URUKIKO RUKURU, RURI I KIGALI KU CYICARO CYARWO, RUHABURANISHIRIZA IMANZA Z'IMBONEZAMUBANO, RUCIYE URUBANZA RACA 0514/15/HC/KIG MU RWEGO RW'UBUJURIRE, NONE TARIKI YA 10/06/2016, MU BURYO BUKURIKIRA:

HABURANA:

UWAJURIYE: RWASIBO Jean Bosco, mwene RWASIBO Jean Baptiste na IYAMUREMYE Ancile, utuye Umudugudu wa KANSEREGE, Akagali ka KAMUTWA, Umurenge wa KACYIRU, Umujyi wa Kigali. **Yunganiwe na Me NYIRANGIRIMANA Astérie.**

UREGWA: RWASIBO Bernard, mwene RWASIBO Jean Baptiste na IYAMUREMYE Ancile, utuye i Géneve, Suisse.
Yunganiwe na Me NTAGUNGIRA Théogène.

UWAGOBOTSE MU RUBANZA : MUNYAKAZI Leinualda, Utuye mu Gihugu cy'Ubufaransa. Ahagarariwe na Me MUNYANEZA Vincent.

IKIREGERWA : Mutation y'inzu (kujuririra urubanza RC 0469/15/TGI/NYGE, rwaciwe n'Urukiko Rwisumbuye rwa NYARUGENGE ku wa 29:10:2015.

I. IMITERERE Y'URUBANZA

1. Uru rubanza rukomoka ku masezerano yabaye hagati ya RWASIBO Jean Bosco na RWASIBO Bernard, ku wa 01/06/2012, wiswe amasezerano yo gutanga

umugabane ku nzu yari ihuriweho na benshi, iri mu kibanza 2087 (contrat de cession des parts d'immeuble en indivision sis à Kicukiro, Parcelle n° 2087). Muri ayo masezerano, abayangiranye bombi ni abazungura ba RWASIBO Jean Baptiste, bakaba bamuzungura hamwe n'abandi bavandimwe. RWASIBO Jean Bosco yemeye guhara uruhare rwe kuri iyo nzu, yemera kandi ko azakora ibikenewe byose mu butegetsi, kugira ngo uwo mugabane umuveho uhabwe uwo awuhaye. RWASIBO Bernard ku ruhande rwe yemeye ko azishingira imyenda iyo nzu yari ifite yose. Muri ayo masezerano kandi bavuga ko RWASIBO Bernard azaba nyir'umutungo ijana ku ijana (100 %) ari uko abazungura bose bamaze kumwegurira imigabane yabo. Amasezerano ababuranyi bombi barayemera, ikibazo kikaba cyaravutse ari uko RWASIBO Bernard atanze ikirego mu Rukiko Rwisumbuye, asaba ko hakorwa "mutation", agitanga ku buryo bw'inyandiko y'ikibazo gitanzwe n'umuburanyi umwe (requite unilaterale), Urukiko rutegeka ko "mutation" ikorwa, aho RWASIBO Jean Bosco abimenyeye, atambamira imikirize y'urubanza.

2. RWASIBO Jean Bosco yavugaga ko ikirego kitagombaga gutangwa ku buryo bw'inyandiko y'ikibazo gitanzwe n'umuburanyi umwe. Nawo mu mizi y'urubanza, yavugaga ko RWASIBO Bernard atakorerwa "mutation", kuko nawe hari amafaranga 30.000.000 yagombaga guha abazungura ba RWASIBO Jean Baptiste atatanze, n'ubwo bitavuzwe mu masezerano.

3. Urukiko Rwisumbuye rwa Nyarugenge, ku kibazo cyo kumenya niba umutungo uri mu kibanza n° 2087 Kicukiro wakwandikwa kuri RWASIBO Bernard, rwasanze, mu nyandiko zakozwe n'abavandimwe bose, nta hantu na hamwe RWASIBO Jean Bosco agaragariza Urukiko hemeza igihe RWASIBO Bernard yagombaga guhera abavandimwe be amafaranga 30.000.000. Bityo ngo ibi ntibyatuma RWASIBO Bernard yamburwa umutungo yahawe n'umuryango. Rwavuze ko rusanga mu bwumvikane bw'abanyamuryango, bumvikanye ko amafaranga 30.000.000 azatangwa, ariko mu bundi bwumvikane bwabo bemera

kuyahara kuko RWASIBO Bernard yagombaga kuyifashisha aburana izindi manza z'umuryango wabo, ibyo ngo Urukiko ntirwabyivangamo, kuko RWASIBO Bernard yahawe umutungo nta "conditions" ishyizwe mu masezerano. Bityo Urukiko Rwisumbuye rwategetse ko urubanza rwatambamiwe rudahindutse, rutegeka RWASIBO Jean Bosco guha RWASIBO Bernard amafaranga 100.000 y'indishyi z'akababaro, amafaranga 500.000 y'igihembo cya Avoka n'amafaranga 100.000 y'ikurikiranarubanza.

