RWANDA ANGLICAN CAPITAL INVESTMENTS Ltd vs. UWIRAGIYE

[Rwanda URUKIKO RW'IKIRENGA – RS/INJUST/RSOC00009/2022/SC (Hitiyaremye J.P., Muhumuza na Kazungu, J.) 16 Gashyantare 2024]

Amategeko agenga ububasha bw'inkiko – Ububasha bw'inkiko zisumbuye – Ububasha bw'urukiko rwisumbuye bushingiye ku ifasi – Imiryango itari iya Leta – Imiryango itari iya Leta iburanishirizwa mu rukiko rwisumbuye ruri mu ifasi irimo icyicaro cyayo gikuru cyangwa aho ikiburanwa kiri cyangwa aho ishami bireba riherereye – Uturere nitwo tureberwamo ububasha bw'inkiko zisumbuye aho kureba imirenge, irebwa hagenwa ububasha bw'Inkiko z'Ibanze.

Incamake y'ikibazo: Uwiragiye yagiranye amasezerano y'akazi y'igihe kizwi kuva 01/01/2017 kugeza 31/12/2019 na Rwanda Anglican Capital Investments Ltd (RACI Ltd) ajyanye no gukurikirana ibibazo byose bijyanye n'amazi ku nyubako yayo, bumvikana n'umushahara izajya imuhemba ku kwezi. Kuwa 27/02/2019, uyu mukoresha yahinduye amasezerano, amuvana ku kuba umukozi uhoraho amugira nyakabyizi, amubwira ko azajya amumenyesha igihe akenewe ndetse akajya ahabwa igihembo bitewe n'akazi yakoze.

Uwiragiye yareze mu Rukiko Rwisumbuye rwa Nyarugenge, nyuma y'uko ubwumvikane hagati yabo bunaniranye, avuga ko yirukanywe mu buryo bunyuranyije n'amategeko, abisabira indishyi zitandukanye. RACI Ltd yatanze inzitizi y'iburabubasha bw'Urukiko Rwisumbuye ishingiye ku ifasi, kuko icyicaro cyayo kiri mu Murenge wa Remera, mu Karere ka Gasabo.

Nyuma y'uko inzitizi yatanze idahawe ishingiro, RACI Ltd yireguye ivuga ko itigeze isesa amasezerano bari bafitanye, ahubwo ko yahinduwe ibimumenyesheje arabyanga, aranagenda bamusaba gukaruka agakorera ku masezerano ya mbere na byo arabyanga, bityo ikirego cye kikaba kitahabwa ishingiro.

Mu rubanza RSOC 00020/2020/TGI/NYGE, Urukiko Rwisumbuye rwemeje ko RACI Ltd yasheshe amasezerano y'akazi mu buryo bunyuranyije n'amategeko, maze rwemeza ko igomba kubitangira indishyi zitandukanye. Ibi byatumye RACI Ltd ijuririra Urukiko Rukuru ivuga ko Urukiko Rwisumbuye rwaciye urubanza nta bubasha rubifitiye hashingiwe ku bubasha bushingiye ku ifasi. Ikindi ni uko Uwiragiye ariwe wahagaritse akazi, atigeze yirukanwa, bityo akaba nta nteguza n'icyemezo cy'umurimo yagombaga guhabwa kuko yari ikimubara nk'umukozi.

Urukiko Rukuru rwaciye urubanza RSOCA 00050/2021/HC/KIG rwemeza ko ubujurire bwa RACI Ltd nta shingiro bufite, ko nta gihindutse ku rubanza rwajuririwe ndetse ko n'inzitizi y'iburabubasha yari yatanze, nta shingiro ifite.

RACI Ltd yandikiye Perezida w'Urukiko rw'Ubujurire asaba ko urwo rubanza rwaciwe n'Urukiko Rukuru rusubirishwamo ku mpamvu z'akarengane, na we yandikira Perezida w'Urukiko rw'Ikirenga yemeza ko rusubirishwamo, maze ruburanishwa n'uru Rukiko rw'Ikirenga. Habanje gusuzumwa ikibazo cyo kumenya niba Urukiko Rwisumbuye rwa Nyarugenge rwari rufite ububasha bwo gusuzuma ikirego kiri muri uru rubanza, dore ko RACI Ltd ivuga ko nta bubasha rwari rufite kuko ububasha bw'inkiko zisumbuye bushingiye ku mbibi z'uturere. Iyi nzitizi yayitanze mu nkiko zombi zabanje ariko ntiyahabwa ishingiro, nyamara yaratanze ikimenyetso kigaragaza ko ifite icyicaro mu Murenge wa Remera, mu Karere ka Gasabo ndetse n'ayo masezerano y'akazi bakoranye ariho yasinyiwe, akaba ari naho Uwiragiye yakoreraga akazi ke.

