RCC 10920

AMAJAMBO MAKURU MAKURU

Akarimbi – amasura atumvirijwe – gukotesha uburagiro – gusambuza urubanza – gutaramura umucamanza – ibivi – isambuzwa ridashemeye – kudashika kw'itongo – kurenza ko uruho rw'amazi – kuronka uburenganzira – nkurinkobwa – ubucuti – umuhora – umwuzukuru.

URUBANZA

- 1 -

RCC 10920

SENTARE NTAHINYUZWA, ISHASHE MU GISATA CA GASAMBURAMANZA YACIYE URUBANZA RUKURIKIRA : INTAHE Y'ICESE YO KU WA 06.10.2005.

UWITWAYE : NT. Timothée: Umusozi Kibira, Komine Mugongo-manga, Intara ya Bujumbura-Rural.

UWITWARIWE : BA. Claire(+) : Umusozi Kibira, Komine Mugongo-manga, Intara ya Bujumbura-Rural.

Twihweje ikete NT. Timothée aserukirwa na NT. Boniface yandikiye umukuru wa Sentare Ntahinyuzwa ku wa 18.09.2003 rigashika mw'iyandikiro ry'imanza bukeye asaba gusambuza urubanza RCA 0679 rwaciwe na Sentare Nkuru y'Igihugu ya Bujumbura-Rural rukaba rwari rwacitse ruvuga ruti :

- Irakiriye urubanza n° RCA 0679 nkuko yarushikirijwe na NT. Timothée na BI. Domitien mugabo ivuze ko imburano zabo zitagira mvura ;
- Urubanza n° RC 1054/98 rwaciwe na Sentare y'Intango ya Jenda ku wa 19.07.1999 rurahinduwe mu ngingo zarwo zose ;
- BA. Claire na ZA. baratsindiye ahantu basanzwe baba hamwe n'itongo ryose basanzwemwo iyo riva rikagera umwe wese ;
- Amagarama atangwa na BI. Domitien hamwe na NT. Timothée;

Twihweje ko ND. Gilbert yaronse umutahe umumenyeshako urubanza RCA 0679 rwa Sentare Nkuru y'Igihugu ya Bujumbura rwasambujwe akanawuterera igikumu ku wa 23.09.2003;

Twihweje ko atatevye no kwishura imburano ;

Twihweje iciyumviro c'umucamanza akaba yunganiwe n'umushikirizamanza mukuru;

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

Twihweje ko ababuranyi baronse umutahe ubamenyesha ko urubanza ruzohamagarwa mu ntahe y'icese yo ku wa 02.07.2004;

- 2 -

Twihweje ko urwo rubanza rwahamagawe mu ntahe y'icese yo ku wa 02.07.2004, ababuranyi bompi bakitaba ariko ND. Gilbert aserukira abasigwa ba BA. Claire akaba atari bwaronke uburenganzira;

Twihweje ko mu ntahe y'icese yakurikiye yo ku wa 26.11.2004 naho nyene ababuranyi bose bitavye ariko BI. Domitien nawe agaca aza gusaba ijambo mugabo Sentare imaze gutohoza igasanga ntakwije ibisabwa n'amategeko igaheza imutuma gushinga no kuzana umutahe yamenyesherejweko urubanza;

Twihweje ko no mu ntahe y'icese yo ku wa 25.03.2005 atari bwarengukane ivyo Sentare yamutumye;

Twihweje cane cane intahe y'icese yo ku wa 14.07.2005 aho ababuranyi bose bitavye na BI. yaratanze ivyo yasabwe, baraheza baraburana bahinyuzanya imbonankubone hanyuma Sentare imaze kunyurwa ica ishira urubanza mu mwiherero kugirango ishinge urukurikira:

Kubera ko mu gusambuza urubanza NT. Boniface asanzwe aserukira NT. Timothée anegura Sentare ko itashitse kw'itongo ngo yongere isurishe amasura ;

Ko n'abo bagore batatu bavugwa ba NA., uwabavuze araza yerekana ibibanza bari barabubakiyemwo ngo kuko wewe ntabo azi ;

Kubera ko kandi ahakana ko ND. Gilbert ari nkurinkobwa kuko ari mwene NI. , umwuzukuru wa H., akaba n'umwuzukuru wa MI. ;

Kubera ko anegura kandi Sentare ko itishimikije urubanza RCA 2032 NT. yaburanye na BI. akaba ata n'umwe mu baburana yavuye hasi ngo avuge kandi ariho bari bari ; ko ico gihe ubwatsi yaburanye na BI. ikaba Sentare ataco

yabuvuzeko kandi aribwo yungururije ikaba n'isura yiwe MO. yarabisuye neza ikerekana akarimbi kari karaciwe na Sentare;