4. RWASIBO Jean Bosco ntiyishimiye imikirize, ayijuririra muri uru Rukiko. Mu mwanzuro ujurira, Me NGENDAHYO Sylvere avuga ko uwo ahagarariye yajurijwe n'uko :

- Urukiko rwanze gusubukura urubanza nk'uko RWASIBO Jean Bosco yari yabisabye, kubera ibimenyetso yagaragazaga;
- Urukiko ntirwasuzumye iby'uko ikibazo kitagombaga gutangwa ku buryo bw'inyandiko y'ikibazo gitanzwe n'umuburanyi umwe;
- Amasazerano yo gutanga uruhare rwe RWASIBO Jean Bosco yagiranye na RWASIBO Bernard ntiyasuzumanywe ubushishozi;
- Urukiko ntirwahaye agaciro ukwiyemerera kwa RWASIBO Bernard ku bijyanye n'amafaranga 30.000.000.

5. MUNYAKAZI Marie Leinualda yagobotse mu rubanza, avuga ko nawe ari umwe mu bazungura ba RWASIBO Jean Baptiste, kubera ko yari yarashakanye mu buryo bwemewe n'amategeko na RWASIBO Emmanuel, umwe mu bazungura ba RWASIBO Jean Baptiste, abana yari yarabyaranye na RWASIBO Emmanuel bakaba aribo bagombaga guhagararira se RWASIBO Emmanuel mu kuzungura RWASIBO Jean Baptiste wapfuye mu mwaka wa 1985, umugore we agapfa mu mwaka wa 1992, bityo kubera ko nabo batakiriho, akaba ariwe wabazunguye, akaba anabazungura mu burenganzira bari bagize ku nzu iburanwa. Asaba ko inzu

itakwandikwa kuri RWASIBO Bernard, kubera ko abazungura bose ba RWASIBO Jean Baptiste batamuhariye uburenganzira bwabo kuri iyo nzu.

6. Harasuzumwa niba MUNYAKAZI Marie Leinualda afite inyungu zo kugoboka mu rubanza, n'ishingiro by'ibyo asaba.

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

KUMENYA NIBA UKUGOBOKA KWA MUNYAKAZI Marie Leinualda KWAKWEMERWA.

7. Uhagarariye MUNYAKAZI Marie Luenilda avuga ko nawe afite uburenganzira ku kibanza nimero 2087 kirimo inzu, ari nacyo kiburanwa muri uru rubanza, kuko yari yarashakanye na RWASIBO Emmanuel, umwe mu bana ba RWASIBO Jean Baptiste, wapfuye mu mwaka wa 1985, umugore we agapfa mu mwaka wa 1992, naho RWASIBO Emmanuel akaba yarapfuye mu mwaka wa 1994, akiri mu bari bafite uburenganzira kuri uyu mutungo (en indivision). Avuga ko abana MUNYAKAZI yari yarabyaranye na RWASIBO Emmanuel bapfuye tariki ya 7/4/1994 bataragabana n'abavandimwe ba RWASIBO Emmanuel, bityo ngo kuba ariwe wabazunguye, niwe ufite uburenganzira bari bafite ku mutungo uburanwa.

8. Uhagarariye RWASIBO Bernard avuga ko uyu MUNYAKAZI Marie Leinualda atavuga ko hari uburenganzira yazunguye ku mutungo uburanwa, kuko kugeza ubu umutungo wa RWASIBO Jean Baptiste utaragabanywa ku buryo bw'izungura.

9. Urukiko rurasanga ingingo ya 2 CPCCSA igaragaza ko ikirego cyemerwa mu rukiko iyo urega afite ububasha, inyungu n'ubushobozi bwo kurega. MUNYAKAZI Marie Leinualda avuga ko inyungu afite yo kugoboka mu rubanza ari uko nta zungura ryigeze ribaho rya RWASIBO Jean Baptiste, ariko ko ribayeho, ariwe wagira

uburenganzira bwagombaga kugirwa n'abana yabyaranye na RWASIBO Emmanuel, kuko uyu RWASIBO Emmanuel yapfuye atarazungura, azungurwa n'abana be, nabo bapfa izungura ritarakorwa, akaba aza mu mwanya wabo.

10. Urukiko rurasanga ibyo MUNYAKAZI Marie Leinualda ashingira agoboka mu rubanza ari inyungu ihagize ituma yemererwa kurugobokamo, kuko urubanza rushingiye ku mutungo wari uwa RWASIBO Jean Baptiste, kandi akaba avuga ko ari umwe mu bazungura kuri uwo mutungo.

KUMENYA NIBA URUBANZA RWAJURIRIWE RWATESHWA AGACIRO KUBERA KO HATABAYEHO ISUBUKURWA RY'URUBANZA RWASIBO JEAN BOSCO YASABAGA.

11. Uhagarariye RWASIBO Jean Bosco avuga ko ku wa 27/10/2015 RWASIBO Jean Bosco yasabye urukiko ko rwapfundura urubanza kuko hari ibimenyetso bishya yari ybonye byari gufasha urukiko mu guca urubanza, harimo e-mail yo ku wa 01/08/2015 yanditswe na mushiki wabo KAYITESI Chantal, aho yavugaga ko RWASIBO Bernard atagombaga kujya mu Rukiko kwaka „mutation" kubera ko yavugaga ko icyo kibazo ari ubwumvikane bw'umuryango. Avuga ko yanavugaga ku mafaranga 30.000.000 RWASIBO Bernard yagombaga gutanga kugira ngo yandikweho icyo kibanza. Avuga ko kuba Ikigo gishinzwe umutungo kamere cyaranze gukorera RWASIBO Bernard „mutation", kikamwohereza mu Rukiko, kwari ukugira ngo harebwe niba nta bibazo birimo kugira ngo bikemurwe n'urukiko. Avuga ko nyuma yo kugaragariza urukiko ibyo bimenyetso, ngo urukiko rwagombaga kubyitaho, hakaba kubaza abazungura bose kuri iyo „mutation".

