

IN THE APPEALS COMMITTEE
GHANA FOOTBALL ASSOCIATION
MONDAY, 16TH MAY, 2016

ACCRA HEARTS OF OAK SC - APPELLANTS

VRS:

GHANA FOOTBALL ASSOCIATION - RESPONDENT

CORAM

1.	MR. EMMANUEL EFFAH ANNAN	-	CHAIRMAN
2.	MR. DIVINE SUNU	-	MEMBER
3.	MR. CLAUDE OPPON	-	MEMBER
4.	MR. KWAME TAKYI	-	MEMBER
5.	MR. VINCENT EBO AIKINS	-	MEMBER
	MR. DANIEL ODURO	-	SECRETARY

REPRESENTATION

The parties presented their submission on the appropriate forms from the Ghana Football Association.

DECISION

1. On Sunday, 3rd April, 2016, Accra Hearts of Oak SC, the appellants herein, played host to Wa All Stars FC at the Accra Sports Stadium in their match day six (6) Premier League match. The supporters of the appellants were alleged to have misconducted themselves in a manner contradictory of the rules and regulations of the Ghana Football Association (GFA).
2. Consequently, three charges were brought against the appellants before the Disciplinary Committee (DC) of the GFA as follows:

“The Match Day 6 Premier League match between Accra Hearts of Oak SC and Wa All Stars FC played at Accra on Sunday, 3rd April, 2016 refers:

CHARGE ONE

Statement of Offence

Accra Hearts of Oak SC is hereby charged for a breach of Articles 58 and 59 of the GFA Disciplinary Code and Articles 35(1)(a), 35(3)(b), 35(4), 35(7)(a) and 35(7)(d) the GFA General Regulations in respect of this match.

Particulars of the Offence

That on or about the 20th minute of the match, when the first goal was scored against your club, your supporters threw water bottles and other objects at Assistant Referee 2, Freeman Anwulo and onto the field of play. That this behaviour of your supporters resulted in a hold up of play for about six (6) minutes in violation of the GFA Regulations.

CHARGE TWO

Statement of offence

Accra Hearts of Oak SC is hereby charged for a breach of Articles 58 and 59 of the GFA Disciplinary Code and Articles 35(1)(a), 35(3)(b), 35(4), 35(7)(a) and 35(7)(d) the GFA General Regulations in respect of this match.

Particulars of the Offence

That at half time when the match officials were walking to the dressing room your supporters threw water bottles and other objects at the match officials. That during the second half of play, anytime a decision goes against your club, your supporters threw water bottles and other objects at the two assistant referees and onto the field of play in violation of the GFA Regulations.

CHARGE THREE

Statement of offence

Accra Hearts of Oak SC is hereby charged for a breach of Articles 58 and 59 of the GFA Disciplinary Code and Articles 35(1)(a), 35(3)(b), 35(4), 35(7)(a) and 35(7)(d) the GFA General Regulations in respect of this match.

Particulars of the Offence

That immediately after the final whistle of the match, your supporters threw water bottles, stones and other objects at match officials and the security men escorting them into the dressing room and held the match officials hostage for over 35 minutes until the police rescued the match officials in police vehicle to the Police Station in violation of the GFA Regulations”.

3. In line with procedural rules, the appellants opted to plead guilty to the charges and waived its right to attend the hearing of the DC. The DC, accordingly, found the appellants guilty of the charges and sentenced them to suffer a total fine of GH¢12,000.00 and to play its next three (3) home matches behind closed doors. It is against this decision that the instant appeal was lodged by the appellants seeking a reduction of the sentence or punishment.
4. Before we consider the sentence imposed by the DC, we deem it fit to comment on certain pronouncements embodied in the DC's decision.
5. The DC pronounced that articles 58 and 59 of the Disciplinary Code of the GFA are not applicable to a club but to only natural persons and, therefore, not appropriate as a charge against the appellants. Respectfully, we disagree with this position. In our view, those articles are applicable to both natural and legal persons including clubs.
6. Article 3 of the GFA Disciplinary Code which sets out the scope of application of the Code is headed ***"SCOPE OF APPLICATION: NATURAL AND LEGAL PERSONS"*** Continuing, the article states as follows:

"The following are subject to this code:
 - a) *Members of the association, in particular the clubs*
 - b) *Officials;*
 - c) *Players;*
 - d) *Match officials;*
 - e) *Licensed match and players' agents;*
 - f) *Anyone authorized by the GFA to perform a function in a match, competition or other event organized by the GFA*
 - g) *Spectators"* (Emphasis supplied)
7. It is beyond ambiguity that the Code applies to both natural and legal persons. The appellants being a legal person can, therefore, not appropriately and legitimately be excluded from the scope of application of the Code. Accordingly, the said pronouncement by the DC is unsupported by the rules and regulations of the GFA and same is hereby set aside.
8. Having so decided, we now consider whether or not the conduct of the supporters of appellants indeed breached the articles which were alleged to have been breached as contained in the charges. This we find legitimate to do inspite of the fact that the appellants pleaded guilty to the charges,

because we are duty bound to support whatever decision or punishment we impose in terms of the GFA rules and regulations.

