

INTERNATIONAL COURT OF APPEAL (ICA)
OF THE
FEDERATION INTERNATIONALE DE L'AUTOMOBILE (FIA)

CASE:

Appeal lodged by

the Royal Automobile Club Motor Sports Association (UK)
on behalf of its licence holder, FORD MOTOR COMPANY LIMITED

against

Decision N°1 taken by the Stewards of the Meeting
on 17 January 1999

(Event: Rally of Monte Carlo
17/21 January 1999)

Hearing of Monday, 1st February 1999 in Paris

The FIA INTERNATIONAL COURT OF APPEAL, comprising Mr. J.W.G. van ROSMALEN (Netherlands) elected President, Mr. Vassilis KOUSSIS (Greece), Mr. P.G. DAHLSTROM (Scandinavia), and Dr. José MACEDO e CUNHA (Portugal);

Sitting in Paris on Monday, 1st February 1999, at the Headquarters of the Fédération Internationale de l'Automobile, 8, place de la Concorde, 75008, PARIS,

Ruling on the appeal lodged by the Royal Automobile Club Motor Sports Association on behalf of its licence holder Ford Motor Company Limited against Decision N°1 handed down by the Stewards of the Meeting of the Rally of Monte Carlo on 17 January 1999;

WHEREAS the appeal lodged by the Royal Automobile Club Motor Sports Association was defended, independently of the Royal Automobile Club Motor Sports Association represented by Mr. Terry LANKSHEAR, General Secretary; by the competitor FORD MOTOR CO. LIMITED, represented by Messrs. Martin WHITAKER (Director FORD EUROPEAN MOTORSPORT), Malcolm WILSON (Director FORD MARTINI WORLD RALLY TEAM), David MOUNTAIN (MOUNTUNE RACE ENGINES), assisted by Mr. Trevor PHILIPSON QC, Barrister in London, and Mr. Chris HARDMAN (Solicitor with Lovell White Durrant);

WHEREAS the following expert witnesses were heard:

1. Mr. Hans Christopher MEHMEL, President of the Panel of the Stewards of the Meeting for the event, on the subject of the date of the payment of the guarantee which was effectively paid when the intention to appeal was made known, immediately following the Stewards' decision,
2. Mr. Jacques BERGER, FIA Technical Delegate

WHEREAS, representing the FIA, Mr. Pierre de CONINCK, FIA Secretary-General of the Motor Sport division was also heard during the hearing;

Having recognized that the proceedings were in order, the appeal admissible, in accordance with Article 180, last § and Article 183, §3 of the International Sporting Code, and that the rights of the parties had been properly examined both prior to the hearing and during the hearing itself, the appellant and expert witnesses having been cross-examined and having supplied detailed explanations and answers when requested during the hearing with the aid of simultaneous interpretation which was deemed acceptable by the parties involved,

WHEREAS from the explanations supplied by the parties, from those contained in the supporting documents, from the relevant texts, as well as from the hearing of the case, the appeal deemed admissible, it was apparent that the problem before the International Court of Appeal was to ascertain if FORD FOCUS Cars N°7 and N°8 were or were not in conformity with Articles 252.1.1 and 255.5.1.13 of Annex J of the International Sporting Code;

WHEREAS Decision N°1 of the Panel of the Stewards of the Meeting dated 17 January 1999 submitted to the International Court of Appeal specified that the position of the water pump on the blocs of the cars in question was not in conformity with the above Articles, and that consequently, these cars were not authorized to take part in the 67th Monte Carlo Rally on 17 - 21 January 1999, while, due to the appeal pending and as safety was not an issue, a second decision was taken authorizing the cars in question to compete, subject to the appeal lodged;

WHEREAS it was established from the proceedings prior to and during the hearing and from the explanations given, both by the FORD representatives and by the expert witnesses, as well as from the conclusions of the FIA Secretary-General of the Motor Sport division, that the original water pump on the standard cars, which was presented to the International Court of Appeal, had not been modified and was located in the same place in the Rally cars as in the standard cars;

WHEREAS, however, it was not contested by the parties that, for obvious reasons, the original water-pump impeller had disappeared and that the functions of the original water-pump were carried out by a second water-pump which quite obviously could not have been the original one - as was acknowledged by FORD - and which was located at a distance of 25 cm from the first and connected to the oil sump, with the oil pump and the water pump sharing a common drive; and as the water-pump was not standard because the impeller was not the original one;