12. Uhagarariye RWASIBO Bernard avuga, mu mwanzuro wo kwiregura, ko iyi mpamvu nta shingiro ifite kuko uwajuriye atagaragaza ingingo z'amategeko zirengagijwe. Avuga ko urubanza rwari rwanyuze mu nama ntegurarubanza,

ruburanishwa mu mizi, bityo ngo umucamanza yasanze ibisobanuro byose bya ngombwa byuzuye bituma apfundikira iburanisha nk'uko biteganywa n'ingingo ya 68 CPCCSA, igika cya mbere. Avuga ko uretse no kuba RWASIBO Jean Bosco atarubahirije inzira yo gutanga ikimenyetso gishya iteganywa n'ingingo ya 69 CPCCSA, ariko ngo ntabwo umucamanza yari ategetswe gusubukura iburanisha, ahubwo niwe ureba niba ibyasabwe n'umuburanyi byo gusubukura iburanisha ari ngombwa. Avuga kandi ko n'ikimenyetso RWASIBO Jean Bosco ashingiraho avuga ko iburanisha ryagombaga gusubukurwa, ngo cya mushiki we KAYITESI Chantal, kivuguruzwa n'ubuhamya yatanze ku wa 14.02.2016, aho yivugiye ko ntacyo anenga ku byakozwe n'urukiko kandi ngo nta wundi muvandimwe azi waba ubinenga.

13. Urukiko rurasanga ibyo uhagarariye RWASIBO Jean Bosco asaba, ko urubanza rwajuririwe rwateshwa agaciro, kubera ko yasabye isubukurwa ry'urubanza kugira ngo hasuzumwe ibimenyetso yari yashyikirije Urukiko nyuma y'uko iburanisha ripfundikiwe, nta shngiro bifite kubera ko nk'uko uhagarariye RWASIBO Bernard abivuga, kuba urukiko nirwo rwagombaga kumenya, mu bushishozi bwarwo, niba urubanza rwasubukurwa. Igika cya nyuma cy'ingingo ya 69 CPCCSA ivuga ko „Urukiko ubwarwo ni rwo rusuzuma niba ari ngombwa gusubukura iburanisha". Bityo kuba Urukiko Rwisumbuye rutarasubukuye iburanisha RWASIBO Jean Bosco yasabaga, ntaho binyuranyije n'amategeko.

KUMENYA NIBA URUBANZA RWAJURIRIWE RWATESHWA AGACIRO KUBERA KO IKIREGO CYATANZWE KU BURYO BW'INYANDIKO Y'IKIBAZO GITANZWE N'UMUBURANYI UMWE.

14. Uhagarariye RWASIBO Jean Bosco avuga ko RWASIBO Bernard atanga ikirego mu Rukiko Rwisumbuye, yasaaga ko ikibanza kiburanwa kimwandikwaho, abikora ku buryo bw'inyandiko y'ikibazo gitanzwe n'umuburanyi umwe. Ibyo ngo binyuranye n'ibiteganywa n'ingnigo ya 324 CPCCSA, igaragaza ko icyo

kirego gitangwa iyo hari ubwihutirwe, byaba atari uko bimeze, kigatangwa ku buryo busanzwe. Avuga ko urwandiko RWASIBO Bernard yashingiyeho avuga ko hari ubwihutirwe bwa cyane, rwanditswe n'Akarere ka KICUKIRO ku wa 20/12/2011, rusaba ko hatangwa umushinga wujuje ibisabwa kugira ngo atangire gushyira mu bikorwa ibiteganyijwe n'igishushanyo mbonera mu gihe kitarenze amezi atandatu ikibanza kigahabwa abagishoboye. Nyamara ngo ikirego gishingiye ku bwihutirwe cyatanzwe nyuma y'imyaka 4, bikaba bigaragaza ko nta bwihutirwe bwari bugihari, kandi na bene ikibanza ntibigeze bacyamburwa.

15. Uhagarariye RWASIBO Jean Bosco avuga kandi ko urukiko rutagombaga gufata icyemezo rutahamagaje abandi bazungura ba RWASIBO Jean Baptiste, cyane cyane RWASIBO Jean Bosco wabaga i Kigali. Avuga ko bigaragara ko RWASIBO Bernard yakoresheje iyo nzira kugira ngo ahunge abavuguruza iyo „mutation". Avuga kandi ko mu rubanza rwatambamiwe, umucamanza yari yabajije RWASIBO Bernard impamvu atahamagajwe kandi atarasinyiye imbere ya noteri, amubwira atari i Kigali ari mu Ntara, Urukiko rusaba ko mbere y'uko urubanza rusomwa haba hagaragajwe urupapuro rwasinyiwe imbere ya noteri, ariko ngo ntibyakozwe. Avuga kandi ko urubanza rwanasubitswe kugira ngo RWASIBO Bernard agaragaze impapuro zaciye muri ambasade y'u Rwanda, z'abazungura baba hanze. Avuga ko ibi byose byakozwe kubera ko umucamanza yabonaga ko ikirego cyatanzwe mu buryo butaribwo, ko atari ikibazo gitanzwe n'umuburanyi umwe, kitakeneye ko abandi baburanyi bahamagazwa, ahubwo yabonaga ko abandi baburanyi bakeneye guhamagazwa kubera ko harimo „contestation".

