

RCC 10722

AMAJAMBO MAKURU MAKURU

Guhana ibirego – gusubiza urubanza itoto – gutorana – inkongoro y'umwana ntihoza uyundi – isambuzwa ridashemeye - kubeshuza ibirego – kudohoka ku migenzo myiza – ubwatsi bwashyigaye mu nzu.

URUBANZA

- 1 -

RCC 10722

SENTARE NTAHINYUZWA ISHASHE MU GISATA CA GASAMBURAMANZA YACIYE URUBANZA RUKURIKIRA : INTAHE Y'ICESE YO KU WA 31 MYANDAGARO 2005.

UWITWARA : K. Michel : Umusozi Rutundwe, Komine Songa, Intara ya Bururi.

UWITWARIRWA : N. Protais : Umusozi Rutundwe, Komine Songa, Intara ya Bururi.

Twihweje ikete K. Michel yandikiye umukuru wa Sentare Ntahinyuzwa asaba isamburwa ry'urubanza RCA 3536 rwaciye na Sentare Nkuru y'Igihugu ya Bururi ku wa 04.07.2002 narwo rukaba rwavugaga ruti:

- Yakiriye urubanza rwungurujwe na K. Michel ariko isanze imburano ziwe zidashemeye namba.
- Hakomejwe urubanza n° RC 628/90 rwaciye na Sentare y'Intango ya Songa Manyoni kandi niyo nyene izorukurikiza.

Twihweje ko N. yaronse umutahe umumenyeshya ko urwo rubanza rwashyigaye akaba yawutereye igikumu ku wa 20.06.2003 ;

Twihweje ko yaciye abeshuza ibirego vyashyikirijwe adatevye ;

Twihweje icyumviro c'umucamanza cunganiwe n'umushikirizamanza mukuru akurikira Sentare Ntahinyuzwa ;

Twihweje ko umukuru wa Sentare yahavuye afata imigabo yo guhamagaza urwo rubanza mu ntahe y'icese ;

Twihweje ko N. yaronse umutahe umumenyeshya ingingo umukuru wa Sentare yafashe yo guhamagara urwo rubanza mu ntahe y'icese yo ku wa 11.06.2004;

Twihweje ko kuri icyo ndagano ababuranyi bompibitavye ariko urubanza rugashyigaye ku wa 05.11.2004 kugira ngo ababuranyi bahane ibirego vyabo ;

- 2 -

Twihweje intahe y'icese y'uwo muni aho ababuranyi bompibitavye, bakanahinyuzanya imbonankubone, umushikirizamanza mukuru akanatanga icyumviro ciwe, maze Sentare imaze kunyurwa igaca ishira urubanza mu mwiherero ;

Twihweje ko umwe mu bacamanza bari baremesheje intahe yahavuye aja kurangura iyindi mirimo Sentare itarashyigaye ingingo yayo ntabanduka ;

Twihweje ko rero urwo rubanza rwaciye rusubira guhamagarwa mu ntahe y'icese yo ku wa 06.05.2005 maze Sentare igaca irushyigaye mu mwiherero none hashyigaye urukurikira :

Kubera ko K. Michel anegura Sentare Nkuru y'Igihugu ya Bururi ko yasubije itoto imanza zimaze imyaka iri hagati ya 38 na 15 ziciye kandi zitungurujwe, zikaba zarabaye ntabanduka ndetse no gukwirizwa zikaba zarakurikijwe ;

Kubera ko mugushyigaye icyo mvo ya mbere adondagura imanza zasubijwe itoto : n° 338/CR/65 rwaciye ku wa 05.05.1965 na Sentare y'Intara ya Bururi; RC 316 rwaciye ku wa 29 Myandagaro na Sentare Nkuru y'Igihugu ya Bururi; RC 381/86 rwaciye na Sentare y'Intango ya Songa ku wa 15.03.1986 ;

Kubera ko K. anegura kandi Sentare Nkuru ya Bururi ko yadohotse ku migenzo myiza y'Igihugu ijanyeye n'ivyo gutorana ;