Kubera ko na BI. Domitien yahavuye ashinga muri urwo rubanza nyene anegura Sentare ko itumvirije amasura yiwe ;

Ko kandi iyo Sentare nyene itashimye kuraba imanza yagiye araburana n'ingene yagiye arakotesha ibibara vy'uburagiro bisanzwe birikuri ayo matongo aburanwa ;

Kubera ko atomora neza ko yaburanye na NT. Timothée iryo tongo nyene kandi ND. Gilbert ariho yari, abona mugabo ntihagire ico arivugako;

- 3 -

Ko na BE. ashobora kumusura kw'itongo yamwimuyeko kuva mu mwaka wa 1962 kuko igihe baburana na ZA. yaserukira uwo BE. ariko Sentare mu kwiregura yabanje gutomora ko abo baburana bariko bamubohera amaboko i mugongo kandi ata kuri bafise ahubwo bamuhora ubunyakamwe bakaba ngo babigaragaje mu kurima n'umuhora none ngo atakironka aho aca;

Kubera ko ahakuru we ngo abo baburana ata bishasha bazanye kuko ngo n'igihe bunguruza bagaya urubanza RC 1045/98 rwaciwe na Sentare y'Intango ya Jenda, banegura abaciye urubanza bongera bitwaza ko badasangiye umuryango;

Kubera ko ikibazo kijanye n'abacamanza dusanzwe tumenyereye ko umucamanza ufitiye amakenga umutaramura, ugashikiriza imvo zitomoye zibituma ariko ND. Gilbert we avuga ko atariko vyagenze kuko ngo baranumye baja kuvyibuka urubanza rugeze mu mwiherero;

Ko nayo ivyerekeye ubucuti bafitaniye bikomoka ku bagore batatu ba NA. harimwo na I., inakuruza wa ND. Gilbert kandi ngo NT. avyirengagiza abizi;

Kubera kuvyerekeye imvo nazo NT. yashikirije zo gusambuza, iya mbere ijanye n'amasura ataho ihagaze kuko ngo nta wari kuza avuga kurusha R. umuhungwabo ;

Kubera ko noneho we nyene ngo yari yiyemereye muri Sentare ko ayo masura aza avuga ko badasangiye umuryango ivyo navyo bikaba ataco vyafasha mu guca urubanza kuko ngo naho avyitwaza yari yamaze kwemeza ko ari nkurinkobwa;

Kubera ko ivyerekeye ama kopi nayo ND. yemeza ko atari bwaburane na NT. ahandi hoho ngo baba baragaburirwa nayo ivy'iyo avuka ngo bijanye n'urubanza nayo nivyakenerwa ko aja kwa se ngo azomusaba amuherekeze kanatsinda ngo ni incuti ishika ;

Kubera ko ku mvo BI. yashikirije nawe iya mbere avuga ko yahora akotesha ubwatsi bwo kuragira ngo ari urw'itwazo kuko ngo na bene gukotesha ntibari bazi iyo hava hakagera kuko bararagirana kanatsinda BI. ntiyari bwaronke ico aharagira ;

Ko n'isura yiwe R. yemeje ko ibivi BI. yavuga atari azi aho biherereye naho ko baburanye na NT. ntihagire ico ahavugira ngo Sentare ikaba yarabagaburiye nawe akabirenzako uruho rw'amazi azoca arushwa ;

Kuberako aheraheza asaba Gasamburamanza ko abo bamuburanya ari abamuzembagiza gusa none hokurikizwa urubanza rwaciwe na Sentare Nkuru y'Igihugu ya Bujumbura-Rural;

- 4 -

Kubera ko ikibazo kijanye n'amasura Sentare yasanze atako cifashe kuko na nyene kugishikiriza yari yitwaje ngo yoza yemeza ko adasangiye umuryango na ND. Gilbert gusa;

Kubera ko muri Sentare hasuye umuhungwabo na NT. kandi ata sura yamurundi yoza imurusha kumenya ivy'iryo tongo ;

Kubera ko noneho « nkurinkobwa » batabwirizwa gusangira umuryango kandi bizwi none navyo nyene tubona ari urwitwazo gusa;

Kubera ko no kuvyerekeye ama copies y'imanza, NT. na BI. baburanye bitaraba ND. Gilbert kandi noneho n'urwo rubanza ata karimbi rwigeze rushinga; ko rero urubanza RCA 2032 rwa NT. na BI. rutotuma isambuzwa ry'urubanza rishigikirwa;

Kubera ko rero ata mvo n'imwe yashikirijwe yotuma uru rubanza rusamburwa;

Sentare Ntahinyuzwa ishashe mu gisata ca Gasamburamanza;

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

Yihweje ibwirizwa n° 1/07 ryo ku wa 25.02.2005 riringaniza Sentare Ntahinyuzwa ;