WHEREAS the configuration of the first water-pump, unusable, and of the second one, used, was never once contested by FORD's representatives, but was in contradiction with Article 252.1.1 of Annex J of the International Sporting Code, which specifies that "*All modifications are forbidden unless expressly authorised*"

WHEREAS FORD only maintained that the pipework was free, in accordance with Article 255.5.1.13 of Annex J of the International Sporting Code, and that the water-pump could be located in a different place, while acknowledging, however, the differences regarding the impeller, the drive and the casing;

WHEREAS the appellant went on to explain that it was impossible to use the original water-pump because the rally engine, which is a turbo engine as opposed to a standard, normally aspirated engine, could not function with a standard pump, and that it was for this reason that the position, the case, the impeller and the drive of the second water-pump - the only one used - were modified, as revealed by the drawings, photos and the parts themselves produced during the hearing and examined after due hearing of the parties;

WHEREAS FORD maintained that these modifications were in accordance with the regulations, maintaining that Article 255.5.1.13 provides that "*Dimensions and material of the fan/turbine are free, as are their number. ...*";

WHEREAS this article never refers to the water-pump, and appears only to be concerned with the cooling by the fan or the radiator;

WHEREAS moreover, the appellant maintained that concerning the driving pulleys, belts and chains for ancillaries situated outside the engine, Article 255.5.1.17 stipulates that "*the material, type and dimensions of the pulleys, chains and belts for driving the ancillaries are free. The route and the number of belts and chains are free.* " ;

WHEREAS in this case, it is not a question of the pulley, chain or belt, but a question of the drive of the second water-pump which was the same as the oil-pump drive (shared drive), and in addition, a question of the second water-pump which was neither in conformity nor in its original position;

WHEREAS, finally, Mr. David MOUNTAIN maintained that the water-pump was only pipework, and that due to this fact, was at the discretion of the manufacturer as was the other pipework referred to in Article 255.5.1.13;

WHEREAS a water-pump, notably its case, is made of metal which is designed to contain the force and pressure of water projected by the impeller, and cannot be likened to pipework, but is part of a specific engine cooling device, that being the water-pump in itself;

WHEREAS in this respect, FORD, by way of Mr. WHITAKER, Director of FORD EUROPEAN MOTORSPORT, submits that, with the FIA acting as intermediary, it requested modifications in the regulations governing water-pumps, and that this request was presented by Mr. Gabriele CADRINGHER, President of the Manufacturers Commission and addressed by fax on 13 January 1999 before the start of the Monte Carlo Rally, on the easily understandable grounds that the original water-pump for a normally aspirated engine could not be used on a turbo-charged engine providing approximately 300 Horsepower;

WHEREAS this request was well received by the World Motor Sport Council, subject to the agreement of all the manufacturers, which was not the case;

WHEREAS under these circumstances, Annex J alone was applicable, and in accordance with Articles 252 and 255, the cars were manifestly not in conformity;

WHEREAS the International Court of Appeal recognized that FORD's attitude was not without a regard for fairness or a constant concern to respect the regulations, if only by the request made in this respect;

WHEREAS the manufacturer hoped the organizers would take into account this proposed modification of the regulations, which would soon be submitted, on the 4th February 1999, to the Rally Technical Working Group, and that it would thus benefit from a certain tolerance on the part of the organizers;

WHEREAS, nevertheless, the Panel of the Stewards of the Meeting, regardless of the circumstances surrounding the case and the understanding of it which might have resulted, felt obliged, in this particular case, to note that the cars were not in conformity,

WHEREAS, under these conditions, it was up to the International Court of Appeal (ICA) to confirm Decision N°1 of the Panel of the Stewards of the Meeting dated 17 January 1999, and to state that, on the day of the event, Cars N° 7 and N°8 were not in conformity with the Regulations in Annex J of the International Sporting Code,

ON THESE GROUNDS,

DECLARES AND JUDGES that FORD FOCUS Cars N°7 and N°8 were not in conformity with Articles 252 and 255 mentioned above of Annex J of the International Sporting Code,

consequently CONFIRMS Decision N°1 taken by the Stewards of the Meeting,

DECLARES that the FIA must draw the conclusions of the International Court of Appeal's present decision for the classification of the Monte Carlo Rally of 17 - 21 January 1999,

DISMISSES the appellant's appeal and sentences the appellant to pay all costs.

Paris, 1st February 1999

(signature)

The President