Ko yibagiye ko « inkongoro y'umwana idahozwa uwundi » kandi ko icyo abana bamaze gushyigaye baba bashyigaye gusa kubabura ubwatsi bwashyigaye mu nzu y'abavyeyi babo ;

Kubera ko ngo yashyigaye ntiyumvirwe, Sentare ikajya gushyigaye ubwatsi bwose busiga B. kandi we yasaba ko hagaburwa ubwatsi bwashyigaye mu nzu gusa;

Kubera ko ku mvo ya gatatu nayo K. anegura Sentare ko yaciye urubanza itashikirijwe ; ko N. agitungura kuburana yarondera ishamvu ya se basangiye hanyuma Sentare ikaja kuvanga ahitirirwa B. hose igashiramwo n'umuvumba w'umuheto kandi K. ngo yaburanije Projet Mugamba Bututsi atawe aserukira;

Kubera ko ku mvo ya mbere N. yibutsa ko urubanza 338/CR/65 rwavuga ko ubunyovu yapfa na se B. bugaburwamwo ibipande bine bingana hakaba hagaburirwa B. (umuvyeyi wabo), K., N. na ND.; ko rero umuvyeyi wabo akaba atakiriho eka na ND. akaba yapfuye ataco asize none ngo ata bugunge burimwo asavye ko bagabura aho basize, cane cane bakanganya na K. kuko bavukana ;

Kubera ko kuri iyo mvo ya mbere nyene urubanza RC 316 aho K. yaburanya Projet Mugamba-Bututsi yaburana kw'izina ry'umuryango kuko ngo ntaho vyabonetse ngo umwana agire umuheto kw'itongo ry'umuvyeyi; Ko ahubwo yagize umwete wo kuburana kuko aho Projet yagira itange uburagiho hari mu bushokero bwaho atumbereye ;

- 3 -

Kubera ko kuri iyo mvo nyene n'urubanza RC 301/86 yitwaza ngo ataco rumufasha kuko ngo rwari rwerekeye uburengere ntirwaraba itongo nyezina kandi noneho rwabubahirije bomp, umwe wese iwe, uwundi iwe ;

Ko rero N. abona ko ata rubanza na rumwe rwasubijwe itoto, rumwe rwose rwari rufise kamere n'intumbero rwisangije ;

Kubera ko ku mvo ya kabiri N. yishura avuga ko ata nkongoro ya K. akeneye ngo ahubwo iyo aba yumva neza uwo mugani ntiyongereye kumurusha kw'itongo kandi bavukana ; ko ahubwo ico akeneye ari uko inkongoro zabo zingana;

Kubera ko kuri iyo mvo ya kabiri nyene N. avuga ko gusohoka vyonyene bidakwiye, igihambaye n'uko banganya kandi ubutungane bwama bwubahirije abasohowe nabi; ko nayo ko yoba atumvirijwe ngo ni ikinyoma kitagira izina kuko bahamagawe incuro 14 muri Sentare y'Intango, bahamagarwa incuro 8 muri Sentare Nkuru y'Igihugu kandi zose zikaba zarashitse kw'itongo ;

Kubera ko ku mvo ya gatatu naho N. agaragaza ko yitwariye itongo rya B. ryose atakivuyemwo none K. atobeshera Sentare ngo yaciye urubanza itashikirijwe ;

Kubera ko K. Michel yandikiye Sentare ku wa 02.11.2004 agerageza guhinyuzwa inyishu N. yari yashikirije Sentare ariko kubona ata karusho kuko yasubiyemwo imvo yari yarashikirije ico yagize gusa yarazihinyanyuye, yongerako ibindi bikeya ariko itsitso ryagumye ari rya rindi;

Kubera ko rero ata mvo n'imwe K. Michel yashikirije yotuma urubanza rusambuka kuko Sentare ata tegeko na rimwe canke umugenzo w'ikirundi yadohotseko mu guca urubanza kanatsinda abasangiye ibere basangira n'itongo, bakaza hasi ata wandya wangura ;

