cy'Uregwa cyakwakirwa agasobanura akarengane ke.

Abagobotse ku bushake bavuga ko gusubirishamo ingingo nshya bitakozwe mbere ngo nyuma habe gusaba ku Rwego rw'Umuvunyi ko urubanza rusubirwamo ku mpamvu z'akarengane, ko ahubwo babisabye urwo rwego, nyuma hasabwa gusubirishamo urubanza ingingo nshya kuko iyo ikimenyetso gishya kibonetse hatarenga amezi 2 ngo kiregerwe Urukiko, bakaba rero batari gutegereza igisubizo cy'Urwego rw'Umuvunyi ngo babone gutanga ingingo nshya.

Bakomeza bavuga ko umuburanyi ari we utanga ikirego, akanagihagarikira aho kigeze hose, kandi ko atari umwanditsi w'Urukiko wakira ikirego, ahubwo cyakirwa n'Urukiko, ko rero ikirego bari batanze bakagikuraho cyari kitarakirwa n'ubwo cyari cyahawe numero. Avuga kandi ko niba Perezida w'Urukiko rw'Ikirenga yarategetse ko urubanza rwongera kuburanishwa, iriya nzitizi atari yo yavuguruza icyo cyemezo.

**Incamake y'icyemezo**: 1. Kureka ikirego ni ukwiyemeza kudakomeza gukurikirana mu nkiko ibyo waregaga uwo muburana kandi ko icyo uwaretse ikirego aba avuyeho atari inzira runaka yo kukinyuzamo ahubwo ari icyo yaregeraga ubwacyo, kuwo yaregaga.

2. Uwibujije izindi nzira z'ubujurire zisanzwe n'izidasanzwe, ntiyemerewe gusubirishamo urubanza ku mpamvu z'akarengane. Bityo, kuba Mukarugwiza yariyambuye uburenganzira bwo gukomeza gukurikirana ikirego cye cyo gusubirishamo urubanza ingingo nshya, atahindukira ngo ashake kongera kugikurikirana, abinyujije mu yindi nzira yo gusubirishamo urubanza ku mpamvu z'akarengane.

**Inzitizi yo kutakira ikirego gisubirishamo urubanza ku mpamvu z'akarengane ifite ishingiro.**

**Amategeko yashingiweho:**
Itegeko Ngenga N° 03/2012/OL ryo kuwa 13/06/2012, rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga, ingingo ya 80.
Itegeko Nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz 'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 15 n'iya 122.

**Nta manza zifashishijwe.**

**Inyandiko z'Abahanga zifashishijwe:**
Jean Vincent, Procédure civile, 18ème édition, Dalloz, 1976, p 999, nº 768 bis.
Georges de Leval et autres, Droit judiciaire, Tome 2, Manuel de Procédure civile, Editions Larcier, 2015, P 595, Nº6.56.

# I. IMITERERE Y'URUBANZA

[1] Mu Rukiko Rwisumbuye rwa Gasabo, Nzamugura Jeanne d'Arc, Ingabire Agathe N'umubyeyi Dative bareze Mukase witwa Mukarugwiza Dorothée imitungo itandukanye yasizwe n'ababyeyi babo Nyampeta Jean na Mukasonga Daphrose bavuga ko yayihariye. Nyampeta King Victor Olivier n'abavandimwe nabo bakomoka kuri Mukarugwiza Dorothée na Nyampeta Jean bagobotse mu rubanza, naho Hodari Moussa Hervé, Kamanzi Christophe na Rebero Iréné na Wihogora Christine, abavandimwe babo nabo bahuriye kuri se Nyampeta Jean gusa bakomoka kuri Mukakimanuka Jacqueline, bahatirwa kugoboka mu rubanza, bose basaba kugira uruhare kuri uwo mutungo wa se Nyampeta Jean.

[2] Ku itariki ya 31/10/2012, Urukiko Rwisumbuye rwa Gasabo rwemeje ko imitungo ikomoka kuri Nyampeta Jean igomba kugabanywa abana be n'umugore we Mukarugwiza Dorothée kuko atigeze ayitangaho irage cyangwa umunani nk'uko Mukarugwiza Dorothée yabiburanishaga.

