URUKIKO RWISUMBUYE RWA NYARUGENGE, RURI I NYARUGENGE, RUHABURANISHIRIZA IMANZA Z'IMBONEZAMUBANO KU RWEGO RW'UBUJURIRE, RUKIJIJE URU RUBANZA RCA 00242/2016/TGI/NYGE NONE KUWA 04/01/2018, MU BURYO BUKURIKIRA:

HABURANA:

Urega : LESCOT Claudette Christine Josette Denise, mwene Maurice LESCOT na Denise MARLAIRE, wavutse kuwa 08/06/1948, utuye mu mudugudu w'Ingenzi, akagari ka Kiyovu, umurenge wa Nyarugenge, akarere ka Nyarugenge, mu Mujyi wa Kigali, Tel. +250 788 304 939, P.O. Box 472 Kigali, uhagarariwe na Me MUTABAZI ABAYO Jean Claude.

Uregwa: **NDENGEYINGOMA Cyrille**, mwene RUBANGUZA Charles na UWITEGUYE Adèle, utuye mu Kagari ka Kiyovu, umurenge wa Nyarugenge, akarere ka Nyarugenge, Umujyi wa Kigali, Tel. +250 788 306 000, yunganiwe na Me KARURANGA Floribert.

Ikiburanwa:

-Kuba NDENGEYINGOMA Cyrille ashaka kwigarurira igice cy'ubutaka cya Claudette LESCOT giherereye mu mudugudu w'Ingenzi, akagari ka Kiyovu, umurenge wa Nyarugenge, akarere ka Nyarugenge mu Mujyi wa Kigali mu buriganya.

-Kwemeza ko inzira iri hagati y'ikibanza cya Claudette LESCOT n'icya Cyrille NDENGEYINGOMA iri mu butaka bwa Claudette.

-Gutegeka NDENGEYINGOMA Cyrille guha Claudette LESCOT indishyi z'akababaro za 20.000.000 Frw kubera kumubuza uburenganzira bwe, igihembo cy'avocat cya 3.540.000 Frw, amafaranga yishyuwe umuhesha w'inkiko, amafaranga y'ikurikirana rubanza 300.000Fw no gusubiza ingwate y'amagarama.

Ikiregerwa : Kujuririra urubanza RC 0474/15/TB/Nyge rwaciwe n'Urukiko rw'Ibanze rwa Nyarugenge kuwa 10/03/2016.

IMITERERE Y'URUBANZA

[1] LESCOT Claudette Christine Josette Denise yatanze ikirego mu Rukiko rw'Ibanze rwa Nyarugenge arega NDENGEYINGOMA ikiburanwa ari icyavuzwe haruguru. Urukiko rwaciye urubanza RC 0474/15/TB/Nyge kuwa 10/03/2016 rwemeza ko atsinzwe kuko nta bimenyetso yatanze bigaragaza ko inzira aregera ari iye, rumutegeka guha uregwa indishyi zingana na miliyoni ebyeri n'ibihumbi Magana atandatu (2.600.000Frw).

[2] LESCOT Claudette Christine Josette Denise wunganiwe na Me MUTABAZI ABAYO Jean Claude yajuririye urwo rubanza avuga ko Urukiko rwirengagije ibimenyetso yatanze bigaragaza ko igice kinini cy'inzira iburanwa kiri mu butaka bwe, rugendera

