

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

CASE:

**International Appeal lodged by
the Fédération Internationale de l'Automobile
against Decision N°7
of the Stewards of the Meeting
for the
1997 FIA Formula 3000 International Championship event
which took place at Silverstone on 9th-11th May 1997**

Hearing of Monday, 9 June 1997 in Paris

The FIA INTERNATIONAL COURT OF APPEAL, comprising Messrs. Vassilis KOUSSIS (Greece), elected President, Edgar JULIEN (France), J.W.G. van ROSMALEN (Netherlands), and P.G. DAHLSTROM (Scandinavia),

Sitting in Paris on Monday, 9 June 1997, at the Headquarters of the Fédération Internationale de l'Automobile, 8, place de la Concorde, 75008, PARIS,

Ruling on the appeal lodged by the Federation Internationale de l'Automobile against decision N° 7 taken by the Stewards of the Meeting for the 1997 FIA Formula 3000 International Championship event run on 9 -11 May 1997 at Silverstone,

Having recognized that the proceedings were in order, the appeal admissible, and that the rights of the parties had been duly examined in the proceedings both before and during the hearing, the Appellant and knowledgeable parties each having supplied all detailed and relevant explanations when asked for during the hearing, and having answered all questions with the aid of simultaneous interpretation deemed satisfactory by all parties,

After hearing the competitor, Super Nova Racing Limited, represented by Mr. David SEARS, Director General; assisted by Mr. David MILLS, Solicitor; Mr. Terry LANKSHEAR, RAC Secretary-General; Mr. Mick COOK, Engineer for Super Nova Racing Limited; and Mr. Richard TAYLOR, Chief Mechanic for Super Nova Racing Limited on the one hand; and on the other hand, Mr Pierre de CONINCK, FIA Secretary-General Sport for the Appellant; as well as Mr Christian SCHACHT, FIA F3000 Technical Delegate for the event; and Mr. Gabriele Cadringer, FIA Engineer; in the presence of Messrs. L. de Freitas and A.G.H. Lapsley, Stewards of the Meeting, heard for information;

WHEREAS before any discussion the circumstances of the case should be evoked;

WHEREAS on the occasion of the Silverstone event which was part of the 1997 FIA Formula 3000 International Championship and which was run on 9 - 11 May 1997, a problem arose during the technical verification following the second qualifying practice session;

WHEREAS it stems from the report submitted by the Technical Delegate, Mr. Christian Schacht, that Car N° 3 driven by Mr. Zonta was equipped with the same gearbox as those authorised by the F3000 Technical Regulations, but that "from this gearbox the first gear ratio was not present in the car and this modification was not one of the permitted changes to the original specification as per Articles 9.1, 9.3, and 2.4;"

WHEREAS the technical report goes on to specify that a representative of the competitor was attending the scrutineering and that "he - Mr. Mike Cook - declared personally to me that they decided not to fit the first gear ratio," the Technical Delegate adding that he considered "this modification a serious infringement to the technical regulations. As a consequence, Car N°3 did not conform to the F3000 Technical Regulation;"

WHEREAS during the hearing, Mr. Schacht confirmed his report, stating that he had asked Mr. Cook, Engineer for Super Nova Racing Limited, to engage the first gear, and that Mr. Cook had replied, "You will not find the gear if you strip the box";

Mr. Cook had tried to engage the first gear but had had no more success than another mechanic, Mr. Marc Sims of the Super Nova Racing Limited Team, who had not succeeded either, Mr. Cook subsequently affirming that there was no first gear and that when Mr. Schacht had asked to see the gearbox, Mr. Cook had said there was no first gear;

WHEREAS during the hearing Mr. Schacht specified that Mr. Cook had told him, concerning the stripping of the gearbox, that "there is no point in it, you won't find the first gear" but that this was a misunderstanding as he had only meant that the first gear could not be engaged;

WHEREAS Mr. Cook declared that he had tried to engage the first gear, but that it had obviously been impossible to engage, adding "you will not find the gear";

WHEREAS Mr. Cook, as well as Mr. Schacht, agreed on one point, that being that, had there been no first gear, there would have been "a slight advantage" in performance, though Mr. Cook asserted in addition that he had not cheated, and that he could not be accused of not having fit the first gear ratio, adding "if the first gear ratio was not fitted, there must be some reason for it, but I did not cheat";

