



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

Appeal Number: OA/17029/2013

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 17<sup>th</sup> November 2014**

**Decision and Reasons  
Promulgated  
On 18<sup>th</sup> November 2014**

**Before**

**UPPER TRIBUNAL JUDGE MARTIN**

**Between**

**MRS MONIRA HAIDER  
(ANONYMITY ORDER NOT MADE)**

Appellant

**and**

**ENTRY CLEARANCE OFFICER - DHAKA**

Respondent

**Representation:**

For the Appellant: Mr J McLanachan (instructed by AK Solicitors LLP)

For the Respondent: Ms J Isherwood (Senior Home Office Presenting Officer)

**DECISION AND REASONS**

1. This is an appeal to the Upper Tribunal, with permission, by the Appellant in relation to a Determination of the First-tier Tribunal (Judge Wellesley-Cole) promulgated on 4th September 2014.
2. The Appellant had sought entry clearance to the UK as the spouse of her husband in the UK who is present as a Tier 1 (Post Study Work) Migrant. The application was refused by the Respondent on 18th July 2013 on the basis that a non-genuine document in the form of a forged bank statement

had been relied upon. The Appellant appealed and when the appeal came before Judge Wellesley-Cole on 30th July 2014 the Appellant was represented by Mr Hossain and the sponsoring husband attended. The Entry Clearance Officer was not on that day represented. In her Determination the Judge noted that in support of her application the Appellant had submitted a bank statement from South-East Bank Ltd that was found subsequently to be false when the Entry Clearance Officer contacted the bank. There was a document verification report completed by a visa support officer dated 16th July 2013 which said that Sir Iqbal Road branch of the bank in question in Dhaka had confirmed the bank statement and insolvency letter in relation to the account number ending 276 were not genuine. The Appellant's representatives argued before Judge Wellesley-Cole that there was no such branch in Dhaka and that the Sponsor's branch was located in Khulna, another Bangladeshi city.

3. The Appellant had produced a further bank statement dated 14th August 2013 and a letter from the bank dated 14th August of the same year which confirmed that the account existed and that the account was valid. However, in the determination the Judge referred to a second document verification report contained in the Respondent's bundle and referred to in the Entry Clearance Manager Review of 1<sup>st</sup> June 2014, also contained in the bundle. At paragraph 6 of the Determination the Judge pointed out that the significance of that document was that the grounds of appeal had been taken into account by the Entry Clearance Manager who carried out checks in relation to the new bank statement. As set out in the second document verification report that was also been found to be not genuine. The bank confirmed that the address on the statement was different from the one held on their records and transactions on the statement predated the date the account was opened. In reliance upon that the judge dismissed the appeal on the basis that the Appellant had now submitted two non-genuine bank statements.
4. The Appellant sought permission to appeal to the Upper Tribunal on the basis that the second document verification report and the ECM review had not been provided to the Appellant's representatives and they did not know of their existence until they received the Determination. Matters in connection with them could have been put to the Sponsor at the hearing.
5. When permission was granted the Presenting Officer's Unit, on behalf of the Entry Clearance Officer filed a response pointing out that the grounds were no more than an assertion and the representative who attended the hearing on behalf of the Appellant should make a statement as to what submissions were made. A copy of the Record of Proceedings was also requested.
6. Before me Mr McClanahan indicated that there was no signed statement by Mr Hossain. He did have a statement which had been prepared, he said at the "11th hour" but it was not signed. Additionally, Mr Hossain was not

present. Under the circumstances I declined to accept the unsigned statement as it was of no evidential value.

7. Mr McClanahan then indicated, surprisingly, that neither he nor those instructing him had yet had sight of the relevant documents; the ECM review and the second document verification report. This is rather astonishing given that they had known of its existence since the First-tier Tribunal's decision was promulgated. There had been no request for copies of those documents to the Presenting Officer's Unit or to the Tribunal.
8. I arranged for a copy of the Home Office bundle which was in the Tribunal's file and which was on the Home Office file to be given to Mr McClanahan and allowed him time to take instructions thereon.
9. He then indicated that he was making application for an adjournment because the Sponsor was adamant that the bank statements were genuine and that he wanted time to resolve matters and address the issues raised by the Entry Clearance Manager.
10. Somewhat reluctantly, in light of the poor show by the representatives, I am prepared to give the Appellant the benefit of the doubt and accept that the Respondent's bundle that both I and the Home Office Presenting Officer had were not provided to the Appellant's representative such that neither he nor the Sponsor had seen the ECM review or the second document verification report. If they did not know they did not have it they could not have mentioned it at the hearing before the First-tier Tribunal and I therefore accept that the first they became aware of this evidence is when they received the Determination. I therefore find that through no fault of hers the First-tier Tribunal Judge made a procedural error in determining the appeal on the basis of evidence that was not available to the Appellant or her representative and on that basis I set aside her Determination.
11. With regards to re-deciding the appeal I refused the adjournment request. The sponsoring husband and the solicitors have known since early September of the existence of this evidence. They had sought permission to appeal on the basis of it and yet had not thought fit to request copies of that evidence until the hearing before me. They have had ample opportunity to address the issue and have not taken it. Furthermore, the Entry Clearance Officer's bundle contains now two document verification reports and the second one was addressed to the correct bank branch and confirms that the statements were both false. I see no reason to give the Appellant a third opportunity to produce a third document which may be similarly dubious. I have no reason to doubt the Entry Clearance Officer and Entry Clearance Manager's conclusions. Proper enquiries were made of the bank and it is quite clear that whilst an account bearing that number exists with the account holder named, the address given on the statement for the account holder was different and the contents of the

statements were not genuine as it referred to transactions months before the account had even been opened. Reliance on now two forged documents is fatal to the application and the appeal falls to be dismissed.

12. If there is any truth in the claim that something has gone very wrong in Bangladesh because the Sponsor does genuinely have such a bank account then as and when that is resolved a fresh application can be made.
13. The appeal to the Upper Tribunal is dismissed

Signed

Date 17<sup>th</sup> November 2014

Upper Tribunal Judge Martin