16. Uhagarariye RWASIBO Bernard avuga ko iyi mpamvu nta shingiro ifite, kuko ubwihutirwe bwari buhari. Avuga ko uwo ahagarariye yari afite ibimenyetso ibimenyetso bihagije bigaragaza ko umutungo yaweguriwe. Avuga kandi ko ibaruwa yo ku wa 20/12/2011 yasabaga ko aho uwo mutungo uri hubakwa hakurikijwe igishushanyo mbonera bitaba ibyo icyo kibanza kigahabwa

abagishoboye. Avuga ko ubwihutirwe Urukiko rwashingiyeho ari uko Urukiko rwagombaga kugaragaza ko RWASIBO Bernard afite uburenganzira yeguriwe n'abavandimwe be rushingiye ku bimenyetso bidashidikanywaho rwagaragarijwe, kugira ngo yemererwe uburenganzira busesuye kuri uwo mutungo ngo biri mu byihutirwa bitashoboraga kwirengagizwa. Avuga ko ibyo RWASIBO Jean Bosco avuga, ko ibaruwa yanditswe n'Akarere atahabwa agaciro, ngo nta shingiro byahabwa kuko atagaragaza icyakuyeho icyo cyemezo cy'Akarere. Bityo ngo kuba ikirego cyaratanzwe muri ubwo buryo nta kibazo kirimo.

17. Uhagarariye MUNYAKAZI Leinualda avuga ko ikirego RWASIBO Bernard yatanze ku buryo bw'inyandiko y'ibibazo gitanzwe n'umuburanyi umwe kitagombaga kwakirwa, kubera ko ikirego nk'icyo gitangwa iyo hari ikibazo gisaba ko hafatwa icyemezo cyihuse cyane (mesure d'extreme urgence), kandi bitari ngombwa ko habanza gutangwa ikirego remezo. Avuga ko ibyo RWASIBO Bernard yasabaga atari ibyemezo bigamije kugira ibyo bibungabunga (mesure conservatoire) cyangwa ibyemezo bikenewe gufatwa byihutirwa (mesure d'urgence, ahubwo ni icyemezo cya burundu yasabaga ko gifatwa (mesure définitive), kandi icyemezo nk'icyo ngo nticyafatwa ku kirego cyihutirwa, ahubwo yagombaga gutanga ikirego gisanzwe ku buryo abandi baburanyi bahamagarwa mu rubanza.

18. Urukiko rurasanga ingingo ya 324 CPCCSA ivuga ko „Inyandiko y'ikibazo gitanzwe n'umuburanyi umwe ni uburyo budasanzwe bwo kuregera umucamanza umusaba kugira ibyo aramira mu buryo bwihuse cyane kandi bikaba ari ibibazo bidasaba guhamagara byanze bikunze undi muburanyi." Ingingo ya 327 CPCCSA nayo ivuga ko ku birego nk'ibi, ababuranyi bahamagarwa mu gihe kitarenze amasaha 48. Ingingo ya 328 CPCCSA yo ikavuga ko icyemezo gifashwe gihita kirangizwa kabone n'ubwo cyaba cyajuririwe, naho ingingo ya 329 ikaba ivuga ko icyemezo gifashwe kijuririrwa mu gihe cy'iminsi 5.

19. Urukiko rurasanga nk'uko abahagarariye RWASIBO Jean Bosco na MUNYAKAZI Leinualda babivuga, ikirego RWASIBO Jean Bernard yatanze, nticyari ikirego gikwiriye gutangwa ku buryo bw'inyandiko y'ikibazo gitanzwe n'umuburanyi umwe, kuko bigaragara ko ibyo yasabaga bidahuje kamere n'ibirego bitangwa ku buryo bw'inyandiko y'ikibazo itanzwe n'umuburanyi umwe. Nta kibazo cyari gihari RWASIBO Bernard yari akeneye ko umucamanza yaramira mu masaha atarenze 48, kuko nk'uko uhagarariye RWASIBO Jean Bosco abivuga, n'ubwo bari barasabwe n'Akarere kubaka inyubako ihuje n'igishushanyo mbonera, itariki ntarengwa bari barahawe yari yaramaze kurenga, kandi nta kibazo kindi cyari cyavuze. Bityo nta bwihutirwe (extrême urgence) bwari buhari. Ibi birego kandi bitangwa mu gihe nta muntu uregwa ku buryo yakenera kwisobanura (matière non contentieuse). Nyamara aha cyari ikibazo cyo gushyira mu bikorwa amasezerano RWASIBO Bernard yari yaragiranye na RWASIBO Jean Bosco, bivuze ko yari akeneye kugira icyo avuga kubyo RWASIBO Bernard yasabaga, ariyo mpamvu ikirego cyagombaga gutangwa ku buryo bw'urubanza. Biragaragara kandi ko ikirego cyitiriwe kamere itari iyacyo, kuko kugeza ubu RWASIBO Bernard atagaragaza ko yarangirishije icyemezo, mu gihe nyamara ibyemezo bifashwe ku kirego cy'inyandiko y'ikibazo itanzwe n'umuburanyi umwe kirangizwa kabone n'ubwo cyajuririrwa. Kuba n'ubu kitarashyirwa mu bikorwa, kandi akaba atagaragaza ibyangiritse kubera iyo mpamvu, ni uko koko nta „extrême urgence" yari ihari.

