



IN THE DISCIPLINARY COMMITTEE OF THE GHANA FOOTBALL ASSOCIATION

Protest Case: No. A 8-16 2020-21

Quorum

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| 1. Mr. Osei Kwadwo Adow, Esq. | - | Chairman |
| 2. Mrs. Lorraine A. Crabbe Ababio, Esq | - | Member |
| 3. Mr. Emmanuel Nikoi | - | Member |
| William Bossman | - | Secretary |
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CONSOLIDATED CASES AGAINST AMIDAUS PROFESSIONALS FOLLOWING THE CLUB'S FAILURE TO HONOUR ITS DIVISION ONE LEAGUE ZONE 3 MATCHES AGAINST THE FOLLOWING CLUBS:

1. C1207/2021 - VISION FC
 2. C1206/2021 - PHAR RANGERS FC
 3. C1205/2021 - AGBOZOME WEAVERS FC
 4. C1204/2021 - ACCRA CITY STARS FC
 5. C1203/2021 - OKYEMAN PLANNERS FC
 6. C1201/2021 - KOTOKU ROYALS FC
 7. C1201/2021 - DANBORT FC
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PROCEEDINGS

CONSOLIDATION

In circumstances where a number of cases have the same facts, issues in law and reliefs being sought, the Committee may consolidate all the Cases as the Committee considers it just and efficient to settle all matters under a consolidated case and further to save time and costs.

THE FACTS

Amidaus Professionals FC failed on seven (7) consecutive occasions to honor its Division One League Zone 3 matches against the following opponents:

1. Vision FC,
2. Phar Rangers FC,
3. Agbozome Weavers FC,
4. Accra City Stars FC,
5. Okyeman Planners FC,
6. Kotoku Royals FC, and
7. Danbort FC.

THE CHARGES

According to the Charge Sheets, Amidaus Professionals FC without just cause failed to register a single player during the Main GFA Registration Window which lasted for a number of months and thus could not raise a team for their first seven matches in the Division One League.

As a result of the failure of Amidaus Professionals FC to register players, on the dates for the scheduled matches, Amidaus Professionals FC failed to honour the Division One League Matches against the above-mentioned Clubs in violation of various Regulations of the GFA.

Amidaus Professionals FC was charged for breach of:

1. Articles 13(1), 13(3) and Article 33(1)(f) of the GFA Division One League Regulations.
2. Article 14 of the GFA Disciplinary Code in respect of its failure to honour the scheduled matches.

THE DEFENCE

In their Statement of Defence, Amidaus Professionals FC pleaded not guilty and requested for personal hearing. Amidaus Professionals FC was granted personal hearing via virtual meeting (Zoom) with the Committee. The Committee cross examined the representatives of Amidaus Professionals FC.

The Committee further examined the Charge Sheets and Exhibits attached to the Preliminary Defence of Amidaus Professionals FC after which it ordered the club to submit a Written Statement of Defence on the club's submissions.

Amidaus Professionals FC submitted a Written Statement titled "Summary Statement of Defence" excerpts of which are reproduced below:

Our case is that Articles 13(1)(3) and Article 33(1)(f) will not apply because the gravamen of the offence is WITHOUT JUST CAUSE. It is our contention that we failed to honor the seven (7) matches in contention with reasonable just cause.

We note particularly that, by a letter dated 16th November 2020, we petitioned the GFA President and the Executive Council to invoke its inherent jurisdiction to grant us a special dispensation to register players for the 2020/2021 season.

We wrote a reminder on 6th January 2021, followed by another letter the same day pleading and asking for postponement of our matches or declare them outstanding in view of our inability to register players.

The GFA by its own conduct encouraged us by receiving our club affiliation fee and club licensing fee for 2021, making us believe that our plea will receive a favorable response.

The GFA paid us our share of the FIFA COVID-19 Fund and even did the Mandatory COVID-19 test for all our listed players for the 2020/2021 season (attached).

On the January 5, 2021, we presented a resolution/petition endorsed by Ten (10) out of the Sixteen (16) Division One Clubs in Zone 3 pleading on our behalf (attached), in solidarity with our plight, you will notice that NO club protested against Amidaus for failure to honor matches without just cause.

We refer to Article 33(7) which allows forfeiture of a match only in CONSEQUENCE of a protest duly filed within the time limited for filing a protest in accordance with the Regulations.

We believe strongly that the GFA, the regulatory body for football in the country was duty bound to resolve our issue so we could play in the league.

We wish to state that we, were not negligent but prudent to inform the GFA far in advance of our predicament through letters stated above.

You may notice that no response whatsoever was written to indicate that our petition and that of the ten (10) Division One clubs in zone three (three) was receiving attention by the GFA.

The GFA's conduct in keeping silent to our petition meant CONSENT....".

The Association responded to the statements made by Amidaus Professionals FC that after the petition letter the club had a number of meetings with the Association where the club was told that their petition could not be granted.

The Association said that it was following the expression of that position that Amidaus Professionals FC claimed that all the clubs in Zone 3 were in support of its petition and that it would show proof of same by getting the said clubs to sign it.