[3] Mukarugwiza Dorothée yajuririye Urukiko Rukuru, kuri urwo rwego undi mwana wa Nyampeta Jean witwa Wihogora Christine agoboka mu rubanza ku bushake, agamije ko nawe yagira uburenganzira ku mutungo wa se, maze ku itariki 09/05/2014, Urukiko Rukuru ruca urubanza ruvuga ko ubujurire bwa Mukarugwiza Dorothée nta shingiro bufite, ko imikirize y'urubanza rwaciwe n'Urukiko Rwisumbuye

rwa Gasabo idahindutse, uretse ko abana ba Nyampeta Jean bagomba kumuzungura hiyongereyeho Wihogora Christine wari wagobotse, na Nyampeta Prince wemewe n'ababuranyi bose n'ubwo atabaye umuburanyi.

[4] Mukarugwiza Dorothée yajuririye Urukiko rw'Ikirenga, rwemeza ko ubujurire bwe nta shingiro bufite, rwemeza ko ubujurire bwuririye ku bundi bwatanzwe na Nzamugura Jeanne d'Arc, Ingabire Agathe n'umubyeyi Dative bufite ishingiro kuri bimwe, rwemeza ko inyandiko yo ku itariki ya 21/09/2008 yakozwe na Nyampeta Jean atari irage, nk'uko n'inkiko zabanje zabyemeje, rwemeza ko Mukarugwiza Dorothée nta mutungo wihariye afite utagomba kujya mu igomba kuzungurwa, runemeza ko inyubako ziri mu kibanza nimero UPI 1/02/13/04/214 zituwemo na Hodari Moussa Hervé n'abavandimwe be bavukana zigomba gushyirwa hamwe n'undi mutungo wa Nyampeta Jean uzungurwa, kugira ngo abazungura be bose bawugireho uruhare, rwemeza ko imikirize y'urubanza RCA 0658/12/HC/KIG rwaciwe n'Urukiko Rukuru, narwo rwari rwemeje ko imikirize y'Urukiko Rwisumbuye rwa Gasabo idahindutse, ihamyeho uretse ku byerekeye amafaranga y'ubukode bw'amazu y'i Remera ahindutse akaba miliyoni makumyabiri n'enye n'ibihumbi ijana na mirongo icyenda (24.190.000 Frw), rutegeka Mukarugwiza Dorothée guha Nzamugura Jeanne d'Arc, Ingabire Agathe na Umubyeyi Dative bose hamwe amafaranga y'u Rwanda miliyoni imwe (1.000.000 Frw) akubiyemo igihembo cya Avoka n'ikurikiranarubanza.

[5] Mukarugwiza Dorothée yandikiye Urwego rw'Umuvunyi asaba ko urubanza RCAA 0035/14/CS rwasubirwamo ku mpamvu z'akarengane, rumaze gusuzuma ikibazo cye, rusanga urwo rubanza rwarabayemo akarengane kubera ko mu guca urubanza hagombaga gushingirwa ku Itegeko rya 2016 aho gukoresha itegeko ryo muri 1999, Itegeko rigenga imicungire y'umutungo w'abashyingiranywe, impano n'izungura, kubera ko Urubanza RCAA 0035/14/CS rwaciwe ku wa 14/07/2017 kuko iryo tegeko ryatangiye gukurikizwa ku itariki ya 01/08/2016, bivuze ko ariryo ryagombaga gukoreshwa, kuko rwaciwe ryaratangiye gukoreshwa.

[6] Nyuma y'Uko Urwego rw'Umuvunyi rwandikiye Perezida w'Urukiko rw'Ikirenga, rusaba ko urubanza RCAA 0035/14/CS rwasubirwamo ku mpamvu z'akarengane, yasesenguye ikibazo, anashingiye kuri raporo y'Ubugenzuzi Bukuru bw'Inkiko no ku ngingo ya 80 y'Itegeko Ngenga N° 03/2012/OL ryo kuwa 13/06/2012, rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga, yemeza ko urubanza RCAA 0035/14/CS rwandikwa mu bitabo byabugenewe kugira ngo ruzongere ruburanishwe.

