



IN THE DISCIPLINARY COMMITTEE GHANA FOOTBALL ASSOCIATION

Protest Case: No. A -11- 2020

CORAM

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|---------------------------|---|---------------|
| 1. Osei Kwadwo Adow, Esq. | - | Chairman |
| 2. Mr. Emmanuel Nikoi | - | Member |
| 3. Mr. Nathaniel Laryea | - | Member |
| 4. Ms. Elsie Acheampong | - | Member |
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WILLIAM BOSSMAN | - |
Secretary |
-

BEREKUM ARSENALS FC vrs BRONG AHAFO UNITED FC PROTEST IN RESPECT OF THEIR MATCH DAY 16 DIVISION ONE LEAGUE MATCH

PROCEEDINGS

In accordance with Article 56 of the GFA Statutes (2019) and Articles 35(9) of the GFA Division One League Regulations 2019, this Disciplinary Committee (hereinafter referred to as “the Committee”) considered the depositions from Berekum Arsenal FC (hereinafter referred to as “the Petitioner”) and the Statement of Defence from BA United FC (hereinafter referred to as “the Respondent”) with their supporting attachments and the reports of the match officials.

SUMMARY OF FACTS

CASE OF BERKUM ARSENALS FC

Berekum Arsenal FC (the Petitioner) protested against BA United FC (the Respondent) for failing to pay affiliation fees of GHc2,500 to the Ghana Football Association before playing their Matchday 16 Division One League match between the two clubs at the Sunyani Coronation park.

The Petitioner stated that BA United FC failed to pay the GFA affiliation fee which qualifies them to be part of the GFA and to play in the Division One League.

The Petitioner mentioned in the Statement of Case that BA United FC had not paid affiliation fees to the GFA making them unqualified to play against Berekum Arsenal.

The Petitioner therefore concluded that the BA United FC should be declared losers of the said match. They added that BA United FC should be declared losers of the match and three points should be deducted from the Clubs accumulated points in line with the relevant provisions of the GFA regulations.

The Petitioner attached a document titled **Division One League Special Regulations** to its protest.

DEFENCE OF BA UNITED FC

In its Statement of Defence, the Respondent stated that the Petitioner failed to adduce any relevant provision in the GFA Statutes and Division One League regulations to back their case.

BA United FC stated that payment of Affiliation fees is an administrative process enforceable by the Ghana Football Association through the General Secretary. The Respondent then added that any Club that fails to pay the affiliation fees is deemed not to be in good standing and shall suffer punitive sanctions accordingly which shall include forfeiture and deduction of points administratively.

The Respondent averred that the burden of proof is on the Petitioner and not to send the Disciplinary Committee on a hunt to fish for information which is clearly not in existence.

BA United FC then confirmed that it has paid its affiliation fees for the 2020/21 Division One League season and prayed the Disciplinary Committee to award punitive cost against the Berekum Arsenal FC for filing a frivolous protest.

FINDINGS AND GROUNDS OF THE DECISION

It is the case of the Petitioner that BA United FC had failed or refused to pay its Affiliation Fee and therefore must forfeit the match played between the two sides. The Committee notes that the Berekum Arsenal FC failed to state the particular provision from the GFA Division One League Regulations to back its claims.

Rather, the Committee finds that the Petitioner attached the **repealed GFA Division One League Special Regulations** to its protest and sought to refer the Committee to provisions of the repealed Regulations.

While the Committee takes judicial note of the stating of a repealed regulation by Berekum Arsenal FC, the Committee would however proceed to find the relevant provisions in the Division One League Regulations which may relate to the protest.

The Committee finds that granted that the claims of the Petitioner are true, the Division One League Regulations 2019 did not capture non-payment of Affiliation fees under the provisions that may lead to forfeiture.

However, Article 15 of the GFA Disciplinary Code which states that:

“Anyone who fails to pay another person (such as a player, a coach or a club) or GFA a sum of money in full or part, even though instructed to do so by a body, a committee or an instance of GFA, CAF, FIFA or a CAS decision (financial decision), or anyone who fails to comply with another final decision (nonfinancial decision) passed by a body, a committee or an instance of GFA, CAF, FIFA or by CAS:

- a) will be fined for failing to comply with a decision;

in addition:

- b) will be granted a final deadline of 14 days in which to pay the amount due or to comply with the non-financial decision;
- c) in the case of clubs, upon expiry of the aforementioned final deadline and in the event of persistent default or failure to comply in full with the decision within the period stipulated, a transfer ban will be pronounced until the complete amount due is paid or the non-financial decision is complied with. A deduction of points or relegation to a lower division may also be ordered in addition to a transfer ban in the event of persistent failure, repeated offences or serious infringements or if no full transfer could be imposed or served for any reason.

Again, granted that the Petitioner's claims are accurate, the Ghana Football Association would be obliged to grant the Respondent a final deadline of 14 days to pay the amount due as stipulated in Article 15(b) of the Disciplinary Code 2019. This Regulation requires that the **fine and the deadline are communicated** to the party to trigger the reckoning of the 14 days deadline.

Thus, for a protest to succeed under these provisions, (supra) a club must prove:

i. that the BA United FC was fined and was given a final 14-day deadline.

ii. That the final deadline had been communicated to BA United FC.

iii. that the deadline was communicated had passed or elapsed.

iv. that BA United FC had not paid the Affiliation Fees and/or the accompanying fine.

v. that the match in question was played at the time the Affiliation fees and the fine remained unpaid.

Firstly, it the finding of this Committee that no final deadline had been communicated to BA United FC after which the club had failed or refused to pay the Affiliation fees. Thus, on this point the Protest shall fail.

Secondly, it is the finding of this Committee from the Accounts Department of the GFA that BA United FC paid its Affiliation fees.

Forfeiture is one of the highest punishments and any case raised on it carries a high burden of proof that is beyond reasonable doubt. The Committee finds that the Petitioner failed to provide evidence beyond doubt.

Also it is the finding of the Committee that the Petitioner's reliance on a repealed law further rather weakened the protest.

It is therefore, the position of this Committee that the Protest of Berekum Arsenal FC shall fail in respect of the match since the Respondent did not owe the Affiliation fees as alleged by the Petitioner and also no deadline was communicated to BA United FC too.

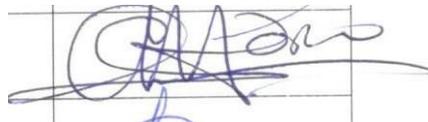
It is the position of this Committee that this protest is not only frivolous but vexatious and an abuse of the Disciplinary process.

The Committee is disturbed that clubs have taken the lenient posture of the Committee to embark on their “fishing” expeditions by filing protests when they may not be clothed with all the requisite evidence to do same.

DECISIONS

The Committee therefore makes the following decisions:

- 1. That the protest filed by Berekum Arsenal FC is hereby dismissed.**
- 2. That an amount of Five Thousand Ghana Cedis (GH¢5,000.00) is hereby imposed on Berekum Arsenal FC for filing a frivolous protest. The said amount is payable to the GFA within 14 days upon receipt of this Ruling, failing which Berekum Arsenal FC shall forfeit their subsequent matches after the said deadline.**
- 3. That should any party be dissatisfied with or aggrieved by this Decision, the party has within one (1) day of being notified of this Ruling to appeal to the Appeals Committee of the Ghana Football Association {See Article 35(10) of the Division One League Regulations 2019}.**



**Osei Kwadwo Addo, Esq.
Chairman, Disciplinary Committee
Friday, May 14, 2021**