According to the Association, Amidaus Professionals FC could not get all the clubs to sign their petition as promised and as stated in its Defence.

The Association also distinguished the difference between payment of Affiliation Fee, which is required of a Member of the GFA per the Statutes of the GFA and preparation towards participation in a league competition which requires registration of players.

This according to the Association is a fact well known to all clubs that affiliation is purely about membership of a club and that a collection of fees by the GFA does not grant a club a licence to violate GFA Regulations.

The Association also narrated that the fact that the two shareholders of Amidaus Professionals FC were fighting and each of them separately informed the GFA that no action of the club should be permitted by the GFA unless they have given a unified communication that the club's internal issues have been resolved.

The Association stated further that each of the owners of Amidaus Professionals FC informed the GFA that as a result of their internal differences, they do not care if the club is destroyed or relegated.

FINDINGS AND GROUNDS OF THE DECISION

The relevant provisions in this matter are as follows:

Article 14 of the GFA Disciplinary Code 2019:

Unplayed matches and abandonment

- (1) "If a match cannot take place or cannot be played in full for reasons other than force majeure, but due to the behaviour of a team or behaviour for which a member or a club is liable, the member or the club will be sanctioned with a minimum fine of Ten Thousand Ghana Cedis (GHc10,000.00). The match will either be forfeited or replayed".***
- (2) "Additional disciplinary measures may be imposed on the member or club concerned".***

Article 33(1)(f) of the Division One League Regulations:

"A team commits an offence punishable by forfeiture of a match where it fails to report for **or honour a match without just cause**".

Article 33(7) of the Division One League Regulations:

"A team shall forfeit a match under Article 33(1) in consequence of a protest duly filed within the time limited for filing of protests under these Regulations **or where the GFA discovers that a club has committed an infraction**".

Article 33(3) of the Division One League Regulations

"In respect of **offence (f)** the offending team shall be considered as having lost the match and **accordingly three (3) points and three (3) goals shall be awarded in favour of the other team**".

Article 33(5) of the Division One League Regulations

"In addition to the sanctions provided in clauses 2 and 3 above in respect of offences 33(1)(a) to 33(1)(e) **and 33(1)(f)** respectively, the following sanctions shall apply;

- (a) The defaulting club shall lose 3 points from the club's accumulated points from other previous matches.***
- (b) The club shall be fined Two Thousand and Five Hundred Ghana Cedis (GHc2,500.00), 50% of which shall go to the opposing club.***
- (c) Where the defaulting club is playing at home the transportation expenses of the opposing club shall also be paid by the defaulting club".***

Article 33(13) of the Division One League Regulations:

“Burden of proof

a. The burden of proof regarding protests between clubs, rests on the protesting club and in the case of a charge by the Prosecutor, the burden rests with the Prosecution”.

Article 13(3) of the Division One League Regulations:

“Without prejudice to any provision in these Regulations, the Disciplinary Committee shall have the right to take appropriate disciplinary decisions, including but not limited to an imposition of a ban or a demotion against any club which withdraws from a competition or fails to honour any match without just cause and may also, ban officials of the club from taking part in football activities for a specified period”.

The gravamen of this matter is whether or not Amidaus Professionals FC **FAILED TO HONOUR** the seven matches **WITHOUT JUST CAUSE**.

For the case to succeed under the above provisions, the Prosecution must prove two things:

- a. that Amidaus Professionals FC failed to turn up or turned up but failed to honour the match; and
- b. that the actions of Amidaus Professionals FC under Point (a) above, was done **without just cause**.

It is very clear to this Committee that Amidaus Professionals FC did not appear at the venue to honour the matches. It is this Committee finding per the evidence of both Reports of the Referee and the Match Commissioner that Amidaus Professionals FC failed to report for the match. Indeed, Amidaus Professionals FC confirmed this position in their Statement of Defence to the Committee.

The question this Committee needs to find answer to is whether or not Amidaus Professionals FC have a JUST CAUSE in failing to honour the matches.

Amidaus Professionals FC however provides various reasons in the Statement of Defence why their actions did not lack just cause. These includes the petition to the GFA for the registration window to be reopened to them after closure by FIFA, their request to play the league with unregistered players or in the alternative, the matches be postponed.

This Committee takes judicial notice of the Petitions sent to the Amidaus Professionals FC seeking clemency or special dispensation.

The Committee is clear that the fact that the GFA did not grant the permission means that Amidaus Professionals FC had no such permission, thus the Petition shall play no further part in this matter.

It is very clear that without express grant of a request in a petition, the petition remains a mere request and cannot be anything better than that.

Thus, the actions of Amidaus Professionals FC in failing to register their players in the main transfer window because the two shareholders of the club were engaged in an ownership tussle cannot be just cause for failing to play its league matches.

The club cannot also visit its pitfalls on the GFA for its refusal of the GFA to grant it the requests the club made in its petitions to the GFA.

Firstly, it is not a right Amidaus Professionals FC entitled to and indeed, the GFA was under no obligation to extend the registration window neither does the GFA have such powers.