RACI Ltd isaba uru Rukiko ko igihe rusanze harabayeho akarengane muri uru rubanza gashingiye ku bimenyetso, rwategeka Uwiragiye kuyisubiza amafaranga yishyuwe ishyira mu bikorwa ibyemezo by'inkiko zabanje.

Uwiragiye avuga ko uwasabye ko urubanza rusubirishwamo ku mpamvu z'akarengane atagaragaje ku buryo budashidikanywaho icyo yita ko cyirengagijwe, cyaba ikimenyetso cyangwa itegeko ngo bihuzwe n'ibisobanuro by'urukiko mbere yo kumva ko yarenganye.

Asobanura ko bitumvikana uburyo imanza zaburanishirijwe mu Rukiko rw'Ibanze rwa Kicukiro zajuririrwa mu Rukiko Rwisumbuye rwa Nyarugenge zikomoka ku bibazo byabereye mu Murenge wa Remera ngo hanyuma ibindi bijyanwe mu Rukiko Rwisumbuye rwa Gasabo; ko ahubwo ibyo aribyo byaba ari ukwirengagiza amategeko. Bityo, akaba nta karengane gashingiye ku bubasha bw'Urukiko kari muri uru rubanza kuko kuba RACI Ltd ifite icyicaro mu Murenge wa Remera ikibazo cy'umurimo kiyikomokaho cyagombaga kuba cyarasuzumwe n'Urukiko Rwisumbuye rwa Nyarugenge aho kuba Urukiko Rwisumbuye rwa Gasabo nk'uko ibyifuza.

Incamake y'icyemezo: Imiryango itari iya Leta iburanishirizwa mu rukiko rwisumbuye ruri mu ifasi irimo icyicaro cyayo gikuru cyangwa aho ikiburanwa kiri cyangwa aho ishami bireba riherereye. Uturere nitwo tureberwamo ububasha bw'inkiko zisumbuye aho kureba imirenge, irebwa hagenwa ububasha bw'Inkiko z'Ibanze.

Ikirego gisaba gusubirishamo urubanza ku mpamvu z'akarengane, gifite ishingiro.
Ikirego cy'ubujurire ku nzitizi, gifite ishingiro.

Amategeko yashingiweho:

Itegeko Nº 30/2018 ryo ku wa 02/06/2018 rigena Ububasha bw'Inkiko, ingingo ya 13, 16, 31, 32, 35 n'iya 55.

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 158.

Imanza zifashishijwe:

RSOCA00213/2020/HC/KIG, Kayumba Charles na Heifer International Rwanda, rwaciwe n'Urukiko Rukuru ku wa 08/02/2021.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Uwiragiye Faustin yagiranye amasezerano y'umurimo y'igihe kizwi n'ikigo cy'ubucuruzi gishamikiye ku Itorero ry'Abangilikani mu Rwanda, RABCO Ltd, cyahindutse Rwanda Angilican Capital Investments Ltd (RACI Ltd), ahera ku itariki ya 01/01/2017 akageza ku itariki ya 31/12/2019; ashingwa akazi ko kuzajya akurikirana ibibazo byose bijyanye n'amazi ku nyubako nshya y'ubucuruzi y'iryo torero, umukoresha nawe yiyemeza kuzajya amuhemba amafaranga ibihumbi ijana na cumi n'umunani (118.000Frw) buri kwezi.

[2] Ku itariki ya 27/02/2019, Uwiragiye Faustin yamenyeshejwe ko amasezerano y'akazi ye yahinduwe, aho kuba umukozi uhoraho, agizwe nyakabyizi uzajya yiyambazwa igihe umukoresha abona ko bikenewe, ndetse anamenyeshwa ko igihembo azajya ahabwa kizajya cyumvikanwaho bitewe n'akazi kabonetse.

[3] Uwiragiye Faustin ntiyemeranyijwe na RACI Ltd ku mihindurirwe y'amasezerano y'akazi ke, hageragezwa inzira y'ubwumvikane ntibyakunda, bituma aregera Urukiko Rwisumbuye rwa Nyarugenge avuga ko yirukanywe mu kazi mu buryo bunyuranyije n'amategeko, asaba Urukiko indishyi zinyuranye.