[7] Iburanisha ry'urubanza ryabereye mu ruhame ku wa 08/01/2019, Mukarugwiza Dorothée, ahagarariwe na Me Munyandamutsa Jean Pierre, akanunganira Nyampeta King Victor, Me Murenzi Chrisologue yunganira Nzamugura Jeanne d'Arc, anahagarariye Umubyeyi Christine na Ingabire Agathe, Me Habyarimana Christine yunganira Hodari Moussa Hervé, agahagararira Kamanzi Christophe, Rebero Iréné, Wihogora Christine na Nyampeta Prince.

[8] Hasuzumwe inzitizi yatanzwe na Hodari Moussa Hervé asaba ko ikirego cyatanzwe na Mukarugwiza Dorothée kitakwakirwa, kubera ko yiyambuye ububasha bwo kurega, ubwo yarekaga urubanza rwo gusubirishamo urubanza ingingo nshya. Me Habyarimana Christine asaba indishyi z'ikurikiranarubanza n'igihembo cya avoka.

## II. IBIBAZO BIGIZE URUBANZA N'ISESENGURWA RYABYO

### 1. Kumenya niba Mukarugwiza Dorothée yariyambuye ububasha bwo kurega, ku buryo ikirego cye kitakwakirwa

[9] Hodari Moussa Hervé na Me Habyarimana Christine umwunganira, bavuga ko kuba Mukarugwiza yararetse ikirego cy'ingingo nshya yari yashyikirije Urukiko rw'ikirenga ari ikimenyetso cy'uko atari agikeneye gukomeza kuburana, nyamara bikaba binagaragara ko imyanzuro ya mbere yaburanishaga mu kirego cy'ingingo nshya ari nayo yagaruye mu gusubirishamo urubanza ku mpamvu z'akarengane.

[10] Bavuga ko imiburanire ya Me Munyandamutsa J. Pierre y'uko nta kigaragaza ko Urukiko rw'Ikirenga rwari kwemera ikirego cyo gusubirishamo urubanza ingingo nshya bari barushyikirije mbere y'uko bakireka, nta shingiro ifite, kuko n'ubundi nta kibagaragariza ko Urukiko ruzabyemera babinyujije mu nzira yo gusubirishamo urubanza ku mpamvu z'akarengane.

[11] Bavuga ko ingingo ya 15 y'Itegeko Nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz 'ubucuruzi, iz'umurimo n'iz'ubutegetsi ibuza gukoresha icyarimwe inzira ebyiri z'ubujurire, bivuze ko kuba Mukarugwiza yari yaratanze ikirego, byakumiraga ko haza ikindi, kandi ko Itegeko riteganya ko uwibujije izindi nzira z'ubujurire, atemerewe gusubirishamo urubanza ku mpamvu z'akarengane, Mukarugwiza rero wari ufite uburyo bwo gusubirishamo urubanza ingingo nshya, kandi yarabikoze, akaba atakwemererwa gusubirishamo urubanza ku mpamvu z'akarengane.

[12] Basobanura ko Mukarugwiza amaze gusubirishamo urubanza ku mpamvu z'akarengane, yakoze amayeri, anasubirishamo urwo rubanza ingingo nshya, aho kubanza kurusubirishamo ingingo nshya ngo birangire, kuba yararetse ikirego bikaba ntacyo byamumarira, kuko ingaruka zo kureka ikirego ari ukwiyambura uburenganzira bwo kongera kugikurikirana, Mukarugwiza rero akaba atashoboraga kongera gukurikirana ikirego yaretse, kuko ikirego ari kimwe, ababuranyi bakaba bamwe, kandi impamvu avuga z'akarengane akaba ari zo yari yagaragaje mbere.

[13] Bavuga ko ibisobanuro by'uburanira Mukarugwiza by'uko ibirego atari bimwe kandi bitanatanzwe ku buryo bumwe, ngo kuko kimwe cyatanzwe mu nzira y'ubutegetsi(administrative) itari iy'Urukiko nta shingiro bifite, kuko ubujurire mu nzira y'Ubutegetsi bubuzwa agaciro no kutemerwa n'Urukiko, keretse iyo iza kugarukira ku rwego rw'Ubutegetsi.