20. Urukiko rurasanga n'ubwo inzira ikirego cyatangiyemo atariyo yagombaga kunyurwamo, mu by'ukuri urubanza rwageze aho ruhindura kamere, ruba urubanza rusanzwe, kuko RWASIBO Jean Bosco yatambamiye icyemezo ku wa 09/07/2015, urubanza ruhamagarwa mu nama ntegurarubanza ku wa 14/07/2015, ruburanishwa ku wa 05/10/2015. Nyamara nk'uko byavuzwe, ibirego bitanzwe n'umuburanyi umwe, biburanishwa mu masaha 48. Muri uku gutambamira icyemezo, RWASIBO Jean Bosco yahawe umwanya wo kwisobanura mu iburanisha ryabereye mu ruhame, mu gihe ibirego bitanzwe n'umuburanyi umwe,

uyu ariwe umucamanza yumva, kuko ntawundi uba uregwa, kandi akamwumvira mu biro bye (en chambre du conseil). Mu gihe RWASIBO Jean Bosco yahawe umwanya wo kwisobanura, bigaragaza ko icyemezo cyafashwe kitakwitwa ko ari icyemezo ku kirego gitanzwe n'umuburanyi umwe. Urubanza kuri icyo kirego gitambamira icyemezo cyari cyafashwe, rwasomwe ku wa 29/10/2015, RWASIBO Jean Bosco ajurira ku wa 28/11/2015, hashize hafi ukwezi, mu gihe nyamara ubujurire ku byemezo byafashwe ku birego byatanzwe n'umuburanyi umwe, butangwa mu gihe kitarenze iminsi itanu. Aha naho bigaragara ko n'ababuranyi bitwaye nk'abari mu rubanza rusanzwe. Bityo nta mpamvu yumvikana yatuma icyemezo cyafashwe ku kirego cyari cyatanzwe na RWASIBO Bernard giteshwa agaciro, kuko inenge yarimo yakosotse ubwo RWASIBO Jean Bosco yatambamiraga icyemezo cyafashwe, rukareka kuba ikirego gitanzwe n'umuburanyi umwe, ahubwo rugahinduka urubanza rusanzwe, kandi rukaba ari nako ruburanishwa, icyemezo cyafashwe mu rubanza rwajuririwe kikaba kitagifite kamere y'icyemezo gifashwe ku kirego gitanzwe n'umuburanyi umwe, ahubwo gifite kamere y'urubanza rusanzwe, kandi cyujuje ibisabwa byose, bityo nta mpamvu ibyemezo byafashwe byateshwa agaciro, ahubwo harebwa niba bikurikije amategeko (fond), aribyo bihuje n'ingingo y'ubujurire ikurikira.

21. Kubera impamvu zimaze gusobanurwa, iyi ngingo y'ubujurire nta shingiro ifite.

KUMENYA NIBA URUKIKO RUTARAGOMBAGA GUTEGEKA KO UMUTUNGO WANDIKWA KURI RWASIBO BERNARD.

22. Uhagarariye RWASIBO Jean Bosco avuga ko nk'uko babisobanuye mu Rukiko Rwisumbuye, ngo amasezerano yashingiweho (contrat de cession) yari afite inenge, kubera ko hashingiwe ku ngingo ya 37 y'itegeko ngenga n° 08/2005 rigenga imikoreshereze n'imicungire y'ubutaka mu Rwanda iteganya ibijyanye n'ukwemera kugomba kugaragazwa n'inyandiko yashyizweho umukono w'abarebwa n'icyo kibazo cyangwa bateyeho igikumwe, bikorewe imbere y'umwanditsi w'irangamimerere cyangwa imbere y'umukuru w'ibiro by'ubutaka akabyandika mu bitabo bye. Avuga ko amasezerano yabaye hagati ya RWASIBO Bernard na RWASIBO Jean Bosco atubahirije iyo mihango, kandi RWASIBO Jean Bosco ntiyari yabuze kugira ngo iyo mihango ikorwe, ariko ngo RWASIBO Bernard ntiyashatse kunyura muri iyo nzira kubera ko RWASIBO Bernard atari kumusinyira kandi hari ibyo atubahirije. Avuga kandi ko bigaragara mu masezerano bagiranye, ko mu gace ka 2, hateganywagamo ko uweguriye umutungo ariwe ugomba gukora ibisabwa byose n'inzego z'ubutegetsi bisabwa kugira ngo habeho ihererekanya bubasha ku burenganzira ku ruhare rwa buri wese.