9. Besides, it is trite law that an appeal is by way of rehearing. Accordingly, we are empowered in dealing with the appeal to totally consider and evaluate the decision in terms of the evidence adduced and the applicable law to arrive at a decision which is just, fair and in accordance with the GFA rules and regulations.
10. Articles 58 and 59 of the Disciplinary Code deal with **threats** and **coercion** respectively. Article 58 provides as follows:

“Anyone subject to this code who intimidates a match official with serious threats will be sanctioned with a fine of at least GH¢2000 and a match suspension. These sanctions constitute a departure from art. 32, in that they may not be combined with others.”

Article 59 also states as follows;

“Anyone subject to this code who uses violence or threats to pressurize a match official into taking certain action or to hinder him in any other way from acting freely will be sanctioned with a fine of at least GH¢2000 and a match suspension. These sanctions constitute a departure from Art. 33, in that they may not be combined with others.”

11. It is our view that the conduct of the appellants’ supporters fall within the intendment of those articles. Accordingly, in our opinion, the supporters of the appellants’ conduct of throwing water bottles and other objects onto the field and holding the match officials hostage constitute a breach of those articles and we so hold.
12. In considering the conduct of the appellants’ supporters in terms of the other articles alleged to have been breached, we deem it appropriate to reproduce those articles as follows:

“35(1)(a)

A club official, player or member of a club who (a) interferes with the progress of a match; or

35(3)(b)

Throwing of sachet water, plastic bottles and other objects onto the field of play shall attract the sanctions in paragraph 3c above.

35(4)

The Association shall hold clubs responsible for the misconduct of their supporters before, during and after a match.

35 (7)

In addition to matters referred to in any other rule, it shall be misconduct if a club, Director, official, Referee, Assistant Referee, or player or member is proved to have done or permitted or assisted any of the following to be done.

(a) Violation of the laws of the Game or rules and regulations of the Association or any other Association affiliated to FIFA

7(d)

Commit any offensive act not provided for in above or made any offensive statement either verbally or in writing or is responsible for any conduct or any matter which is in the opinion of the Association ungentlemanly, insulting or improper behaviour or likely to bring the game into disrepute”.

13. From the above, we have no difficulty in holding that the conduct of the supporters of the appellants breached article 35(3)(b). It is also not in dispute that the conduct of the supporters of the appellants breached article 35 1(a) since by holding up play for about six (6) minutes, it constitutes interference with the progress of the match. Again, it is not in dispute that the appellants’ supporters misconducted themselves by violating the laws of the game or rules and regulations of the GFA in terms of article 35(7)(a). Moreover, it is our firm view that the behaviour or conduct of the supporters of the appellants was ungentlemanly, insulting, improper and brought the game into disrepute in terms of article 35(7)(d). Furthermore, we hold the appellants responsible for the misconduct or breaches perpetrated by its supporters in accordance with article 35(4).

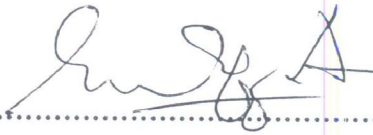
Sentence

14. In applying sanctions for the breaches as indicated above, we are not oblivious of the express sanctions provided under article 35(3)(b) which is a fine of GH¢500.00 for premier clubs. We are also aware that for breaches of article 35(1)(a), the DC is empowered under article 35(1)(b) to impose a fine determined by it or as it deems fit without any limit. In other

also noteworthy that we have taken into account the written apology of the appellants. Also, we note that the minimum fine to be imposed under articles 58 and 59 of the GFA Disciplinary Code is GH¢2,000.00.

15. Accordingly, for the breaches of the provisions as mentioned above, the appellants are fined as follows:

- (i) In respect of count one, the appellants are fined to pay the sum of GH¢5,000.00.
- (ii) In respect of count two, the appellants are fined to pay a fine of GH¢2,000.00.
- (iii) In respect of count three, the appellants are fined to pay a fine of GH¢5,000.00.
- (iv) Additionally, the appellants are also sanctioned to play their next two (2) home matches without spectators.



EMMANUEL EFFAH ANNAN
CHAIRMAN