[14] Bavuga ko kuba Mukarugwiza Dorothée yararetse ikirego cyo gusubirishamo urubanza ingingo nshya, ari ikimenyetso kigaragaza ko atari agishaka kuburana, ko ububasha bwe bwarangiriye mu kureka ikirego cyo gusubirishamo urubanza ingingo nshya, kuba yari yaragitanze bikaba byakumiraga ku buryo bwa burundu kuba haza ikindi kirego, ko ibirego bibiri yatanze bisa, ababuranyi ari bamwe, kimwe ari icy'akarengane, ikindi ari ingingo nshya, bityo akaba yariyambuye uburenganzira bwo kurega.

[15] Me Murenzi Chrisologue, uburanira Nzamugura Jeanne d'Arc, Umubyeyi Dative na Ingabire Agathe, avuga ko kureka ikirego ari uburenganzira bw'umuburanyi, ko kuregera gusubirishamo urubanza ingingo nshya no gusubirishamo urubanza ku mpamvu z'akarengane ari ibintu bitandukanye, akaba asanga ikirego cya Mukarugwiza Dorothée cyakwakirwa agasobanura akarengane ke.

[16] Me Munyandamutsa n'abagobotse ku bushake bose usibye Wihogora Christine na Nyampeta Prince, bavuga ko gusubirishamo ingingo nshya bitakozwe mbere ngo nyuma habe gusaba ku Rwego rw'Umuvunyi ko urubanza rusubirwamo ku mpamvu z'akarengane, ko ahubwo babisabye ku Rwego rw'Umuvunyi ku wa 28/09/2017, nyuma gusubirishamo urubanza ingingo nshya bisabwa ku wa 6/02/2018, kuko iyo ikimenyetso gishya kibonetse hatarenga amezi 2 ngo kiregerwe Urukiko, bakaba rero batari gutegereza igisubizo cy'Urwego rw'Umuvunyi ngo babone gutanga ingingo nshya.

[17] Avuga ko gutakamba ku Rwego rw'Umuvunyi bitangira ari inzira y'ubutegetsi (*voie administrative*), nyuma akaba aribwo byashyikirizwa Urukiko, igihe Perezida w'Urukiko rw'ikirenga yemeje ko urubanza rwongera kuburanishwa akaba ari bwo bifata inzira y'ubucamanza (*voie Judiciaire*).

[18] Avuga ko hari n'ihame "*Principe du dispositive*" rivuga ko umuburanyi ari we utanga ikirego, akanagihagarikira aho kigeze hose, kandi ko atari umwanditsi w'Urukiko wakira ikirego, ahubwo cyakirwa n'Urukiko, ko rero ikirego bari batanze bakagikuraho cyari kitarakirwa n'ubwo cyari cyahawe numero. Avuga kandi ko niba Perezida w'Urukiko rw'Ikirenga yarategetse ko urubanza rwongera kuburanishwa, iriya nzitizi atari yo yavuguruza icyo cyemezo.

## UKO URUKIKO RUBIBONA

[19] Ingingo ya 122 y'Itegeko Nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz 'ubucuruzi iz'umurimo n'iz'ubutegetsi, igira iti: kureka ikirego ni ukwiyambura ububasha bwo kuburana. Bijyana no kwiyambura uburenganzira umuntu yari afite bwo gukomeza gukurikirana icyo kirego.

[20] Isesengura ry'iyo ngingo y'Itegeko ryumvikanisha ko ukureka ikirego ari ukwiyemeza kudakomeza gukurikirana mu nkiko ibyo waregaga uwo muburana, bikaba byumvikana kandi ko icyo uwaretse ikirego aba avuyeho atari inzira runaka yo kukinyuzamo, ahubwo ari icyo yaregeraga ubwacyo, kuwo yaregaga, akaba ari naho abahanga mu mategeko basobanura ko kureka ikirego ari ikintu gikomeye kuruta kureka urubanza, kuko kureka ikirego bigera ku burenganzira bwari bukurikiranywe ubwabwo[1].