23. Uhagarariye RWASIBO Jean Bosco avuga na none ko urukiko rwemeje ko umutungo wandikwa kuri RWASIBO Bernard, rwirengagije ukwiyemerera kwe mu Rukiko, ko yagombaga kwishyura amafaranga 30.000.000 (igika cya 16 cy'urubanza RC 0469/15/TGI/NYGE). Avuga ko mu Rukiko, RWASIBO Bernard ubwe yiyemereye ko atari impano yahawe mu gihe yemeye ko yagombaga gusubiza abavandimwe be amafaranga 30.000.000 kandi nta hantu byanditse. Avuga ko ibyo Urukiko rwagombaga kubiheraho rubona ko ibyakozwe ari uburyo bwo gushaka kumufasha (arrangement) mu buryo bw'umuryango kuko mu masezerano handitsemo ko ahawe nta kindi asabwa gutanga (cession sans aucune indemnitép nyamara ngo wajya mu nyandiko zizi muri dosiye aho

abavandimwe bagiraga icyo babivugaho bakavuga ko atari ukumwegurira ahubwo ari ukumugurisha, kandi akaba ari nawe wivugiye ayo mafaranga 30.000.000 yemeraga kwishyura. Avuga ko kuba aya mafaranga RWASIBO Bernard atarayishyuye, kandi aho kugira ngo asabe abavandimwe be bakore ibisabwa kugira ngo umutungo umwandikweho (formalités administratives), ibyo ngo ni uburiganya yakoresheje igihe yahitagamo kujya mu rukiko yirengagije ko bari bemeranyijwe ko impaka zizabanza gukemurirwa mu muryango, bityo ngo ibintu byarahindutse, RWASIBO Jean Bosco ntacyemera kumuharira uruhare rwe kuri uwo mutungo.

24. Uhagarariye RWASIBO Bernard avuga ko amafaranga 30.000.000 RWASIBO Jean Bosco avuga adashbora gusobanura impamvu yasinye atarabona uburenganzira bwe kuri ayo mafaranga, kandi n'ibyo avuga ko ari „arrangement" yabayeho, ntabasha kubisobanura ku buryo buri wese yabyumva. Avuga kandi ko RWASIBO Jean Bosco aramutse afite ikibazo cy'aya mafaranga 30.000.000, ntibyatuma RWASIBO Bernard atandikwaho umutungo, kuko RWASIBO Jean Bosco yarangije kuwumwegurira, kandi ingingo ya 127 y'itegeko rigenga amasezerano ikaba iteganya ubudasubirwaho kw'ihererekanyanya ry'uburenganzira nta kiguzi (irrévocabilité de la cession gratuite des droits). Avuga ko ahubwo RWASIBO Jean Bosco aramutse ashatse kwishyuza aya mafaranga 30.000.000 yabitangira ikirego kugira ngo yishyurwe ayo mafaranga niba abifitiye ikimenyetso.

25. Uhagarariye RWASIBO Bernard avuga ko ibyo RWASIBO Jean Bosco yitwaza, ko mu gace ka kabiri k'amasezerano havugwamo ko uweguriye ariwe ugomba gukora ibisabwa byose kugira ngo habeho ihererekanyabubasha, nta shingiro bifite kuko urukiko rutashingira ku makosa ye yiyemerera ngo rwime agaciro ibyo yiyemereye nta gahato, kandi ntiyigeze na rimwe aregera ko amasezerano hagatiye yabo yarimo agahato.

26. Uhagarariye RWASIBO Bernard avuga na none ko ibyo RWASIBO Jean Bosco asa n'aho ashaka kumvikanisha ko kwegura uburenginzira bwe ku kibanza n° 2087 hagaragaramo ubugure, ngo iyo biba ari uko bimeze, amasezerano aba yaranditswe agaragaza ko ari ubugure.

27. Uhagarariye MUNYAKAZI Marie Leinualda avuga ko uwo ahagarariye atemera ko ikibanza n° 2087 kirimo inzu cyandikwa kuri RWASIBO Bernard wenyine, kubera ko nawe agifiteho uburenganzira, nyamara we akaba atari mu beguriye RWASIBO Bernard uruhare rwe kuri uwo mutungo. Avuga kandi ko amasezerano (cession des parts d'immeuble en indivision) RWASIBO Bernard yashingiyeho asaba ko ikibanza n° 2087 kimwandikwaho, avuga, mu ngingo ya 5, ko kizamwandikwaho ari uko yeguriwe 100 % ry'imigabane kuri uwo mutungo, nyamara ngo icyemezo cyafashwe mu rubanza rwajuririwe, kimwemerera kwandikwaho uwo mutungo atarabona ubwo burenganzira bwose, kuko we atigeze abumwegurira.

28. Urukiko rurasanga ibyo RWASIBO Jean Bosco avuga, ko RWASIBO Bernard yaciye mu nzira yo gutanga ikirego gitanzwe n'umuburanyi umwe ari uburyo bwo kumuhunga, bifite ishingiro kuko mu nyandiko RWASIBO Bernard ashingiraho, avuga ko ariyo imuha uburenganzira bwo kwandikwaho umutungo uburanwa (contrat de cession des parts d'immeubles en indivision), ivuga ko utanze uburenganzira azakora ibikenewe mu butegetsi kugira ngo umutungo wandikwe k'uweguriwe. Ni ukuvuga ko nk'uko RWASIBO Jean Bosco abivuga, we n'uwo yeguriye uburenganzira bagombaga kujyana mu Kigo cy'Igihugu gishinzwe Umutungo Kamere, kugira ngo bakore ibisabwa, umutungo wandikwe kuri RWASIBO Bernard. RWASIBO Bernard ntagaragaza ikimenyetso, uretse kubivuga mu magambo gusa, ko yasabye RWASIBO Jean Bosco ko bajyana mu butegetsi guhinduza akanga.