[4] RACI Ltd yabanje gutanga inzitizi y'iburabubasha bw'Urikiko Rwisumbuye rwa Nyarugenge bushingiye ku ifasi, isaba ko ikirego cya Uwiragiye Faustin kitakwakirwa. Yasobanuraga ko kuba ifite icyicaro mu Murenge wa Remera ubarizwa mu Karere ka Gasabo, Urukiko rwari rufite ububasha ari Urukiko Rwisumbuye rwa Gasabo.

[5] Ku itariki ya 04/12/2020, Urukiko rwafashe icyemezo ruvuga ko iyo nzitizi nta shingiro ifite, rusobanura ko rufite ububasha bwo kuburanisha urwo rubanza.

[6] Ku birebana n'imizi y'urubanza, RACI Ltd yireguye ivuga ko itigeze isesa amasezerano y'akazi yagiranye na Uwiragiye Faustin, ahubwo ko yamumenyesheje ko ayo masezerano yahinduwe, undi arabyanga ndetse aranagenda, nyuma bamusabye gusubira mu kazi kugira ngo akomeze gukorera ku masezerano ya mbere nabyo arabyanga. Ku bw'ibyo, isaba ko ikirego cye cyitahabwa ishingiro.

[7] Ku itariki ya 08/01/2021, Urukiko Rwisumbuye rwa Nyarugenge rwaciye urubanza RSOC 00020/2020/TGI/NYGE, rwemeza ko RACI Ltd yasheshe amasezerano y'akazi yari ifitanye na Uwiragiye Faustin mu buryo bunyuranyije n'amategeko, ruyitegeka kumwishyura indishyi zikurikira:

i) indishyi zo gusesa amasezerano y'akazi mu buryo bunyuranyije n'amategeko zingana na 1.062.000 Frw;

ii) indishyi zijyanye n'icyemezo cy'umukoresha atahawe zingana na 118.000Frw;

iii) indishyi zirebana n'integuza zingana na 118.000Frw;

iv) igihembo cya Avoka kingana na 500.000 Frw, hamwe na 20.000 Frw Uwiragiye Faustin yatanzeho ingwate y'igarama yatanze arega, yose hamwe akaba 1.818.000 Frw. Yategetswe kandi kumwishyurira imisanzu y'ubwiteganyirize bw'abakozi muri RSSB guhera ku itariki 01/01/2017 kugeza ku ya 31/12/2019.

[8] RACI Ltd ntiyishimiye imikirize y'urubanza, irujuririra mu Rukiko Rukuru, ivuga ko Urukiko Rwisumbuye rwa Nyarugenge rwaciye urubanza nta bubasha rubifitiye hashingiwe ku bubasha bushingiye ku ifasi. Yavugaga kandi ko Uwiragiye atigeze yirukanwa, ko ahubwo ariwe wahagaritse akazi igihe kitaragera kubera ko yagejejweho icyifuzo n'umukoresha cyo guhindura amasezerano y'akazi bari bafitanye, ntiyabyemera, anasabwe kugakomeza nabyo arabyanga, bivuze ko kuba ariwe wahagaritse akazi, nta nteguza hamwe n'icyemezo cy'umurimo yagombaga guhabwa, kuko RACI Ltd yari ikimubara nk'umukozi wayo.

[9] RACI Ltd yavugaga kandi ko ikindi cyatumye ijurira ari uburyo indishyi zerekeranye n'iseswa ry'amasezerano y'akazi zabazwemo kuko nazo zabazwe uko itegeko ritabiteganya, bityo isaba ko ayo makosa yose yakozwe yakosorwa.

[10] Ku itariki ya 30/11/2021, Urukiko Rukuru rwaciye urubanza RSOCA00050/2021/HC/KIG rwemeza ko ubujurire bwa RACI Ltd nta shingiro bufite, rwemeza ko nta gihindutse ku rubanza rwajuririwe uretse ibijyanye n'imisanzu y'ubwiteganyirize bw'abakozi yagombaga kwishyurirwa Uwiragiye Faustin yavanyweho, rutegeka RACI Ltd kwishyura Uwiragiye Faustin 250.000 Frw y'igihembo cy'Avoka wamuburaniye ku rwego rw'Ubujuire.

