



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

Appeal Number AA/09780/2014

THE IMMIGRATION ACTS

Heard at Field House
On 5th August 2015

Decision and Reasons Promulgated
On 20th August 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

A R

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms F Kadio (Legal Representative, A. de Ruano)

For the Respondent: Mr S Kandola (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellant is a citizen of Albania. Having arrived in the UK she claimed asylum but the application was refused. The Appellant's appeal was heard by First-tier Tribunal Judge Braybrook at Taylor House on the 4th of February 2015 and dismissed in a decision promulgated on the 10th of February 2015. By grounds of application of the 3rd of March 2015 the Appellant sought permission to appeal which was granted by Upper Tribunal Judge Deans on the 13th of March 2015.
2. The Appellant's case is that she entered an arranged marriage and had lived briefly with her mother-in-law. Before her application to join her husband in the UK had been decided she left him for another man called G, as a result of that she claimed her father threatened to kill her. G made her work as a prostitute, following a suicide attempt she was left alone but still

detained for a month before being brought to the UK. On her first journey in the UK she fled from the car she had been in, fearing further exploitation and located a cousin in the UK. If returned to Albania she feared her father and further trafficking.

3. The basic facts were accepted by the Secretary of State in the Refusal Letter, this included the fact of her escape from the car after her arrival in the UK. The issue arose with regard to the issue of sufficiency of protection on return to Albania. Clearly the view of the Secretary of State was that the Appellant could properly return to Albania and that formed the basis of the Appellant's appeal to the First-tier Tribunal.
4. The Judge found that the Appellant had not caused a loss to G as he had not paid for her and had stopped sexually exploiting her in Albania and in interview she had accepted he was unlikely to look for her. His having said his family were in Greece reduced the risk to her and she would not be misled as before. In paragraph 12 the Judge noted the circumstances of the Appellant's escape and that she had not been traced within the UK by G or anyone else. In paragraph 13 the Judge considered that there was sufficient protection in the circumstances. With regard to her father and the risk he might present the Judge discussed the likelihood of contact with her family, or lack of it, the support she had had from D and from her paternal cousins in the UK.
5. Upper Tribunal Judge Deans considered that it was arguable that the Judge had erred in relation to the finding that the traffickers business was not harmed by her running away, her response at question 186 of her interview may have been misconstrued, the fact she had not been located in the UK did not mean she would not be at risk in Albania and it was arguable that inadequate reasons had been given for finding she would not be entirely without family support if returned.
6. At the hearing the Appellant relied on the grounds of application and observed that in her Screening Interview the Appellant had indicated that she feared G if returned and that she would be found. She had run away as she feared what would happen in the UK. Findings in paragraph 15 had been misconstrued as she had lived with mother-in-law after the marriage and there was no evidence of independent living. It was submitted that the Judge had gone beyond the concessions made by the Secretary of State. That her father had not located her did not undermine the case as she had been held in a secret house.
7. For the Secretary of State it was submitted that the finding that she had not been exploited for the last month was relevant and decreased the risk she might face on return. At question 186 she had said with regard to G locating her "I am not saying that he is going to search for me but Albania is not that big and he can find me." The fact she had not been located in the UK went to the ability of the traffickers to locate her, reasons had been given in paragraphs 11 and 13 why she would not be at risk. Even if the Judge had erred with regard to the assistance from D it was still permissible to find that she could relocate within Albania.
8. The basis of the Appellant's account is not in issue but the findings that can properly be made from them are disputed. It is accepted that the Appellant was being trafficked into the UK, not by G, and that the Appellant ran away without being stopped or located. While the observation that G's business may not have been affected by her escape may be questioned it does not appear to me to be material to the decision that was made. The Judge did not address what contacts G may have had with those to whom the Appellant had been passed and what interest could remain in her if she were to be returned by those from whom she had run away.

9. The purpose of the Appellant's transfer to the UK would be relevant to this. Presumably she had not been brought to the UK to give her a better start in life and to make amends for her past ill-treatment. There was no consideration of the contacts that the different traffickers may have had and the potential danger in Albania in these circumstances and the ability of the state to provide her with protection in these circumstances also needed assessment. The focus on the Appellant's danger from G had the effect of distracting the Judge from the dangers that the Appellant may have faced from the other traffickers.
10. For the reasons given I am satisfied that the decision of the First-tier Tribunal is marred by material errors that fundamentally the conclusions reached by the Judge. In the circumstances it is appropriate to remit the appeal to the First-tier Tribunal to be re-heard by a different tribunal. Apart from the findings agreed by the Secretary of State no findings are preserved from the First-tier Tribunal decision and the matter is to be re-heard on all outstanding issues.

CONCLUSIONS

The making of the decision of the First-tier Tribunal involved the making of an error on a point of law.

I set aside the decision.

The appeal is remitted to the First-tier Tribunal for re-hearing not before Judge Braybrook.

Anonymity

The First-tier Tribunal made an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005.

I continue that order (pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008.)

Fee Award

At this stage I make no fee award, this is an issue to be considered by the First-tier Tribunal dependent on the decision made at the conclusion of the re-hearing.

Signed:

Deputy Judge of the Upper Tribunal (IAC)

Dated: 17th August 2015