URUKIKO RWISUMBUYE RWA NYARUGENGE RURI I NYARUGENGE RUHABURANISHRIZA IMANZA Z'IMBONEZAMUBANO MU RWEGO RWA MBERE RUCIYE URUBANZA RC 0051/10/TGI/NYGE KUWA 04/03/2011 MU BURYO BUKURIKIRA:

HABURANA:
UREGA: GASHUMBA Ronald mwene Kalimba James na Kalimba Schovia, utuye Bukunzi-Kanombe-Kicukiro-V.K., uhagarariwe na Maitre SESONGA Théobald.

UREGWA: MASIMBI Jules mwene Bushishi Mathias na Mukamana Gertrude, utuye Bukunzi-Rubirizi-Kanombe-Kicukiro-V.K., ahagarariwe na Maitre KARANGWA J.Bosco.

IKIBURANWA: Kuba Masimbi Jules yaragurishije Gashumba Ronald ikibanza kandi azi neza ko yakigurishije n'undi.

I . IMITERERE Y'URUBANZA

(1) Gashumba Ronald yaregeye urukiko arega Masimbi Jules ko yamugurishije ikibanza kandi azi neza ko yakigurishije n'undi, asaba gusubizwa amafaranga n'izindi nyungu zose ziyakomokaho, byose akaba yarabisabiye 5.000.000fr+320.000fr, agahabwa 1.000.000fr y'indishyi z'akababaro na 300.000fr y'igihembo cya avocat. Maitre NUBUMWE wari uhagarariye Masimbi Jules mu iburanisha rya mbere, yatanze inzitizi y'iburabubasha, hafatwa icyemezo kuri iyo nzitizi ko nta shingiro ifite.

(2) Mu iburanisha ry'urubanza mu mizi, Maitre Sesonga uhagarariye Gashumba Ronald yasobanuye ko Masimbi Jules yagurishije ikibanza Gashumba kuri 1.500.000fr, Gashumba agiye gutangira kubaka, ahagarikwa n'ubuyobozi bumubwira ko ikibanza cyagurishijwe mbere uwitwa NIYONSHUTI Johnson kuri 550.000fr, Gashumba akaba asaba kurenganurwa agasubizwa 5.000.000fr kuko ariko gaciro k'icyo kibanza. Maitre Karangwa uhagarariye Masimbi Jules yemeye ko Masimbi Jules yagurishije ikibanza na Niyonshuti na Gashumba agerageza gusubiza Gashumba amafaranga ye 1.500.000fr bafitiye inyandiko y'ubugure atari 5.000.000fr.

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

(3) **Ku byerekeye no kugurisha ikibanza kuri Niyonshuti no kuri Gashumba Ronald:**

Masimbi Jules yagurishije ikibanza uwitwa Niyonshuti Johnson nyuma akigurisha Gashumba Ronald, ibi akaba yarabikoze abizi kandi abigambiriye kuko ntaho agaragaza ko ukugurisha ubwa kabiri yabikoze yibeshye yibagiwe ubugure bwa mbere, ingingo ya 276 CCLIII ikaba iteganya ko "La vente de la chose d'autrui est nulle; peut donner lieu à des dommages-intérêts lorsque l'acheteur a ignore que la chose fût à autrui." kuba rero yari yaramaze kugurisha icyo kibanza nk'uko byemezwa n'umwanzuro w'inteko y'bunzi yo mu kagali ka Rubirizi, umurenge wa Kicukiro, akarere ka Kicukiro wo kuwa 15/06/2008 wemeje ko Masimbi yemeye ikosa ryabaye uwaguze mbere ariwe Niyonshuti Johnson akagumana icyo kibanza

uwaguze ubwa kabiri Gashumba agasubizwa amafaranga ye; nta bubasha n'uburenganzira yari agifite byo kuba yakongera kugurisha icyo kibanza kuko kitari kikiri icye, ahubwo abirengaho yongera kukigurisha undi muntu ubwa kabiri, bityo rero ubugure bwa kabiri hagati ya Masimbi Jules na Gashumba Ronald bukaba bugomba guteshwa agaciro, bugaseswa ku makosa ya Masimbi Jules.

