

Case Brief: Ivy Morrison v. Ghana Revenue Authority

Citation: Suit No. CM/BDC/0051/2019

Date: 21 January 2019

Court: High Court of Justice (Commercial Division), Accra

Judge: George K. Koomson J.

Flynote

Civil Procedure – *Interlocutory Injunction* – **Tax Administration** – *Customs Division* – *Implementation of Benchmark Values* – *Cargo Tracking Note (CTN)* – *Discriminatory practices* – *Whether a court can restrain a statutory body from performing its legal mandate* – **Balance of Convenience**.

Facts

The Plaintiff/Applicant, a member of the Frozen Food Importers Association of Ghana, filed a suit against the Ghana Revenue Authority (GRA). She alleged that the GRA was granting preferential import values to certain traders while applying standard benchmark values to others, which she claimed was discriminatory and undermined fair competition.

The Plaintiff applied for an **interlocutory injunction** to restrain the GRA from applying any preferential import values to frozen poultry imports, arguing they should only use the established benchmark values until the final determination of the suit.

The GRA opposed the application, arguing that the "preferential" treatment the Plaintiff referred to was actually the implementation of the **Cargo Tracking Note (CTN)** policy, which allowed for a more accurate valuation of goods based on actual invoices rather than generic benchmark values. The GRA also noted that the Benchmark Value policy the Plaintiff sought to enforce had been suspended by the Government at the time of the ruling.

Issues

1. Whether the Plaintiff had established a legal or equitable right that needed protection by the court.
2. Whether the balance of convenience favoured the granting of an injunction against a statutory body performing its revenue mobilization functions.
3. Whether an injunction should be granted for a policy (Benchmark Values) that was no longer being implemented.

Held (Judgment)

The High Court **dismissed the application** for an interlocutory injunction.

- **Status of the Policy:** The Court found that the Government had already suspended the implementation of the Benchmark Values policy. Therefore, it was neither "just nor necessary" to grant an injunction to enforce a policy that was no longer in effect.
- **Restraining Statutory Bodies:** The Court emphasized that it is generally slow to grant injunctions against statutory bodies like the GRA to prevent them from performing their legal duties (revenue collection), unless the act is clearly illegal or ultra vires.
- **Nature of the CTN:** The Court noted that the CTN was a policy aimed at identifying the true value of goods. Whether its implementation was discriminatory was a matter for the substantive trial, not the interlocutory stage.
- **Balance of Convenience:** The Court held that the balance of convenience weighed in favour of the GRA, as restraining the revenue authority could lead to a significant loss of state revenue, whereas the Plaintiff could be compensated in damages if she eventually won the substantive case.

Relevant Legal Provisions Considered

Common Law & Procedural Rules:

- **Order 25 Rule 1 of C.I. 47:** Governing the grant of interlocutory injunctions.
- **The "Balance of Convenience" Principle:** As established in *American Cyanamid Co v Ethicon Ltd* (and referenced through local precedents), requiring the court to weigh the potential hardship to both parties.
- **Triable Issues:** The requirement that there must be a serious question to be tried at the substantive hearing.

Statutory & Policy Framework:

- **Ghana Revenue Authority Act, 2009 (Act 791):** Regarding the mandate of the GRA to collect revenue and implement tax policies.³
- **Customs Act, 2015 (Act 891):** Concerning the valuation of goods for customs purposes.
- **Cargo Tracking Note (CTN) Policy:** The administrative policy used to verify the value of imports.