[21] Dosiye y'urubanza igaragaza ko nyuma y'uko Mukarugwiza Dorothée atsinzwe urubanza RCAA 0035/14/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 14/07/2017, yandikiye Urwego rw'Umuvunyi asaba ko urubanza rwasubirwamo ku mpamvu z'akarengane, urwo Rwego rwandikira Perezida w'Urukiko rw'Ikirenga ku wa 26/01/2018, nawe ategeka ku wa 02/08/2018, ko urubanza rwongera kuburanishwa. Inagaragaza ko ku wa 08/01/2018 Mukarugwiza Dorothée yatanze ikirego mu Rukiko rw'Ikirenga gisubirishamo urwo rubanza ingingo nshya, yandika akireka ku wa 31/08/2018, anabyemererwa ku wa 04/01/2019.

[22] Urukiko rurasanga Me Munyandamutsa, uburanira Mukarugwiza Dorothée, adasobanura impamvu, mu gihe bari bamaze kuvumbura ingingo zatuma basubirishamo urubanza ingingo nshya, batahagaritse ku Rwego rw'Umuvunyi ubusabe bwabo bwo kuba hatangwa ikirego mu Rukiko rw'Ikirenga gisubirishamo urubanza ku mpamvu z'akarengane, kandi ingingo ya 81 y'Itegeko Ngenga N° 03/2012/OL ryo ku wa 13/06/2012 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga yarateganyaga ko, umuburanyi wari ufite uburenganzira bwo kwiyambaza izindi nzira z'ubujurire zisanzwe n'izidasanzwe ariko ntabikore mu gihe giteganyijwe n'amategeko atemerewe gusaba ko urubanza yatsinzwe rusubirishwamo ku mpamvu z'akarengane, bivuze ko yasabwaga kubanza kurangiza inzira yo gusubirishamo urubanza ingingo nshya yari yatangije. Nyamara yahisemo kureka ikirego, yiyambura ububasha bwo gukomeza kuburana ibyo yaregeraga.

[23] Urukiko rurasanga, nk'uko byasobanuwe haruguru, Mukarugwiza Dorothée wiyambuye uburenganzira bwo gukomeza gukurikirana ikirego, ashingiye ku ngingo ya 122 y'Itegeko Nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz 'ubucuruzi iz'umurimo n'iz'ubutegetsi, yibukijwe haruguru, atahindukira ngo ashake kongera kugikurikirana, abinyujije mu yindi nzira yo gusubirishamo urubanza ku mpamvu z'akarengane, kandi icyo akurikiranye ari kimwe, ku baburanyi bamwe, bityo ikirego cye kigamije gusubirishamo urubanza RCAA 0035/14/CS ku mpamvu z'akarengane kikaba kitakwakirwa ngo gisuzumwe.

[24] Ku ngingo Me Munyandamutsa J. Pierre aburanisha avuga ko ukutakira ikirego gisubirishamo urubanza ku mpamvu z'akarengane bitashoboka, mu gihe Perezida w'Urukiko rw'Ikirenga yategetse ko urubanza rwongera kuburanishwa, Urukiko rurasanga, nta shingiro bifite, kuko kuba Perezida w'Urukiko rw'Ikirenga ategetse ko urubanza ruburanishwa, bitavuze ko Urukiko rwaba rubujijwe gusuzuma inzitizi zatangwa n'ababuranyi, zitigeze zigibwaho impaka ngo zifatweho icyemezo.

**2. Ku bijyanye n'indishyi zasabwe**

[25] Me Christine Habyarimana uburanira Hodari Moussa Hervé, Kamanzi Christophe, Rebero Iréné, Wihogora Christine na Nyampeta Prince, asaba ko bagenerwa indishyi zingana na 1.000.000 Frw y'ikurikiranarubanza, na 5.000.000 Frw y'igihembo cya Avoka, zigatangwa na Mukarugwiza Dorothée.

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[1] Quant au désistement d'action, c'est un acte beaucoup plus grave que le désistement d'instance, parce qu'il porte sur le droit lui-même… : Jean Vincent, Procédure civile, 18ème édition, Dalloz, 1976, p 999, Nº 768 bis.
- Le désistement d'action entraîne la disparition de la procédure en cours mais aussi la renonciation au fond du droit (sous-jacent) lui-même. Georges de Leval et autres, Droit judiciaire, Tome 2, Manuel de Procédure civile, Editions Larcier, 2015, P 595, Nº6.56.

