



**IN THE NORTH WEST HIGH COURT  
MAFIKENG**

**CASE NO.:868/2011**

In the matter between:

REAL MADRID FOOTBALL CLUB

APPLICANT

and

SOUTH AFRICAN FOOTBALL ASSOCIATION

BOPHIRMA REGION

1<sup>ST</sup> RESPONDENT

FOOTBALL CLUB IPELEGENG C/O SHIMANE SEREBOLO

2<sup>ND</sup> RESPONDENT

DATE OF HEARING : 28 MAY 2011

DATE OF JUDGMENT : 28 MAY 2011

DATE OF REASONS : 09 JUNE 2011

FOR THE APPPLICANT : ADV H SCHOLTZ

FOR THE 1<sup>ST</sup> RESPONDENT : MS MOAGI

FOR THE 2<sup>ND</sup> RESPONDENT : NO APPEARANCE

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REASONS FOR JUDGMENT

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**LANDMAN J:**

[1] On 28 May 2011 I made the following order in this matter:

1. The application is dismissed.
2. There is no order as to costs.

[2] These are the reasons for my order.

[3] Real Madrid Football Club (Madrid) sought a final interdict against the South African Football Association, Bophirima Region (SAFA) and Football Club Ipelegeng (Ipelegeng). Madrid and Ipelegeng are affiliated to SAFA and play football in accordance with SAFA rules.

[4] Madrid and Ipelegeng played in the Region's B Stream. The winner of the B Stream plays in a final play off against the winner of the A Stream on Sunday 29 May 2011. This match is important as it can qualify a club for promotion to the Vodacom League.

[5] It is common cause that SAFA did not conduct the affairs of the Region in a satisfactory manner. Madrid had accumulated sufficient points to make it the leader of the B Stream but it was positioned second in that Stream. However, at a meeting of clubs conducted under the auspices of SAFA on 17 May 2011, attended by a representative of Madrid, Madrid was recognised as the winner of the B Stream. But, as reflected in the minutes of that meeting, issues relating to a club known as Asec Mimosa (Mimosa) and one relating to AC Milan were still to be resolved. The outcome could affect Madrid's standing as the leader in its Stream.

[6] The issue concerning Mimosa was that Mimosa had failed to attend and play numerous matches against clubs. As Mimosa had not attended three of its fixtures against Madrid, Madrid was entitled to what is termed “walk over” points meaning that two points were awarded to Madrid for each such fixture; a total of six points. This issue was resolved on 20 May 2011 and Madrid was notified of the decision. The decision was that Mimosa had indeed failed to attend fixtures when it was scheduled to play against other B Stream clubs. The result of this is that Mimosa was expelled from the league and the points and goals which had been allocated (including, I may add, the walk over points) were expunged in accordance with the rules of SAFA. This is common cause.

[7] The effect of this decision is that the points won or allocated to the B Stream clubs were recalculated. Madrid lost six points but gained another one when its dispute with A C Milan was resolved in its favour. But Ipelegeng had more points than Madrid and was therefore recognised as the leader of the B Stream and so qualified to play against the winner of the A Stream on Sunday.

[8] Madrid was dissatisfied and launched an urgent application to interdict the match scheduled for Sunday. Ms Moagi, who appeared on behalf of SAFA, submitted that the matter should be struck from the roll as it was not urgent. I am satisfied that the matter is urgent. No action could have been taken before the outcome of the Mimosa issue was made known on 20 May 2011.

[9] One of the requirements for an interim interdict, which is what Mr Scholtz, who appeared for Madrid, sought instead of a final interdict, is that an applicant should show a *prima facie* case even if open to some doubt.

[10] Madrid’s case is not that the SAFA rules were applied incorrectly so that it lost its

position as the leader of Stream B. But Madrid complains that SAFA had allowed Mimosa to play when it was clear that in March 2011 that Mimosa should have been expelled from the league. Clearly SAFA's failure to act timeously affected all the clubs but especially Madrid. Madrid was the leader but as a result of the expunging of the points created by Mimosa's non-participation in the league, lost out to Ipelegeng. This is a sad and frustrating experience for Madrid. But it is not the fault of Ipelegeng and neither is it the fault of Madrid. It is the result of the application of SAFA's rules which bind all concerned.

[11] Mr Scholtz submitted that I should interdict the match and Madrid would appeal the decision. I can only grant an interdict if, *inter alia*, the applicant shows a *prima facie* right open to some doubt. When pressed as to what right Madrid relied upon Mr Scholtz was obliged to argue that there was a possibility that an appeal tribunal might come to the assistance of Madrid. The problem for Madrid is that it cannot show on what grounds the appeal tribunal could arrive at a different decision. As Madrid has not shown a right, required for an interim interdict, I dismissed the application.

[12] I made no order for costs on account of SAFA's less than adequate administration, of the B Stream matches and fixtures. SAFA acknowledges this.

[13] In the result I made the order which I have set out in the introductory paragraph.

A A LANDMAN

JUDGE OF THE HIGH COURT

ATTORNEYS:

FOR THE APPLICANT : SM MOOKELETSI