This leaves the Committee with whether Amidaus Professionals FC may benefit from force majeure. It is trite football law in Ghana that force majeure shall be considered a just cause”.

The Disciplinary Committee wishes to point out clearly that the term force majeure relates events due to causes that are outside the control of clubs, such as natural disasters, pandemics, etc, that could not be avoided or prevented through the exercise of due care by a club.

It must be an event that no human foresight could anticipate or which, if anticipated, is too strong to be controlled or plan alternatives.

Reference is made to such an event that may reasonably relieve a team from the obligation to honour all sanctioned matches as required by Division One League Regulations.

This Committee is of the considered opinion that the failure of a club to register its players during the registration window unlike an earthquake or an epidemic outbreak announcement from the health authorities or a case of curfew or a declaration of a state of emergency.

We daresay that a fight between owners of a club and their failure to enable the management of the club to function is of no relevance or consequence to the GFA regulations on Just Cause at all.

The Committee also considered the effect of Amidaus failure of Professionals FC to play the first seven matches thereby allowing seven clubs to earn free points in a league that is supposed to be competitive amongst all clubs.

The sporting integrity of the competition may be hugely jeopardized through the actions or lack thereof of Amidaus Professionals FC.

DECISIONS

- a. *That Amidaus Professionals FC is solely responsible for the club's failure to register players within the Registration Window when all other clubs did register their players.*
- b. *That the subsequent appeal to the GFA Executive Council for clemency if allowed has the tendency to undermine the sporting integrity of the Ghana Football Association and its leagues. The Committee therefore holds that the GFA is not estopped by conduct hence the appropriate referral of the seven (7) cases to the Disciplinary Committee through the GFA Prosecutor.*
- c. *That the Committee again holds that Amidaus Professionals FC is wrong by requesting the GFA to invoke its inherent jurisdiction to postpone matches involving Amidaus Professionals FC or declare them outstanding in view of the inability to register players. The reticence of the GFA did not amount to a green light to Amidaus Professionals FC to believe all will be well.*
- d. *That the Committee holds that the resolution endorsed by the 10 out of the 16 Division One League clubs in Zone 3 cannot constitute just cause. This is not a case where clubs have power to intervene. It must be noted also that not all the clubs signed the resolution.*
- e. *That all seven cases against Amidaus Professionals FC shall succeed in accordance with Article 33(1)(f) of the Division One League Regulations and the other relevant provisions mentioned above.*
- f. *That for each of the seven matches that Amidaus Professionals FC failed to honour without just cause the sanctions shall be as follows:*
 1. *That for each of the seven matches, Amidaus Professionals FC shall be considered as having lost the match and accordingly three (3) points and three (3) goals shall be awarded in favour of the other team in accordance with Article 33(3) of the Division One League Regulations.*
 2. *That in accordance with Article 33(5) of the Division One League Regulations the following sanctions shall apply:*
 - I. *Amidaus Professionals FC shall lose 3 points from the club's accumulated points from other previous matches.*
 - II. *Amidaus Professionals FC shall be fined Two Thousand and Five Hundred Ghana Cedis (GH¢2,500.00), 50% of which shall go to the opposing club.*

III. Where the Amidaus Professionals FC is playing at home the transportation expenses of Two Thousand and Five Hundred Ghana Cedis (GH¢2,500.00), each shall also be paid by Amidaus Professionals FC to the opposing club.

- 3. That in pursuant to Article 14(2) of the Disciplinary Code of the GFA 2019, the Committee imposes an amount of Five Thousand Ghana Cedis (GH¢5,000.00) as fine to be paid by Amidaus Professionals.**
- g. That for failing to honour seven matches Amidaus Professionals FC shall suffer the following sanctions in accordance with Article 14 (1 &2):**
- 1. Amidaus Professionals FC having failed to honour seven matches (Matchday 1 to Matchday 7) shall be banned from taking part in the Division One League (Zone 3) to maintain the sporting integrity of the competition and all matches played by Amidaus Professionals FC are declared null and void as if they have not been played at all. The teams involved are declared winners and also awarded 3 points and 3 goals.**
 - 2. The Ghana Football Association and its Division One League Board are hereby ordered to expunge from the Division One League Zone 3 competition any and all points and/or goals build-up in respect or standing to the credit of the Amidaus Professionals FC and also in respect of all the matches played with any club after the start of the league.**
 - 3. Accordingly, three (3) points and three (3) goals shall be awarded in favour of all opposing Clubs scheduled to play Amidaus Professionals FC.**
 - 4. That a fine of Ten Thousand Ghana Cedis (GHc10,000.00) is imposed on Amidaus Professionals FC payable to the Association.**
- h. That the cumulative effect of the foregoing is that Amidaus Professionals FC is banned from the Division One League Zone 3 with immediate effect as per Decision (g) above.**
- i. That should any party (notified) be dissatisfied with or aggrieved by this Decision the party may resort to the Appeals Committee of the Ghana Football Association within the stipulated time for doing so.**



**OSEI KWADWO ADDO, ESQ.
CHAIRMAN, DISCIPLINARY COMMITTEE
TUESDAY, APRIL 6, 2021**