[26] Me Murenzi Chrisologue uburanira Nzamugura Jeanne d'Arc, Ingabire Agathe, Umubyeyi Christine yabasabiye uko ari batatu indishyi za 3.000.000 Frw z'igihembo cya avoka, 2.000.000 Frw y'indishyi z'akababaro zo kuba barabujijwe uburenganzira ku mutungo w'ababyeyi babo, na 1.000.000 Frw y'ikurikirana rubanza.

[27] Me Munyandamutsa J. Pierre uburanira Mukarugwiza Dorothée, avuga ko izo ndishyi nta shingiro zifite, ko ahubwo Mukarugwiza Dorothée ari we wazihabwa kubera ko ari we wagiriwe akarengane, akaba akwiye kugenerwa indishyi z'akababaro za 5.000.0000 Frw, hamwe n'indishyi mbonezamusaruro zibariwe ku mezi yose amaze, umuhesha w'inkiko yarahagaritse abakodeshaga inzu ye, batanga 300.000 Frw ku kwezi.

## UKO URUKIKO RUBIBONA

[28] Urukiko rurasanga, indishyi zijyanye n'igihembo cya Avoka n'ikurikirana rubanza zisabwa n'abaregwa bazigenerwa, kuko, n'ubwo urubanza rugarukiye ku nzitizi, ikirego nticyakirwe, bitabujije ko abaregwa bagombye kwiyambaza Avoka bahemba, kandi bagira ibyo batanga bakurikiranye urubanza ku kirego cya Mukarugwiza Dorothée akaba rero agomba kubitangira indishyi, hashingiwe ku ngingo ya 258 y'Igitabo cya gatatu cy'urwunge rw'Amategeko mbonezamubano, iteganya ko igikorwa cyose cyangirije undi, gituma nyirukugikora ategekwa kuriha ibyangijwe.

[29] Urukiko rurasanga ariko indishyi abaregwa basaba ari nyinshi batagaragariza ibimenyetso bifatika by'urugero rwazo, bakaba rero bagomba kuzigenerwa mu bushishozi bw'Urukiko, Hodari Moussa Hervé, Kamanzi Christophe, Rebero Iréné, Wihogora Christine na Nyampeta Prince bakagenerwa 500.000 Frw y'igihembo cya avoka bose hamwe na 100.000 Frw buri wese y'ikurikirana rubanza ni ukuga 500.000 Frw kuri bose, igiteranyo cyose kikaba 1.000.000 Frw, naho Nzamugura Jeanne d'Arc, Ingabire Agathe, na Umubyeyi Dative bakagenerwa 500.000 Frw y'igihembo cya avoka bose hamwe, na 100.000 Frw kuri buri wese y'ikurikirana rubanza, ni ukuvuga 300.000 Frw, igiteranyo cyose kikaba 800.000 Frw.

[30] Urukiko rurasanga izindi ndishyi zasabwe n'abaregwa batazigenerwa kuko urubanza rutaburanishijwe mu mizi, naho indishyi zisabwa na Mukarugwiza Dorothée akaba ntazo yagenerwa kuko atsinzwe n'urubanza.

## III. ICYEMEZO CY'URUKIKO

[31] Rwemeje ko inzitizi yatanzwe na Hodari Moussa Hervé, yo kutakira ikirego cya Mukarugwiza Dorothée gisubirishamo urubanza ku mpamvu z'akarengane ifite ishingiro.

[32] Rwemeje ko ikirego cya Mukarugwiza Dorothée kigamije gusubirishamo urubanza RCAA 0035/14/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 14/07/2017, kitakiriwe ngo gisuzumwe.

[33] Rutegetse Mukarugwiza Dorothée, kwishyura HODARI Moussa Hervé, Kamanzi Christophe, Rebero Iréné, Wihogora Christine na Nyampeta Prince, igiteranyo cy'indishyi zingana n'amafaranga Miliyoni imwe (1.000.000Frw), akanishyura Nzamugura Jeanne d'Arc, Ingabire Agathe, na Umubyeyi Dative igiteranyo cy'indishyi zingana n'amafaranga ibihumbi magani (800.000 Frw).