ku mvugo z'umutangabuhamya utarigeze ahatura, rwirengagije *borne* ihari igabanya ibibanza byombi n'uregwa yemera, no kuba kuva cyera iyo nzira yarakoreshwaga n'abari batuye muri ibyo bibanza byombi aribo SOMIRWA yahoze itunze ikibanza atuyemo, na Cooperation Suisse yahoze itunze ikibanza NDENGEYINGOMNA Cyrille yaguze, iyo nzira ikaba yarashyizweho mu mwaka wa 1980, abari bahatuye bakumvikana ko bazajya bayikoresha bose, bagashyiraho na *crocquis* yayo yagiye ihabwa abantu bagiye basimburana mu nyubako zahoze ari iza SOMIRWA n'iza Cooperation Suisse, asaba urukiko kongera kubisuzuma rugashyiraho abahanga bagapima imbibi z'ibyo bibanza kuko urukiko rubanza rwanze kubikora, rugakemura ikibazo cy'iyi nzira NDENGIYINGOMA afunga kandi igice kiniki kiri mu butaka bwe, agahabwa n'indishyi zinyuranye.

[3] NDENGEYINGOMANA Cyrille wunganiwe na Me KARURANGA Floribert avuga ko ibyo urega avuga nta shingiro byahabwa kuko nawe ubwe atazi aho ubutaka bwe bugarukira hashingiwe ku mabaruwa yagiye yandikira inzego zinyuranye asaba ko zamugaragariza imbibi nyazo z'ubutaka bwe, igice cy'inzira avuga ashaka kwigarurira bikaba atari ukuri kuko iyo nzira itigeze iba mu butaka bwe kuko ubwo yabaruzaga ubutaka mu mwaka wa 2011 aribwo yahinduye imbago agamije gutwara ubwo butaka, kandi kuva yahagura atigeze amubuza gukoresha iyo nzira, ibyo aregera bikaba nta shingiro bifite, kuko n'abamubanjirije muri uwo mutungo banditse kenshi basaba gusobanura ikibazo cy'imbibi z'ubwo butaka, nyuma bakaba baranditse bemera izo mbibi, ko ikirego cye nta shingiro cyahabwa, akaba yategekwa kumwishyura indishyi zinyuranye.

[4] *Ibigomba gusuzumwa muri uru rubanza akaba ari:*

- *kumenya niba igice cy'ubutaka kigizwe n'inzira iburanwa muri uru rubanza kiri mu butaka bw'urega akaba yacyegurirwa*
- *Kumenya indishyi zisabwa muri uru rubanza niba zifite ishingiro.*

II. ISESENGURA RY'IBIBAZO BIGIZE URUBANZA

1. Kumenya niba igice cy'ubutaka kigizwe n'inzira iburanwa muri uru rubanza kiri mu butaka bw'urega akaba yacyegurirwa

[5] **LESCOT Claudette Christine Josette Denise** wunganiwe na Me MUTABAZI ABAYO Jean Claude yatanze ikirego muri uru rukiko ajuririra urubanza rwavuzwe haruguru, asobanura ko yajuriye kuko urukiko rwirengagie ibimenyetso yatanze bigaragaza ko igice kinini cy'inzira iburanwa kiri mu butaka bwe; uregwa akaba yarafunze iyo nzira amubuza kuyinyuramo, ibyo bimenyetso bikaba birimo kuba icyo ikibanza cye cyarahoze ari icya SOMIRWA, naho aho NDENGEYINGOMANA Cyrille atuye hakaba hari Cooperation Suisse au Developpement, abari batunze

ubwo butaka bwombi bakaba bari baragiranye amasezerano yiswe '*contrat de servitude de passage et de voirie* ; yabayeho kuva mu mwaka w'1980, aba baturanyi bakaba bose bari baremeranyije ko inzira iri hagati yabo bazajya bayikoresha bose, bagahana *croquis* y'iyo nzira, akaba ari nayo bagiye baha abaguze ubwo butaka barimo Claudette Lescot waguze na KANTAMATI(ikibanza n° 1383) na NDENGEYINGOMA Cyrille waguze n'uwitwaga NSHIMIYIMANA Jean Baptise wari warabanje kugura ikibanza cya Cooperation Suisse(ikibanza cyari gifite n° 1384), bikaba kandi byarahamijwe n'Ambasaderi w'Ubusuwusi ndetse na Claire Lise Temporal wabaye muri ayo mazu ari nawe waje kuyagurisha, bose bemeje ko iyo nzira bayikoreshaga bose, ko kandi igice kinini cyayo kiri mu butaka bwa Lescot, ariko urukiko rurabyirengagiza, nyamara rwaranagaragarijwe *borne* yagabanyaga ibyo bibanza byombi kandi ababuranyi bose bemera, ikaba igaragaza ko igice kinini cy'iyo nzira kiri ku butaka bwe.