WHEREAS Mr. Richard TAYLOR, Chief Mechanic for Super Nova Racing Limited, declared that it was in fact not possible to engage the first gear but that he had not been present during the conversation between Mr. Schacht and Mr. Cook;

WHEREAS under these conditions the Court must judge whether or not the Car conformed with the prescriptions in Articles 9.1, 9.1.3, and 9.3.1 of the 1997 F3000 Technical Regulation and with those of the International Sporting Code, Article 145;

WHEREAS Mr. David Mills began by supporting the assumption that, even if there were not 5 gears, the car was in conformity with the regulation;

WHEREAS the International Court of Appeal cannot accept this argument in the light of Article 2.4 specifying that the rolling chassis, once supplied, may not be modified in any way whatsoever except with the written permission of the FIA, after consultation with the manufacturer;

WHEREAS the esteemed Solicitor of the Super Nova Racing Limited claimed that this provision, which effectively comprises chassis and gearbox, contradicts Article 9.3.1 which states that cars must not have more than 5 forward gears, thus deducing that it is not against regulations for a car to have fewer than 5 gears;

WHEREAS this argument cannot be accepted and no contradiction exists, because the entire gearbox chassis supplied by the manufacturer must have 5 gears; it is only forbidden to add a 6th gear, but to be in conformity with the manufacturer's specifications, the gearbox may not have 4 gears or less;

WHEREAS Article 9.1 specifies only the number of permitted changes to the original specification;

WHEREAS nothing in the wording of Article 9 suggests that a lower gearbox ratio is allowed, especially as Article 9.1.3 stipulates that, concerning the gearbox ratios, only those from the range available from the rolling chassis supplier are authorised;

WHEREAS under these conditions, the arguments presented by assumption by the Counsel of Super Nova Racing Limited must be rejected, notwithstanding the problem of safety;

WHEREAS in addition, Article 2.6 of the same regulation stipulates the duty of the competitor as follows: "It is the duty of each competitor to satisfy the scrutineers and the Stewards of the Meeting that his F3000 car complies with these regulations in their entirety at all times during an event";

WHEREAS Articles 2.4 and 2.6 together clearly establish that the competitor must show proof that his car complies with the regulation and that this is his responsibility alone;

WHEREAS these provisions are specific to Motor Sport, and are designed to stop any attempts at cheating which could affect the equality of chances;

WHEREAS it is not, as in standard law, to leave any doubt as to a possible infringement by the competitor, but on the contrary, when there is any suspicion, it is up to the competitor to establish that the car complies with the regulation, in accordance with the definitive provisions mentioned above;

WHEREAS in this case, suspicion as to the conformity of the car did exist, and the Stewards of the Meeting could not, therefore, exclude the possibility of the competitor having infringed the regulation;

WHEREAS for this reason it is necessary to invalidate the decision of the Stewards of the Meeting, while it is also necessary to invalidate the decision because the Stewards did not take into account the provision, albeit clear, of Article 2.6 of the 1997 F3000 Technical Regulation;

WHEREAS moreover, the Technical Delegate's report must, totally independent of the opposing Teams and on account of the Technical Delegate's competence and appreciation of the circumstances, be considered accurate unless proof is introduced that he was mistaken or had acted in bad faith;

WHEREAS this is not the case in this instance, due to the formal declaration made by Mr. Cook, according to whom no first gear ratio existed in the gearbox; this declaration was not seriously denied during the hearing and no evidence to the contrary was introduced by the competitor;

WHEREAS under these circumstances, the decision of the Stewards of the Meeting cannot be confirmed for the above mentioned reasons;

ON THESE GROUNDS,

AS TO THE FORM,

DECLARES the appeal admissible,

AS TO THE FACTS,

INVALIDATES the decision of the Stewards of the Meeting for the Formula 3000 International Championship handed down on 10 May 1997 at 7:50 p.m.,

RE-RULING,

DECLARES AND JUDGES that, concerning Car N°3 of the Super Nova Racing Limited Team driven by Mr. Zonta, proof was not introduced as to its conformity with the F3000 Technical Regulation,

REVERSES consequently the decision of the first judges,

DECLARES AND JUDGES that the classification of the event as communicated to the sporting authority should not be approved, leaving it up to the sporting authority to re-establish the classification taking account of the present decision,

ORDERS Super Nova Racing Limited to pay all costs.

Paris, 9 June 1997

The **PRESIDENT**