[11] Ku birebana n'inzitizi yari yabyukijwe ku rwego rwa mbere, Urukiko Rukuru rwasobanuye ko rusanga nta shingiro ifite kuko RACI Ltd iterekana ko ikorera mu ifasi y'Urukiko Rwisumbuye rwa Gasabo.

[12] Ku byerekeranye n'imizi y'urubanza, Urukiko Rukuru rwashingiye ku mpamvu zikurikira:

i) Kuba hagati ya Uwiragiye Faustin na RACI Ltd harabaye amasezerano y'igihe kizwi yagombaga gutangira guhera ku itariki 01/01/2017 kugeza ku ya 31/12/2019, ariko ku itariki 27/02/2019, RACI Ltd ikamwandikira imumenyesha ihindurwa ry'ingingo z'amasezerano y'akazi ke;

ii) kuba Uwiragiye Faustin yarahisemo guhagarika akazi bisobanura ko atemeye iryo hindurwa ry'amasezerano y'akazi;

iii) kuba Uwiragiye Faustin yaranze kugaruka ku kazi bidakwiriye gufatwa nk'aho ari we wanze akazi cyangwa se ko yagataye, ahubwo bifatwa ko yirukanywe mu kazi binyuranyije n'amategeko kuko atagombaga guhindurirwa akazi atabanje kubyemeranyaho n'umukoresha we.

[13] Ku itariki ya 29/12/2021, RACI Ltd yandikiye Perezida w'Urukiko rw'Ubujurire isaba ko urubanza RSOCA00055/2021/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 30/11/2021 rusubirwamo ku mpamvu z'akarengane. Nyuma yo gusuzuma ubusabe bwe, Perezida w'Urukiko rw'Ubujurire yandikiye Perezida w'Urukiko rw'Ikirenga asaba ko urubanza rwavuzwe rusubirwamo ku mpamvu z'akarengane. Mu cyemezo nimero 1143/CJ/2022 cyo ku wa 26/08/2022, Perezida w'Urukiko rw'Ikirenga, yemeje ko urubanza rwavuzwe rwongera kuburanishwa ruhabwa RS/INJUST/RSOC00009/2022/SC.

[14] Urubanza rwaburanishijwe mu ruhame ku wa 26/09/2023, RACI Ltd ihagarariwe na Me Munyankindi Kayiranga Innocent, Uwiragiye Faustin ahagarariwe na Me Uwizeyimana Jean Baptiste.

[15] Hakurikijwe imiterere y'uru rubanza, Urukiko rwabanje gusuzuma ikibazo cyo kumenya niba Urukiko Rwisumbuye rwa Nyarugenge rwari rufite ububasha bwo kuburanisha uru rubanza nk'uko RACI Ltd yari yabitanzemo inzitizi.

II. ISESENGURA RY'IKIBAZO KIGIZE URUBANZA

1. Kumenya niba Urukiko Rwisumbuye rwa Nyarugenge rwari rufite ububasha bwo gusuzuma ikirego kiri muri uru rubanza

[16] Me Munyankindi Kayiranga Innocent uhagarariye RACI Ltd avuga ko ingingo ya mbere y'akarengane ishingiye ku kuba Urukiko Rwisumbuye rwa Nyarugenge rwaciye urubanza ku rwego rwa mbere rukaza gushimangirwa n'Urukiko Rukuru, nta bubasha bushingiye ku ifasi urwo Rukiko Rwisumbuye rwa Nyarugenge rwari rubifitiye. Asobanura ko ingingo ya 13 n'iya 16 z'Itegeko Nº 30/2018 ryo ku wa 02/06/2018 rigena Ububasha bw'Inkiko n'umugereka waryo wa II, zivuga ku bubasha bw'urukiko bushingiye ku ifasi mu manza z'imbonezamubano, zikaba ziteganya ko Ububasha bw'Inkiko Zisumbuye bushingiye ku mbibi z'Uturere.

[17] Avuga ko RACI Ltd ifite icyicaro gikuru mu Karere ka Gasabo kandi ko ariho amasezerano avugwa muri uru rubanza yakorewe, akaba ari naho Uwiragiye Faustin yakoreraga imirimo yari ashinzwe, bityo, ko Urukiko Rwisumbuye rwa Nyarugenge nta bubasha bushingiye ku ifasi rwari rufite bwo kuburanisha urubanza rw'umurimo rwo mu Karere ka Gasabo, kuko ububasha bw'urwo Rukiko bugarukira mu Karere ka Kicukiro n'aka Nyarugenge gusa.