Yihweje itegeko n° 1/08 ryo ku wa 17.03.2005, ryerekeye iringanizwa rya Sentare n'ububasha bwazo ;

Yihweje ibwirizwa n° 1/10 ryo ku wa 13.05.2004, ryerekeye amategeko agenga imanza z'amatati ;

ISHINZE KO :

- Yakiriye isambuzwa ry'urubanza ryagizwe na NT. Timothée aserukiwe na NT. Boniface ariko isanze ridashemeye;
- Irahakanye rero gusambura urubanza RCA 0679 rwaciwe na Sentare Nkuru y'Igihugu ya Bujumbura-Rural ku wa 10.06.2003;

- Iyi ngingo izokwandikwe mu bitabo vya Sentare Nkuru y'Igihugu ya Bujumbura-Rural iruhande y'urubanza rudasambuwe;
- Amagarama atangwa na NT. uko ari 19800 FBu ;

Uko niko ruwiwe kandi rusomewe i Bujumbura mu ntahe y'icese yo ku wa 06.10.2005, hashashe umukuru w'intahe, abacamanza, bafashijwe n'umushikirizamanza mukuru hamwe n'umwanditsi.

KWIHWEZA URUBANZA

Uru rubanza rwihwezwa, ni urw'itongo rukaba rwatanguriye muri Sentare y'Intango ya Jenda NT.Timothée na BI.Donatien bararushijwe ntibarushima, maze baca barwungururiza muri Sentare Nkuru y'Igihugu ya Bujumbura Rural, akaba ari NT.Timothée wenyene ariko ararusambuza BI.Donatien yarabivuyemwo ivyo kwunguruza. NT.Timothée lero duhejeje kuvuga aha hejuruniwe wenyene aburana na BA.Claire na ZA. Muri Sentare Ntahinyuzwa :

- Uwusambuza urubanza lero anegura Sentare Nkuru y'Igihugu ya Bujumbura Rural, ko yaciye urubanza idashitse kw'itongo ngo yongere isurishe amasura ;
- Ikindi anegura mu rubanza rwa Sentare Nkuru y'Igihugu, ngo ni uko Sentare itishimikije urubanza RCA 2032 NT. Timothée yaburanya na BI.

Ico tunegura ca mbere n'uko naho Sentare Ntahinyuzwa ari vyiza ko yavuze amazina yose yabari muri runo rubanza, ikanavuga uwuri nkurinkobwa n'abuzukuru, uwusoma uru rubanza ntabona ico ivyo vyose biza bimumenyesha, ni ukuvuga lero ko yari gusigura neza ico uyu apfana n'urya, ihereye k'uwusambuza n'uwo yitwariye.Raba namwe iyi mvo ya Sentare Ntahinyuzwa. « Kubera ko kandi ahakana ko ND. Gilbert ari nkurinkobwa kuko ari mwene NI.umwuzukuru wa H. akaba n'umwuzukuru wa MI. », ayo mazina yose ntivuge ikiyafatanya n'umwe hoho mu baburana.

Kuvyerekeye imvo ya mbere yo gusambuza urubanza, ko Sentare itashitse kw'itongo, n'uko ata tegeko na rimwe tubona yarenze, na none Sentare irarondera ukwo ishoboye ukuri iyo imaze kubona igororokewe ntareka gufata ingingo,kubera itashitse kw'itongo. Sentare lero mugihe atategeko narimwe rihari (ryo kuyitegeka gushika kw'itongo), ntaryo iba irenze.Iyo mvo lero ntaco imumarira.

Ku kibazo cerekeye amasura atumvirijwe ngo kugira aze kuvuga ko adasangiye umuryango na ND. Gilbert, ntaco naco nyene kimumarira mu gihe uru rubanza rudashingiye ku kugabura itongo ry'umuryango, nayo ahandi isura zoza kuvuga ivyo gusa ntizikenewe kugira Sentare igororokerwe.

Kuvyerekeye kopi y'urubanza RCA 2032, NT.Timothée yaburanye na BI.tutabona ico iza imufasha narirya ubu NT.Timothée ari kumwe na BI.mu kuburanya BA. Claire, urwo rubanza rwabo RCA 2032 BA. Claire atarimuri nya gihe murirwo, ingingo ya 151 yo mu gitabu c'amategeko ivuga ko ingingo za Sentare zifise ubushobozi kubariko baraburana ubwabo, ntizishobora kugirira nabi abatari muri nya manza zabo[1]. BA. Claire ntiyari muri urwo rubanza rwabo ni naco gituma urwo rubanza RCA 2032 NT. yaburana na BI. Ataco rumufasha.

[1] Art 151 CPC : « Les décisions judiciaires n'ont de valeur qu'entre parties et ne peuvent nuire aux tiers. »