[6] **NDENGEYINGOMA Cyrille** wunganiwe na Me KARURANGA Floribert avuga ko amasezerano urega avuga nta shingiro yahabwa kuko urukiko rubanza rwayasuzumye rugasanga adasinye n'abayagiranye, akaba atari no kwitwa amasezerano kuko uwari ushinzwe kugurisha Cooperation Suisse ari we Claire Lise Temporal mu ibaruwa ye n'urega yemera kuko ari we wayishyikirije urukiko, yemeje ko higeze kubaho imishyikirano hagati y'abari bahatuye irebana n'umuryango (portail) n'uburyo iyo nzira izajya itunganywa, iyo mishyikirano ikaba atari yo yakwitwa amasezerano kuko yari kuba yarasinywe icyo gihe, ikaba kandi itarahaga ubwo butaka Claudette Lescot; mu bishushanyo by'ibyo bibanza iyo nzira ikaba ntaho igaragara, urega nawe ubwe akaba yarandikiye inzego zinyuranye asaba ko zamugaragariza imbibi nyazo z'ubutaka bwe bigaragaza ko nawe ubwe atazi aho ubutaka bwe bugarukira, akaba ntaho yahera avuga ko iyo nzira iri mu kibanza cye kuko ubwo yabaruzaga ubutaka mu mwaka wa 2011 aribwo yimuye imbago ashaka kuyigarurira, nyamara abamugurishije uwo mutungo aribo KANTAMATI Verwey waguze na SOMIRWA yaranditse inyandiko igaragaza ko yemera imibibi zagaragajwe na Ministeri y'Ubutabera nyuma y'uko hashyirwaho komisiyo ihuriweho n'iyo Minisiteri na Minisiteri y'Imirimo ya Leta n'Ingufu, iyo komisiyo ikaba yarasuzumye ikibazo cy'imbibi z'icyo kibanza n'icya RUBANGURA Uziel bahanaga imbibi, impaka zi'imbibi zikaba zaracyemuwe icyo gihe kandi KANTAMATI Verwey akemera aho bagabanira.

[7] Mu rwego rwo gusobanukirwa n'iki kibazo, urukiko rwiyambaje abahanga bo gupima ubutaka bw'ababuranyi mu rwego rwo kumenya niba iyo nzira yaba iri mu butaka bw'urega cyangwa se mu butaka bw'uregwa, hashingiwe ku byangombwa by'ubutaka buri muburanyi agaragaza byagiye bihabwa ibyo bibanza kuva babigura, ababuranyi bihitiramo abahanga, urega ahagarariwe na KAGAME Yves uregwa ahagarariwe na HARERIMANA Germain nabo bihitiramo undi muhanga wa gatatu ari we HAKUZWIYAREMYE Noel, bakaba barahawe umurimo wo gupima ibibanza by'ababuranyi bahereye ku byangombwa buri muburanyi afite, muri raporo

bashyikirije urukiko, bakaba baragaragaje ko ibyangombwa ababuranyi bose bafite bidahura n'ibipimo bigaragara ku bibanza byabo, bemeza ko buri wese yarengereye undi mu buryo ubu n'ubu