[18] Akomeza avuga ko inzitizi y'iburabubasha yayitanze mu Rukiko Rwisumbuye, rufata icyemezo ko nta shingiro ifite; bayitanze nk'ingingo y'ubujurire mu Rukiko Rukuru, narwo ruyitesha agaciro ruvuga ko nta kimenyetso RACI Ltd yabashije kurugaragariza cy'uko ikorera mu Karere ka Gasabo, nyamara hari certificat d'enregistrement yatanzwe yari kuri annexe muri system igaragaza ko ifite icyicaro mu Murenge wa Remera, Akarere ka Gasabo, hakibazwa aho Urukiko rwahereye ruvuga ko nta kimenyetso cyatanzwe cyashimangiraga inzitizi yari yatanzwe. Avuga ko ku bw'izo

mpamvu RACI Ltd isanga ako ari akarengane gashingiye ku kuba harabayeho kwirengagiza ibimenyetso no kwirengagiza ibyo amategeko ateganya.

[19] Asoza asaba ko mu gihe Urukiko rwasanga harabayeho akarengane, Uwiragiye Faustin yategekwa gusubiza amafaranga yishyuwe angana na 2.168.000Frw, akubiyemo amafaranga yategetswe n'Urukiko Rwisumbuye, hiyongereyeho 250.000 Frw y'igihembo cya Avoka RACI Ltd yaciwe mu bujurire.

[20] Me Uwizeyimana Jean Baptiste uhagarariye Uwiragiye Faustin, avuga ko ashingiye ku biteganywa mu ngingo ya 55 y'Itegeko N^{o} 30/2018 ryo ku wa 02/06/2018 rigena Ububasha bw'Inkiko, asanga uwasabye ko urubanza rusubirishwamo ku mpamvu z'akarengane atagaragaje ku buryo budashidikanywaho icyo yita ko cyirengagijwe, cyaba ikimenyetso cyangwa Itegeko ngo bihuzwe n'ibisobanuro by'urukiko (*motivation*) mbere yo kumva ko yarenganye.

[21] Akomeza avuga ko ingingo ya 16 y'Itegeko ryavuzwe haruguru urega ashaka kumvikanisha ko yirengagijwe, iteganya ko imanza zerekeye amasosiyeti y'ubucuruzi n'indi miryango ifite ubuzima gatozi ziburanishirizwa mu rukiko rwo mu ifasi irimo icyicaro cyazo gikuru, cyangwa aho ishami riherereye niba ari ryo rifitanye ikibazo n'urega, cyangwa aho ikiburanwa giherereye. Asobanura ko mu kumvikanisha akarengane, RACI Ltd ivuga ko hagendewe ku mugereka wa II w'Itegeko, Urukiko Rwisumbuye rwa Nyarugenge ngo rufite ububasha bushingiye ku ifasi mu Karere ka Kicukiro n'aka Nyarugenge, ko rutaburanisha isosiyeti ifite icyicaro muri Remera, iri mu Karere ka Gasabo. Avuga ko kugira ngo hasuzumwe iyi ngingo, ari byiza ko harebwa n'ibiteganywa n'ingingo za 31, 32 na 35 z'Itegeko rigenga Ububasha bw'Inkiko kuko arizo zigena ububasha bw'Inkiko zisumbuye ahavugwa ko zinaburanisha imanza zaburanishijwe n'inkiko z'ibanze ziri mu ifasi yazo.

[22] Anavuga ko umugereka wa I w'Itegeko rigena Ububasha bw'Inkiko urega avuga ko wakabaye utanga umucyo, ugaragaza Umurenge wa Remera nk'uri mu ifasi y'Urukiko rw'Ibanze rwa Kicukiro hamwe n'indi Mirenge imwe yo muri ako Karere, ibyo bigahita bituma ushyirwa mu bubasha bw'Urukiko Rwisumbuye rwa Nyarugenge nubwo Umurenge ubwawo uherereye mu Karere ka Gasabo; ko rero asanga niba RACI Ltd yemera ko ifite icyicaro mu Murenge wa Remera, yagakwiye no kwemera ko Urukiko Rwisumbuye rwa Nyarugenge rufite ububasha kuri uwo Murenge kuko bibaye bigendeye kuri iyo myumvire, bitumvikana uburyo imanza zaburanishirijwe mu Rukiko rw'Ibanze rwa Kicukiro zajuririrwa mu Rukiko Rwisumbuye rwa Nyarugenge zikomoka ku bibazo byabereye mu Murenge wa Remera ngo hanyuma ibindi bijyanwe mu Rukiko Rwisumbuye rwa Gasabo; ko ahubwo ibyo aribyo byaba ari ukwirengagiza amategeko.