KUBERA IZO MVO ZOSE

Sentare Ntahinyuzwa, ishashe mu gisata ca Gasamburamanza ;

Yihweje ibwirizwa n° 1/010 ryo ku wa 18.03.2005 ryerekeye ibwirizwa nshingiro rya Republika y'Uburundi;

Yihweje ibwirizwa n° 1/07 ryo ku wa 25.02.2005 ryerekeye iringanizwa rya Sentare Ntahinyuzwa ;

Yihweje ibwirizwa n° 1/08 ryo ku wa 17.03.2005 ryerekeye iringanizwa ry'ama Sentare n'ububasha bwazo;

Yihweje ibwirizwa n° 1/010 ryo ku wa 13.05.2004 ryerekeye amategeko agenga imanza z'amatati;

- 4 -

ISHINZE KO ;

- Yakiriye isambuzwa ry'urubanza nkuko ryagizwe na K. Michel ariko isanze ridashemeye;
- Irahakanye rero gusambura urubanza RCA 3536 rwaciwe na Sentare Nkuru y'Igihugu ya Bururi ku wa 04.07.2002 ;
- Iyo ngingo izokwandikwe mu bitabo vya Sentare Nkuru y'Igihugu ya Bururi iruhande y'urubanza rudasambuwe ;
- Amagarama atangwa na K. Michel nayo ni 17.400 FBu.

Uko niko ruciwe kandi rusomewe i Bujumbura mu ntahe y'icese yo ku wa 31.08.2005 hashashe umukuru w'intaha, abacamanza, bafashijwe n'umushikirizamanza mukuru, n'umwanditsi.

KWIIHWEZA URUBANZA

Uru rubanza rurinze rushika muri Gasamburamanza rwahereye muri Sentare y'Intango ya Songa Manyoni. K.Michel yari yatsinzwe muri iyo Sentare y'Intango, aca yungururiza muri Sentare Nkuru y'Igihugu ya Bururi, mugabo muri naho nyene, basanga imburano ziwe zidashemeye namba . Ntiyashizwe, niko gushika muri Sentare Ntahinyuzwa, akanegura urubanza RCA 3536 ko rwashubije itoto imanza zimaze imyaka nka 38 zicitse, kandi zitungurujwe, izo manza nazo zikaba ari izi : N°338/CR/65; RC 316; RC 381.

Arongerera akanegura urwo rubanza RCA 3536, ko rwadohotse ku migenzo myiza ijanye n'ivyo gutorana, ko kandi inkongoro y'umwana idahoza uyundi, ko iyo abana bamaze gusohoka baba basigaje gusa kugabura ubwatsi bwo mu nzu, ngo wewe yasaba ko hagaburwa ubwatsi gusa bwashyirahwe mu nzu, Sentare ica isukiranya ubwatsi bwose.

Ku mvo nya mukuru Sentare Gasamburamanza yamubwiye ko ata tegeko na rimwe ryarenzwe, kanatsinda ngo abasangiye ibere basangira n'itongo, bakaza hasi, ata wandrya wangura, na kare gusohoka vyonyene ntibikwiye igihambaye ni ugusohoka neza.

Twovuga ata gukekeranya ko Sentare Ntahinyuzwa yaciye uru rubanza neza, nkako ntivyumvikana ingene uyo K. Michel avuga ngo RCA 3536 ruriko rusebura itoto imanza mugabo akaba ariwe yarushingishije, kandi akemera akaruburana aha lero ingingo ya 14¹ yo mu gitabu c'amategeko agenga ingene imanza ziburanwa iramwiyamiriza.

¹ Article 14 CPC :

« La nullité des actes de procédure peut être invoquée au fur et à mesure de leur accomplissement ; mais elle est couverte si celui qui l'invoque a, postérieurement à l'acte critiqué, fait valoir des défenses au fond ou soulevé une fin de non-recevoir. »