29. Urukiko rurasanga kandi ingingo ya 5 y'ayo masezerano yavuzwe mu gika kibanziriza iki, ivuga ko uweguriwe umugabane kuri uwo mutungo, atazegukana

umutungo mu gihe atareguriwa imigabane yose kuri uwo mutungo (100 % des parts). Aha bikaba bigaragara ko n'ubwo abandi bavandimwe baba bemera ko RWASIBO Bernard yandikwaho umutungo, ntibyategekwa n'urukiko mu gihe bigaragara ko hari abataramwegurira imigabane yabo kuri uwo mutungo.

30. Urukiko rurasanga nk'uko RWASIBO Jean Bosco abivuga, RWASIBO Bernard yari yasobanuye mu Rukiko Rwisumbuye, ko yari yemeye ko azabaha amafaranga 30.000.000. Mu nyandiko mvugo handitsemo ngo „30.000.000 F rero nari nayabemereye, ariko bambwira ko mbanza gukurikira indi mitungo muri yo ... bavuga ko nayakoresha hagira asigara tugabana, cyangwa hakabaho compensation". Ibi rero RWASIBO Bernard ntagaragaza ko byakemutse, ku buryo byafatwa ko nta burenganzira RWASIBO Jean Bosco agifite kuri iyi nzu, kuko kugira ngo abe atakiwufite, ni uko RWASIBO Bernard aba agaragaza uburyo iki kibazo cy'amafaranga 30.000.000 cyakemutse.

31. Urukiko rurasanga ibyo RWASIBO Bernard n'umwunganira bavuga, ko mu gihe RWASIBO Jean Bosco yaba akeneye uruhare rwe kuri aya mafaranga 30.000.000, ko yayaregera, ko ariko bitabuza ko RWASIBO Bernard yandikwaho umutungo, nta shingiro bifite, kuko n'ubwo bitanditswe mu nyandiko imuha uburenganzira ko azabubona ari uko amaze kwishyura aya mafaranga 30.000.000, biragaragara nk'uko yabyiyemereye mu iburanisha, ko nawe hari ibyo yari yiyemeje gukora. Bityo kuba RWASIBO Jean Bosco hari ibyo yari yiyemeje gukora (kwegura umugabane we ku nzu iburanwa muri uru rubanza), na RWASIBO Bernard akaba yari yemeye ko agomba gutanga amafaranga 30.000.000 yagombaga guheraho akoresha mu gukurikirana umutungo asigaye akayaha abari bafite imigabane kuri iyi nzu cyangwa hakaba „compensation" mu bundi buryo, bituma amasezerano aba „amasezerano magiririane" (contrat bilatéral). Kandi ingingo ya 84 y'itegeko rigenga amasezerano, ivuga ko „Uruhande rumwe ntirushobora gusaba urundi ruhande kurangiza inshingano zarwo rutabanje gukora ibyo rwasabwaga by'ingenzi mu gihe hari inshingano magiririane".

Bityo ntabwo Urukiko Rwisumbuye rwagombaga gutegeka ko inzu yandikwa kuri RWASIBO Bernard mu gihe atagaraza uburyo ikibazo cy'amafaranga 30.000.000 yagombaga guha abamweguriye imigabane yabo kuri iyo nzu cyakemutse, kandi ntirwagombaga gutegeka ko RWASIBO Bernard yandikwaho iyo nzu, ngo RWASIBO Jean Bosco ufite ikibazo cy'ayo mafaranga azakiregere nyuma, kandi ari ibibazo bigomba kujyana.

32. Urukiko rurasanga ku kibazo cya MUNYAKAZI Leinualda, ibyo avuga ko nawe afite uburenganzira bwo kuzungura ku nzu iburanwa, RWASIBO Bernard ntagaragaza ko urwo ruhare ari ntarwo kuko adahakana ko RWASIBO Emmanuel yariho igihe RWASIBO Jean Baptiste ugomba kuzungurwa yitabaga Imana. Ni ukuvuga ko uyu RWASIBO Emmanuel yabaye umuzungura wa RWASIBO Jean Baptiste, nawe uburenganzira bwe abusigira abana be igihe yari yitabye Imana, nabo bakaba hari uwo babusigiye, byumvikana ko mu gihe nyina akiriho, afite uburenganzira bwo kubazungura. Mu gihe RWASIBO Bernard atagaragaza ko habayeho izungura, uyu MUNYAKAZI Leinualda akaba atari mu bazungura ba RWASIBO Jean Baptiste, kuvuga gusa ko kuva yatandukana n'umugabo atongeye kugaragara ntibihagije kumwambura uburenganzira, kuko atagaragaza ingingo y'amategeko ashingiraho avuga ko uko kutagaragara kumwambura uburenganzira bwo kuba umuzungura w'abana be.

33. Urukiko rurasanga amasezerano yo kwegurirwa imigabane RWASIBO Bernard ashingiraho, agaragaza neza ko RWASIBO Bernard ataba nyir'inzu iburanwa (propriétaire), mu gihe atareguriwa imigabane yose kuri iyo nzu (100 %). Urukiko rurasanga RWASIBO Bernard adashobora kwandikwaho iyi nzu mu gihe ikibazo cy'umugabane wa RWASIBO Emmanuel, nawe w'umuzungura kuko n'ubwo atakiriho afite abamuhagarariye (représentation), kitarakemuka, kuko ibyo bivuze ko atarabona imigabane yose kuri iyo nzu.

