



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Numbers: IA/26927/2013

THE IMMIGRATION ACTS

**Heard at Newport
3 October 2014**

**Promulgated on
20 November 2014**

Before

**MR C M G OCKELTON, VICE PRESIDENT
DEPUTY UPPER TRIBUNAL JUDGE DAVIDGE**

Between

PW

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss N M Hashmi, instructed by Immigration Practitioners Service

For the Respondent: Mr I Richards, Senior Home Office Presenting Officer.

DETERMINATION AND REASONS

1. The appellant is a national of Uganda. He appealed to the First-tier Tribunal against the decision of the respondent on 6 August 2013, refusing him leave to remain. The appellant came to the United Kingdom lawfully but the relationship upon which his admission was based has since broken up. It is now accepted on his behalf, as we understand it, that he cannot meet the requirements of the Immigration Rules but his claim is based on

a same sex relationship in which it is said he has been engaged since March 2012.

2. In the First-tier Tribunal, Judge Trevaskis examined the evidence produced to him, said to support the existence of that relationship and concluded that he was not persuaded that it existed and that being the only basis upon which realistically the appellant could succeed in his appeal. He dismissed it.
3. An application for permission to appeal was refused by the First-tier Tribunal but granted by Judge Perkins in the Upper Tribunal. The application was made essentially on two bases. The first was that the First-tier Tribunal had placed undue weight on a report made by a Chief Immigration Officer who had visited the claimed joint residence of the appellant and his partner. The second ground is essentially dependent upon the establishment of a relationship between them, but is to the effect that on the basis of such relationship it would be disproportionate to expect the appellant to leave the United Kingdom. Judge Perkins' grant of permission contains the following passage:

“Arguably the evidence of what people told the Chief Immigration Officer should not have been received as evidence of the truthfulness of what they said. It is clearly hearsay and, save where statute says otherwise is not evidence of the truthfulness of what was said. The Chief Immigration Officer might have been talking to people who bore a grudge against the appellant, or who lied because they did not trust the officer or who were not in a position to know who lived in the house. Arguably the First-tier Tribunal judge should not have found such evidence to be “highly damaging”.”

4. That, as is readily accepted by Miss Hashmi, who appears before us on behalf of the appellant, is a ground which it is difficult to sustain; the position is that the strict rules of evidence, including the rule against the admission of hearsay, do not apply to the evidence before the First-tier Tribunal, and although she referred us to s. 4 of the Civil Evidence Act 1995 giving guidance for the approach to hearsay evidence, that too, does not apply to the First-tier Tribunal. (It applies, as the definition section of the Act shows, only to Tribunals which are bound by the strict rules of evidence).
5. Nevertheless, as Miss Hashmi submitted in her concise but direct submissions, the question how much weight should be attached to a statement containing hearsay is a matter which ought to be the subject of consideration by a judge taking such evidence into account. She pointed out to us that the report of the Chief Immigration Officer contains two errors in the address which is said to have been visited; it is given as Whitewell Road instead of Whitehall Road and the final two characters of the post code are reversed. Further down the statement, what is indicated is that one of those interviewed at that address said that post for the appellant sometimes arrived at the house, and the other said that it didn't. Those characteristics of the evidence, submitted Miss Hashmi, were such

as to indicate that it should not have been given the credence that the judge gave it. Miss Hashmi also pointed out that there is evidence dating from a considerable period between early 2012 and late 2013, indicating the appellant and his partner living in each case at the same address at two separate addresses; one of them being the address which it is thought the Chief Immigration Officer meant to visit.

6. So far as the first of those factors is concerned, that is to say the weight to be placed on the Chief Immigration Officer's report, Mr Richards submits that it is clear that whatever errors there may have been in the address recorded in the report, the officer visited the correct address. Indeed that is confirmed by oral evidence that was given at the First-tier Tribunal by the appellant, who made comments about the comparative lack of knowledge of the interviewee who said that he had not seen any post for the appellant. In that context it does appear clear to us that the Chief Immigration Officer's recording of the address and post code simply contained two mistakes, whereas his visit was to the correct address.
7. The evidence relating to the sharing of an address by the appellant and his partner was characterised by the judge as not independent. Indeed it is not independent: in each case what is shown is that the address was given by the person in question for the purposes of correspondence, and of course any friend may use any other friend's post box for that purpose. The use of the same address for official purposes does not establish a relationship between the parties of the sort that would engage Article 8. The mere fact that two people live at the same house, even if they subsequently lived, the two of them, at another house does not of itself establish a relationship of that sort either. As the judge emphasised, there is no outside evidence pointing to this relationship. The parties are said to have met at a bar in Bristol and there was, for example, no evidence from any of their friends saying that they are known as a couple or anything like that.
8. The Chief Immigration Officer's report also shows that the people interviewed, who live in the house that the appellant and his partner are said also to live in, did not know the appellant. That, it appears to us, is a matter which needed to be taken very clearly into account. This is not a large block of flats where people would not know each other, it was an ordinary house, shared by a number of people, and indeed all the people sharing the same bathroom and kitchen. In those circumstances, evidence that the appellant was not known by any one of the people also living in the house was, as the judge said, highly damaging.
9. In addition, the judge noted the evidence from the appellant and his claimed partner about their relationship and the sort of things that they do together, and as he concluded, that that evidence was inconsistent and indeed patchy, generalised and lacking in persuasive detail.

10. It is, in our judgment, fair to say, as Miss Hashmi has said, that more could have been made by the judge of the details of the evidence before him: but in total it does not appear to us that the judge's approach to the evidence was unfair, insufficient or unlawful. What he had was evidence from the two people who mattered most in the claimed relationship, which did not begin to show him that the relationship was a genuine one; and other evidence which helped to confirm him in that view.
11. Looking at the matter as a whole, there really is no conceivable basis upon which he could properly have concluded that the claimed relationship really existed, and in the circumstances, any error that he might conceivably have made in setting out his consideration of the evidence, is, in our judgement, entirely immaterial. For those reasons, we decline to find an error of law, but in any event would not have set aside the determination, and the appeal is therefore dismissed.

C. M. G. OCKELTON
VICE PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
Date: 17 November 2014