[23] Anavuga ko mu rubanza RSOCA00213/2020/HC/KIG rwaciwe ku wa 08/02/2021 hagati ya Kayumba Charles na Heifer International Rwanda, hakirijwemo impaka ku bijyanye n'agasigane k'inkiko zisumbuye. Avuga ko muri urwo rubanza, Kayumba Charles yatanze ikirego agendeye ku kuba Remera iri muri Gasabo ndetse na Heifer International Rwanda ikaba ariho yari ifite icyicaro, aregera Urukiko Rwisumbuye rwa Gasabo agira ngo akiranurwe mu mpaka z'umurimo yari afitanye n'umukoresha we. Avuga ko Urukiko Rwisumbuye rwa Gasabo, rwemeje ko urwo rubanza rutari mu bubasha bwarwo kuko Umurenge wa Remera uri mu ifasi y'Urukiko Rwisumbuye rwa Nyarugenge. Asobanura ko mu gihe Kayumba Charles yatangaga ikirego bundi bushya imbere y'Urukiko Rwisumbuye rwa Nyarugenge, urwo Rukiko rutemeranyije n'Urukiko Rwisumbuye rwa Gasabo, kuko rwemeje ko ububasha bw'inkiko zisumbuye bushingira ku karere, bityo ko Urukiko Rwisumbuye rwa Gasabo ari rwo rwagombaga kuburanisha Kayumba Charles.

[24] Akomeza asobanura ko Kayumba Charles yajuririye iki cyemezo, ariko mu gihe cy'iburanisha haza gutahurwa ko igihe Kayumba Charles yatangaga ikirego inshuro ya 2 aregera Urukiko Rwisumbuye rwa Nyarugenge, Heifer International yari yaramaze kwimuka ibarizwa mu Murenge wa Kacyiru, umurenge uri mu Karere ka Gasabo nk'uko na Remera bimeze, ariko wo uri

mu ifasi y'Urukiko Rwisumbuye rwa Gasabo; ko ibi byatumye hemezwa ko Urukiko rufite ububasha ari Urukiko Rwisumbuye rwa Gasabo, atari uko Remera iri muri Gasabo, ahubwo kuko umukoresha ari muri Kacyiru, umurenge nubundi usanzwe mu ifasi y'Urukiko Rwisumbuye rwa Gasabo.

[25] Asoza avuga ko asanga nta kwirengagizwa kw'amategeko kwabayeho kuko kugeza n'ubu Itegeko rigena Remera nk'umurenge uri mu bubasha bushingiye ku ifasi y'Urukiko Rwisumbuye rwa Nyarugenge ritarahinduka, bityo, ko ashingiye ku mpamvu zasobanuwe, asanga nta karengane gashingiye ku bubasha bw'Urukiko kari muri uru rubanza; ko hashingiwe ku kuba RACI Ltd ifite icyicaro muri Remera, ikibazo cy'umurimo kiyikomokaho cyagombaga kuba cyarasuzumwe n'Urukiko Rwisumbuye rwa Nyarugenge aho kuba Urukiko Rwisumbuye rwa Gasabo nk'uko RACI Ltd ibyifuza.

UKO URUKIKO RUBIBONA

[26] Ingingo ya 16 y'Itegeko Nº 30/2018 ryo ku wa 02/06/2018 rigena Ububasha bw'Inkiko iteganya ko imanza zerekeye amasosiyete y'ubucuruzi n'indi miryango ifite ubuzimagatozi itari iya Leta, ziburanishirizwa mu rukiko rwo mu ifasi irimo icyicaro cyabyo gikuru, cyangwa aho ikiburanwa kiri cyangwa aho ishami bireba riherereye.

[27] Umugereka wa II w'iryo Tegeko rimaze kuvugwa, ugaragaza ko ku bijyanye n'Ububasha bw'Inkiko Zisumbuye, Akarere ka Gasabo kari mu bubasha bw'Urukiko Rwisumbuye rwa Gasabo.