34. Kubera impamvu zimaze gusobanurwa, iyi ngingo y'ubujurire ifite ishingiro, no kugoboka mu rubanza kwa MUNYAKAZI Leinualda gufite ishingiro. Bityo urubanza rwajuririwe rukwiye guhinduka.

AMAFARANGA YASABWE MURI URU RUKIKO

35. Uhagarariye RWASIBO Jean Bosco asaba guhabwa amafaranga 2.000.000 y'igihembo cya Avoka, amafaranga 1.000.000 y'indishyi z'akababaro, n'amafaranga 500.000 y'ikurikiranarubanza.

36. Uhagarariye RWASIBO Bernard asaba guhabwa amafaranga 5.000.000 y'indishyi z'akababaro, amafaranga 1.500.000 y'ikurikiranarubanza n'igihembo cya Avoka.

37. Uhagarariye MUNYAKAZI Marie Leinualda asaba ko uwo ahagarariye yahabwa na RWASIBO Bernard amafaranga 1.000.000 y'indishyi, amafaranga 500.000 y'igihembo cya Avoka, n'amafaranga 300.000 y'ikurikiranarubanza, kubera ko ariwe wabaye intandaro yatumye agoboka mu rubanza.

38. Urukiko rurasanga amafaranga 5.000.000 y'indishyi z'akababaro, amafaranga 1.500.000 y'ikurikiranarubanza n'igihembo cya Avoka uhagarariye RWASIBO Bernard ntayo yahabwa, kuko ariwe wareze, kandi ikirego cye kikaba kidafite ishingiro.

39. Urukiko rurasanga amafaranga 2.000.000 y'igihembo cya Avoka uhagarariye RWASIBO Jean Bosco asaba guhabwa, ntiyayahabwa yose kuko ari menshi, akaba agenewe amafaranga 800.000 y'igihembo cya Avoka wamuburaniye ku rwego rwabanjirije uru no kuri uru rwego. Amafaranga 1.000.000 y'indishyi z'akababaro asaba yo ntiyayahabwa, kuko kuba RWASIBO Bernard yarareze, yari agamije guharanira uburenganzira bwe, bityo nta kindi gihombo byateje

RWASIBO Jean Bosco, uretse kuba yaragombye gutanga amafaranga yo gukurikirana urubanza n'igihembo cya Avoka.

40. Urukiko rurasanga amafaranga 500.000 y'ikurikiranarubanza uhagarariye RWASIBO Jean Bosco asaba, ntiyayahabwa yose kubera ko ari mensi, akaba agenewe mu bushishozi bw'urukiko amafaranga 100.000 y'ikurikiranarubanza.

41. Urukiko rurasanga amafaranga 1.000.000 y'indishyi uhagarariye MUNYAKAZI Marie Leinualda asaba ntayo yahabwa, kuko kuba RWASIBO Bernard yarareze, yari agamije gukurikirana uburenganzira bwe, ibyo bikaba nta kindi gihombo bishobora gutera uretse kuba uwaje mu rubanza yaratakaje amafaranga yatanze arukurikirana.

42. Urukiko rurasanga amafaranga 500.000 y'igihembo cya Avoka, n'amafaranga 300.000 y'ikurikiranarubanza, uhagarariye MUNYAKAZI Marie Leinualda asaba, ntiyayahabwa yose kuko ari menshi, akaba agenewe amafaranga 300.000 y'igihembo cya Avoka, n'amafaranga 50.000 y'ikurikiranarubanza, agenwe mu bushishozi bw'Urukiko.

III. ICYEMEZO CY'URUKIKO

43. Rwemeje ko ubujurire bwa RWASIBO Jean Bosco bufite ishingiro kuri bimwe.

44. Rwemeje ko ukugoboka mu rubanza kwa MUNYAKAZI Marie Leinualda kwakiriwe, kandi ko gufite ishingiro kuri bimwe.

45. Rwemeje ko imikirize y'urubanza rwajuririwe ihindutse.

46. Rwemeje ko ibyo RWASIBO Bernard asaba, ko Urukiko rutegeka ko yandikwaho inzu iri mu kibanza 2087 KICUKIRO atabyemerewe kubera impamvu zasobanuwe.

47. Rumutegetse guha RWASIBO Jean Bosco amafaranga 800.000 y'igihembo cya Avoka, n'amafaranga 100.000 y'ikurikiranarubanza.

48. Rumutegetse guha MUNYAKAZI Marie Leinualda amafaranga 300.000 y'igihembo cya Avoka, n'amafaranga 50.000 y'ikurikiranarubanza.

49. Rumutegetse gusubiza RWASIBO Jean Bosco amafaranga 125.000 yatanzeho ingwate y'amagarama, yo agahera mu Isanduku ya Leta nk'amagarama y'urubanza.

50. Rumutegetse gusubiza MUNYAKAZI Marie Leinualda amafaranga 75.000 yatanzeho ingwate y'amagarama.

RUKIJIJWE RUTYO KANDI RUSOMEWE MU RUHAME NONE TARIKI 10/06/2016 N'URUKIKO RUKURU, RUGIZWE NA HITIMANA J.M.V., UMUCAMANZA, AFASHIJWE NA MUHIMPUNDU Spéciose, UMWANDITSI.

Umucamanza	**Umwanditsi**
(Sé)	**(Sé)**
HITIMANA J.M.V.	**MUHIMPUNDU Spéciose**