(4) **Ku byerekeye n'uko Masimbi yakwishyura agaciro k'ikibanza yagurishije ko muriki gihe:**

Gashumba Ronald ahagarariwe na Maitre Sesonga yasabye ko yarenganurwa akishyurwa amafaranga yaguze ikibanza ariko ku gaciro ko muri iki gihe ka 5.000.000fr abigaragariza icyemezo cyo kuwa 18/10/2010 cyanditse n'umunyamabanga nshingwabikorwa w'akagali ka Rubirizi wemeza ko ikibanza gifite m30/20 nk'icyo yari yaguze gifite agaciro ka 5.000.000fr muri iki gihe, ingingo ya 24 CCLII ikaba isobanura ko iyo uwari utunze ikintu yagitunze nta buryarya agomba kwishyurwa igiciro harimo n'inyunguragaciro k'ubutaka mu gihe tugezemo, bityo rero Masimbi Jules akaba agomba kwishyura Gashumba Ronald agaciro k'ikibanza mu gihe tugezemo, ntaho ibyo Maitre Karangwa avuga ko Masimbi yegereye Gashumba ashaka ko bumvikana akamusubiza amafaranga ye bikaba nta gaciro byahabwa kuko uretse n'uko nta bimenyetso abitangira atigeze agaragariza urukiko ko ashaka kumvikana na Gashumba.

(5) **Ku byerekeye n'indishyi zikomoka ku burenganzira yavukijwe Gashumba agura ikibanza cyagurishijwe:**

Gashumba Ronald kandi yatse indishyi zikomoka kuri ubwo bugure bw'ikibanza yagurishijwe ubwa kabiri cyaramaze kugurishwa n'undi muntu, ashingiye kuko yavukijwe uburenganzira bwo kugira icyo akora kuri icyo kibanza nk'umuntu wari wakibonye akiguze akaba yari yarahasutse amabuye n'umucanga akavuga ko n'ubu bigihari bigaragara ko yahombye kuko kugeza ubu icyo kibanza atakibonye ngo ashyiremo ibikorwa yari yakigeneye, ingingo ya 258 CCLIII ikaba isobanura ko igikorwa cyose cy'umuntu cyangirije undi gitegeka nyiri kugikora ikosa rigikomokaho kuriha ibyangiritse, bityo rero kuba nyuma yo kugura icyo kibanza Gashumba yaraguze umucanga n'amabuye ku mafaranga 320.000fr agomba kuyasubizwa, akishyurwa 1.000.000fr y'indishyi z'akababaro ku gihembo cya avoka akishyurwa 200.000fr, yose hamwe akaba 1.520.000fr.

III. ICYEMEZO CY'URUKIKO

(6) RWEMEJE ko ikirego rwashyikirijwe na GASHUMBA Ronald gifite ishingiro.

(7) RUTEGETSE MASIMBI Jules kwishyura GASHUMBA Ronald 5.000.000fr y'agaciro k'ikibanza bari baguze.

(8) RUTEGETSE MASIMBI Jules kwishyura GASHUMBA Ronald 1.000.000fr y'indishyi z'akababaro, 320.000fr ikiguzi cy'amabuye n'umucanga na 200.000fr y'igihembo cya avocat, yose hamwe akaba ari 1.520.000fr mu gihe gitegestwe n'amategeko.

(9) RUTEGETSE MASIMBI Jules gutanga umusogongero wa Leta ungana na 4% ya 6.520.000fr, n'ukuvuga 260.800fr mu gihe gitegetswe n'amategeko.

(10) RUTEGETSE MASIMBI Jules gutanga 6.850 fr y'amagarama y'urubanza mu gihe gitegetswe n'amategeko.

NI UKO RUKIJIJWE KANDI RUSOMEWE MU RUHAME KUWA 04/03/2011.

UMWANDITSI	**UMUCAMANZA**
NDAYAMBAJE Onesphore	**UWANTEGE Yvette**
Sé/	**Sé/**