UKO URUKIKO RUBIBONA

[8] Urukiko rukaba rusanga n'ubwo Claudette Lescote urega avuga ko igice kinini cy'inzira iri hagati y'ikibanza cye n'icya NDENGEYINGOMA Cyrille kiri mu butaka bwe, uregwa akaba yaramufungiye inzira, rubona nta bimenyetso abitangira kuko amasezerano avuga yiswe *contrat de servitude de passage et de voirie* ashingiraho atigeze agaragaza ko iyo nzira iri mu butaka bwe, kuko n'ubwo iyo nyandiko itafatwa nk'amasezerano kuko idasinye, icyo igaragaza ni uko abari batunze ibyo bibanza byombi bumvikanye ko iyo nzira ihari, bagaragaza n'uburyo bazajya bayikoresha bombi ari nabyo byagiye byemezwa n'abari bakuriye Cooperation Suisse barimo Claire Lise Temporal, hakaba rero ntacyemeza ko iyo nzira iri ku butaka bwe kuko abahanga bagiye gupima ibyo bibanza berekanye ko ibipimo bafite ku byangombwa bidahura n'ibibanza batunze.

[9] Urukiko rusanga kandi NDENGEYINGOMA avuga ko Claudette Lescot yagiye yandika amabaruwa asaba inzego zibishinzwe ko zamugaragariza imbibi nyazo z'ubutaka bwe, akavuga ko bigaragaza ko ibyo asaba nta shingiro byahabwa kuko nawe atazi aho ubutaka bwe bugarukira, bikaba bidahabwa agaciro ngo abishingireho avuga ko iyo nzira iri mu butaka bwe kandi abahanga bashyizweho baragaragaje ko ibyangombwa aba baburanyi bombi bafite bidahura n'ibigaragara ku butaka bwabo, akaba kandi nawe yemera ko ubwo yaguraga inyubako zahoze ari iza Cooperation Suisse na NSHIMIYIMANA Jean Baptiste wari warabanje kuhagura, yahawe igishushanyo (crocquis) cy'iyo nzira, bigaragara ko nawe yaguze azi neza ko iyo nzira itari ku butaka aguze, akaba kandi anemera ko atigeze afungira umuturanyi we inzira, bigaragaza ko nawe yaguze azi neza ko iyo nzira atari iye wenyine, izi nyandiko avuga abagurishije urega bagiye bandika bemera imbibi, urukiko rukaba rusanga zitareba iki kibazo kuko nawe ubwe yemera ko hakemurwaga ikibazo cyari hagati y'ikibanza cya SOMIRWA na RUBANGURA Uzie,l bikaba ntaho bihurira n'inzira iri hagati ye n'urega.

[10] Hakurikijwe ibyavuzwe haruguru, urukiko rukaba rusanga inzira iri hagati y'ikibanza cya LESCOT Claudette Christine Josette Denise na NDENGIYINGOMA Cyrille yakomeza gukoreshwa n'ababuranyi bose kuko yaba urega n'uregwa nta numwe ugaragaza ko iyo nzira iri mu butaka bwe, hakurikijwe ibiteganywa n'ingingo ya 9 y'Itegeko n° 21/2012 ryo kuwa 14/06/2012 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi iteganya ko" *Urega agomba kugaragaza ibimenyetso by'ibyo aregera, iyo abibuze uwarezwe aratsinda*" n'ibiteganywa n'ingingo ya 3 y'Itegeko n° 15/2004 ryo kuwa 12/06/2004

ryerekeye ibimenyetso mu manza n'itangwa ryabyo, *iteganya ko buri muburanyi agomba kugaragaza ukuri kw'ibyo aburana,* bityo ikirego cya LESCOT Claudette Christine Josette Denise kikaba gifite ishingiro mu byerekeranye n'uburenganzira bwo gukoresha iyo nzira kuko mu gihe nta n'umwe ugaragaza ko iri mu butaka bwe, NDENGEYINGOMA agomba kureka buri wese akayikoresha nk'uko byahoze kuva mbere mu bari batunze ibi bibanza.

