



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: OA/19894/2012

THE IMMIGRATION ACTS

Heard at Glasgow
on 23 April 2014

Determination issued
On 24th April 2014

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

ENTRY CLEARANCE OFFICER, ALGERIA

Appellant

and

KHELIFA HELAL

Respondent

For the Appellant: Mr A Mullen, Senior Home Office Presenting Officer
For the Respondent: Mr T Maleque, of Bruce Short, Solicitors

No anonymity order requested or made.

DETERMINATION AND REASONS

- 1) This determination refers to parties as they were in the First-tier Tribunal.
- 2) On 12 July 2011 the appellant applied to enter the UK as a fiancé (i.e. with a view to marriage and permanent settlement in the UK) in terms of paragraph 290 of the Immigration Rules.
- 3) The respondent refused that application by notice dated 13 September 2012, not being satisfied in terms of paragraph 290 (iv) and (vi) that adequate maintenance and accommodation without recourse to public funds would be available to the appellant until the date of the marriage, nor that the parties would be able, after the marriage, to maintain themselves and dependants adequately without recourse to public funds.

4) First-tier Tribunal Judge Reid allowed the appeal by determination promulgated on 23 January 2014, under paragraph 290 of the Immigration Rules 290 and under Article 8 of ECHR.

5) These are the SSHD's grounds of appeal to the Upper Tribunal:

Failing to give reasons or adequate reasons for findings on a material matter

(a) The judge concludes that the appellant has satisfied the Immigration Rules on the basis of the evidence provided at appeal ... the evidence at the date of the [Entry Clearance Officer's] decision was inadequate and the judge should have considered the appeal on that basis.

(b) Furthermore the findings in respect of Article 8 do not establish exceptional circumstances and do not establish that it would be unreasonable to expect the appellant to comply with the conditions of a firm and coherent system of immigration control by making a fresh application with sufficient evidence of his ability to satisfy the Rules.

6) In a response dated 25 February 2014 under Rule 24 of the Tribunal Procedure (Upper Tribunal) Rules 2008 the appellant said that the documents on which Judge Reid based her decision had all been before the ECO.

7) Mr Mullen accepted that the point made in the Rule 24 response was correct, and that appeal ground (a) arose out of a misconception. There was thus nothing to show any error in the appeal having been allowed under the Rules. The finding under Article 8 was in the alternative, and beside the point.

8) The determination of the First-tier Tribunal, allowing the appellant's appeal, shall stand.



23 April 2014
Judge of the Upper Tribunal