[28] Muri uru rubanza, ababuranyi b'impande zombi bemeranya ko RACI Ltd ifite icyicaro cyayo mu Murenge wa Remera, Akarere ka Gasabo; icyo batemeranywaho ni Urukiko Rwisumbuye rwagombaga gushyikirizwa ikirego yarezwemo n'umukozi wayo. RACI Ltd ivuga ko Urukiko rwagombaga gushyikirizwa icyo kirego ari Urukiko Rwisumbuye rwa Gasabo aho kuba urwa Nyarugenge nk'uko byagenze, kuko RACI Ltd yaregwaga ifite icyicaro mu Murenge wa Remera uherereye mu Karere ka Gasabo; naho Uwiragiye Faustin we akagaragaza ko Urukiko rufite ububasha ari Urukiko Rwisumbuye rwa Nyarugenge kuko Umurenge wa Remera uri mu Mirenge ibarizwa mu ifasi y'Urukiko rw'Ibanze rwa Kicukiro, kandi imanza zo muri urwo Rukiko zikaba zijuririrwa mu Rukiko Rwisumbuye rwa Nyarugenge.

[29] Iyi miburanire ya RACI Ltd niyo shingiro ry'inzitizi ry'iburabubasha bw'Urukiko Rwisumbuye rwa Nyarugenge yazamuye kuva urubanza rugitangira ariko inkiko ntizayiha ishingiro. Mu rubanza rubanziriza urundi rwaciwe n'Urukiko Rwisumbuye ku wa 04/12/2020, Urukiko rwemeje ko inzitizi yatanzwe na RACI Ltd igamije kutakira ikirego cya Uwiragiye Faustin nta shingiro ifite.

[30] Nk'uko bigaragara kandi muri kopi y'urubanza rwaciwe n'Urukiko Rukuru, iyi ngingo yagarutsweho urukiko rusabwa gusuzuma niba Urukiko Rwisumbuye rwa Nyarugenge rwari rufite ububasha bushingiye ku ifasi bwo kuburanisha urubanza, rwemeza ko nta shingiro ifite ngo kuko nta kimenyetso urega yagaragaje ko Rwanda Anglican Capital Investments Ltd ikorera mu ifasi y'Urukiko Rwisumbuye rwa Gasabo.

[31] Urukiko rw'Ikirenga rurasanga ikigomba kwitabwaho mu kumenya Urukiko rwari rufite ububasha muri urubanza ari ukureba Akarere gaherereyemo Icyicaro cya RACI Ltd kuko uturere aritwo tureberwamo ububasha bw'Inkiko Zisumbuye nk'uko bigaragazwa n'Umugereka wavuzwe haruguru, aho kureba Umurenge kuko imirenge irebwa hagenwa ububasha bw'Inkiko z'Ibanze[1].

[32] Nk'uko uhagarariye RACI Ltd abiburanisha, muri dosiye harimo "*Certificate of Domestic Company Registration*" yatanzwe na RDB ku wa 31/08/2020 igaragaza ko address y'iyi sosiyete ari

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[1] Umugereka wa I w'Itegeko Nº 30/2018 ryo ku wa 02/06/2018 rigena Ububasha bw'Inkiko.

Remera, Gasabo, Umujyi wa Kigali, Rwanda; ibi bikaba bivuze ko ikirego cyagombaga gutangirira mu Rukiko Rwisumbuye rwa Gasabo, harebwe aho icyicaro cy'uwaregwaga kiri.

[33] Urukiko rurasanga bigaragara muri dosiye ko iyi nyandiko yashyizwe muri dosiye ku wa 06/02/2021, mbere y'itariki y'iburanisha ry'urubanza mu Rukiko Rukuru kuko inyandiko mvugo y'iburanisha yerekana ko ryabaye ku wa 02/11/2021, bityo, kuvuga ko urega nta kimenyetso yagaragaje ko RACI Ltd ikorera mu ifasi y'Urukiko Rwisumbuye rwa Gasabo bikaba bidafite ishingiro.

[34] Ku bivugwa na Uwiragiye Faustin ko kuba Icyicaro cya RACI Ltd kiri mu Murenge wa Remera nk'uko nayo ibyiyemerera, uwo murenge ukaba uri mu bubasha bw'Urukiko rw'Ibanze rwa Kicukiro hashingiwe ku mugereka wa I w'Itegeko Nº 30/2018 ryo ku wa 02/06/2018 ryavuzwe haruguru, kandi imanza zaciwe n'urwo Rukiko zikaba zijuririrwa mu Rukiko Rwisumbuye rwa Nyarugenge, bityo ko ibyo bituma ikirego kiregwa RACI Ltd kijya mu bubasha bw'urwo Rukiko, Urukiko rw'Ikirenga rurasanga iyo myumvire atariyo kubera ko Urukiko Rwisumbuye rwa Nyaregenge rwari kugira ububasha iyo urwo rubanza ruba rwaratangiriye mu Rukiko rw'Ibanze rwa Kicukiro noneho rukagera mu Rukiko Rwisumbuye rwa Nyarugenge mu rwego rw'ubujurire[2].

