



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

Appeal Number: IA/48298/2013

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 11 November 2014**

**Decision & Reasons  
Promulgated**

**On 2 December 2014**

**Before**

**UPPER TRIBUNAL JUDGE PINKERTON**

**Between**

**MR SUFAID KHAN  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr P Sutton

For the Respondent: Mr A Melvin

**DECISION AND REASONS**

1. The appellant was born on 4 January 1991 and is a national of Pakistan. He applied for a residence permit as confirmation of a right of residence in the United Kingdom but that application was refused. He appealed the decision and at an oral hearing in the First-tier Tribunal the Judge

dismissed the appeal finding that the appellant's marriage to an EEA national who is exercising treaty rights in the United Kingdom is a marriage of convenience.

2. On a renewed application to the Upper Tribunal the appellant was granted leave to appeal the decision of the First-tier Tribunal Judge. The judge granting permission said that only one ground of the application for permission to appeal has any arguable merit; namely, that the First-tier Tribunal Judge may have erred in law in equating the test for a marriage of convenience with the test of whether the marriage was "a subsisting, supportive and affectionate relationship" (paragraph 26 of the determination) and/or in concluding that the marriage was one of convenience, although there was "a relationship of sorts, even one involving sexual activities on occasions" (paragraph 25).
3. The appellant and sponsor attended a pre-arranged marriage interview on 24 October 2013. In paragraph 21 of the determination the judge notes that it is the respondent's case that the marriage is one of convenience, that it is not subsisting or genuine, and that the marriage has been entered into simply for the predominant purpose of securing residence rights.
4. The basis for refusal is the inconsistent and conflicting answers given at the marriage interview which led the respondent to conclude that the marriage is one of convenience. The appellant, on the other hand, asserts that the marriage is genuine and subsisting and that he and the sponsor were and are living together as husband and wife at the same address.
5. Mr Sutton, representing the appellant, submitted that many of the points taken against the appellant and sponsor were of no real significance. It is accepted in the determination that the parties are living at the same address and, in essence, the decision amounts to a criticism of the marriage comparing it with the standard of what might be considered an ideal relationship.
6. Mr Melvin in his submissions said that although they may be living at the same address this does not mean that it is not a marriage of convenience. The judge took all matters in the round and made it clear enough that this is a marriage of convenience.

### **My Deliberations**

7. This is a balanced decision. At the commencement of paragraph 22 the judge sets out those matters of corroboration and then lists a large number of discrepancies between the evidence given by the appellant and that given by the sponsor when they were asked questions on several topics. The judge was entitled to find that these discrepancies/inconsistencies/unsatisfactory features which emerged from the evidence have the adverse effect cumulatively and together of undermining the core of the appellant's and sponsor's stories.

8. Although one might agree with Mr Sutton's submissions that some of the points are not of any great significance there are others which are more important as are revealed by a full reading of paragraph 22. Furthermore, the judge had the benefit of hearing from both parties. She found that the oral evidence was unsatisfactory and sometimes confused.
9. As something of an aside, because it does not appear to have influenced the judge in a manner at all adverse to the appellant, it was clear to neither representative at the hearing before me why the judge made reference to a relationship between the appellant and sponsor involving sexual activities on occasions, because there does not appear to have been any reference to such activities in the evidence given either at interview or at the hearing.
10. The judge was entitled to conclude as she did on the matter of credibility and to have decided that although the evidence shows that the appellant and sponsor are living at the same address it is probable that the sponsor is allowed to share accommodation with the appellant rent free and utility bill free except for the BT bills. These are minimal and this arrangement is in order to facilitate the application.
11. In paragraph 26 the judge weighs up the evidence and finds "I accept the case as put by the respondent in the refusal notice/letter". The evidence did not persuade her that the appellant and sponsor have been living together as man and wife or that it is a genuine subsisting, supportive and affectionate relationship as the appellant claimed existed. Put another way the appellant claimed that he had a genuine subsisting, supportive and affectionate relationship with the sponsor but the judge, for reasons that she gave, did not find that to be so. It is patently clear therefore that bearing in mind that it was for the appellant to meet the requirements of the Regulations he was unable to show that on the balance of probabilities his marriage was other than a marriage of convenience.

### **Notice of Decision**

12. There has been no error displayed by the judge such as requires the decision to be revisited and the decision is upheld.
13. As to anonymity I find that there is no need in such a case for there to be an anonymity direction.

Signed

Date

Upper Tribunal Judge Pinkerton