2. Ku byerekeye indishyi

[11] Urega LESCOT Claudette Christine Josette Denise asaba indishyi zinyuranye zikubiyemo indishyi z'akababaro za miliyoni makumyabiri (20.000.000Frw) kubera kumubuza uburenganzira bwe, igihembo cya avocat cya miliyoni eshatu n'ibihumbi Magana atanu na mirongo ine (3.540.000Frw) hakubiyemo n'amafaranga yishyuwe, amafaranga y'ikurikiranarubanza ibihumbi Magana atatu (300.000Frw) no gusubizwa ingwate y'amagarama.

[12] Uregwa NDENGEYINGOMA Cyrille nawe asaba urukiko gutegeka urega kumuha indishyi zingana na miliyoni ijana na mirongo itatu (130.000.000Frw) zo kumukerereza gukorera mu nyubako ze, no kumuha miliyoni mirongo itandatu na zirindwi n'amafaranga ibihumbi ijana na mirongo irindwi na bitanu na Magana ane na mirongo inani n'atanu (67.175.485Frw) amaze kwishyura banki ku mutungo wakererewe kubyazwa umusaruro, no kumuha ikurikirana rubanza n'igihembo cy'avoka cya miliyoni eshatu n'amafaranga ibihumbi makumyabiri (3.020.000Frw) yiyongera kuyo yahawe ku rwego rw'ibanze, agasubizwa amafaranga ibihumbi magana arindwi na mirongo itanu (750.000Frw) yishyuye abahanga.

[13] Urukiko rukaba rusanga kuba rwasanze ingingo za buri muburanyi nta shingiro zifite, ntawe ukwiye guhabwa indishyi kuri uru rwego, bityo n'amafaranga buri muburanyi yishyuye abahanga akaba ariyo agomba kugumaho.

[14] Hakurikijwe ibyavuzwe haruguru, urubanza rwajuririwe RC 0474/15/TB/Nyge rwaciwe n'Urukiko rw'Ibanze rwa Nyarugenge kuwa 10/03/2016 rukaba rugomba guhinduka ku byerekeranye n'uburenganzira buri muburanyi afite ku nzira iburanwa nkuko bisobanuwe haruguru, n'indishyi zategetswe muri urwo rubanza zikaba zivanyweho, ababuranyi bagafatanya no kwishyura amagarama y'urubanza ku nzego zose.

III. ICYEMEZO CY'URUKIKO

[15] Rwemeye kwakira ikirego rwashyikirijwe na LESCOT Claudette Christine Josette Denise kandi rugisuzumye rusanga gifite ishingiro kuri bimwe.

[16] Rwemeje ko urubanza RC 0474/15/TB/Nyge rwaciwe n'Urukiko rw'Ibanze rwa Nyarugenge kuwa 10/03/2016 ruhindutse kuri bimwe.

[17] Rutegetse ko inzira iri hagati y'ikibanza cya LESCOT Claudette Christine Josette Denise n'icya NDENGEYINGOMA Cyrille igumaho bakajya bayikoresha bombi.

[18] Rutegetse ko indishyi zategetswe mu rubanza RC 0474/15/TB/Nyge rwaciwe n'Urukiko rw'Ibanze rwa Nyarugenge kuwa 10/03/2016 zivanyweho.

[19] Rutegetse ko amagarama y'urubanza urega yatanze ku nzego zombi aguma mu Isanduku ya Leta, NDENGEYINGOMA Cyrille akamugarurira ½ cyayo ni ukuvuga amafaranga ibihumbi mirongo itatu na birindwi na magana atanu(37.500Frw).

NI UKO RUKIJIJWE KANDI RUSOMEWE MU RUHAME NONE KUWA 04/01/2018.

LONDA. N. Joseph

Perezida

(Se)

NYIRANSAGUYE Athanasie **MURWANASHYAKA Nubaha**

Umucamanza **Umucamanza**

(Se) **(Se)**

HABINEZA Jean de Dieu

Umwanditsi

(Se)