[35] Hashingiwe ku ngingo ya 16 y'Itegeko Nº 30/2018 ryo ku wa 02/06/2018 ryavuzwe haruguru no ku mugereka waryo wa II, Urukiko rurasanga Uwiragiye Faustin yararegeye Urukiko Rwisumbuye rwa Nyarugenge rutabifitiye ububasha, urwo Rukiko rukaba rutaragombaga kwakira ikirego cye kuko nta bubasha bushingiye ku ifasi rwari rufite rwo kuburanisha urwo rubanza, bityo, ikirego cya RACI Ltd gisaba gusubirishamo urubanza ku mpamvu z'akarengane kikaba gifite ishingiro.

[36] Ingingo ya 158 y'Itegeko Nº 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ko iyo Urukiko rwajuririwe rusanze urubanza rwararegewe mu rwego rwa mbere mu buryo budakurikije amategeko cyangwa rwararegewe Urukiko rudafite ububasha, nyamara urwo rukiko rukaba rwarafashe icyemezo cyo kurwakira kandi rutaragombaga kurwakira, Urukiko rwajuririwe rwakira ubwo bujurire, rukagaragaza ko urwo rubanza rwajuririwe rwari rwararegewe urukiko rwa mbere mu buryo bunyuranije n'amategeko, rugatesha agaciro ibyemezo byose byashingiye kuri iryo kosa, ubifitemo inyungu akaba yakongera agatanga ikirego bundi bushya.

[37] Hashingiwe ku biteganywa n'iyi ngingo, kuba Urukiko Rwisumbuye rwa Nyarugenge rwarakoze amakosa yo kwakira ikirego mu buryo bunyuranyije n'amategeko, Urukiko Rukuru rukaba rutarashoboye kuyakosora, Urukiko rw'Ikirenga rurasanga urubanza rwaciwe n'Urukiko Rukuru ndetse n'urwaciwe n'Urukiko Rwisumbuye zigomba guteshwa agaciro, ibintu bigasubira uko byari bimeze mbere y'uko ikirego gitangwa.

[38] Urukiko rurasanga kandi, mu rwego rwo gusubiza ibintu uko byari bimeze, Uwiragiye Faustin agomba gusubiza RACI Ltd amafaranga miliyoni ebyiri n'ibihumbi mirongo itandatu n'umunani (2,068,000) yahawe harangizwa urubanza RSOCA 00055/2021/HC/KIG kubera ko ruteshejwe agaciro.

III. ICYEMEZO CY'URUKIKO

[39] Rwemeje ko ikirego cyatanzwe na Rwanda Anglican Capital Investments Ltd isaba gusubirishamo ku mpamvu z'akarengane urubanza RSOCA00055/2021/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 30/11/2021, gifite ishingiro.

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[2] Reba ingingo ya 32 y'Itegeko Nº 30/2018 ryo ku wa 02/06/2018 rigena Ububasha bw'Inkiko iteganya ko Inkiko Zisumbuye ziburanisha imanza n'ibyemezo byajuririwe zaciwe mu rwego rwa mbere n'Inkiko z'Ibanze zo mu ifasi yazo.

[40] Rwemeje ko ikirego cy'ubujurire ku nzitizi cyari cyatanzwe na Rwanda Anglican Capital Investments Ltd mu Rukiko Rukuru, cyari gifite ishingiro.

[41] Rwemeje ko Urukiko Rwisumbuye rwa Nyarugenge rwaburanishije urubanza RSOC00020/2020/TGI/NYGE nta bubasha rufite.

[42] Rwemeje ko Urubanza RSOC00020/2020/TGI/NYGE rwaciwe n'Urukiko Rwisumbuye rwa Nyarugenge ku wa 08/01/2021 n'urubanza RSOCA00055/2021/HC/KIG rwaciwe n'Urukiko Rukuru ku wa 30/11/2021, ziteshejwe agaciro.

[43] Rutegetse Uwiragiye Faustin gusubiza Rwanda Anglican Capital Investments Ltd 2.068.000 Frw yamwishuye harangizwa imanza zavuzwe haruguru.