



IAC-FH-AR-V1

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

Appeal Number: AA/10743/2014

THE IMMIGRATION ACTS

Heard at Field House

Oral determination given following
hearing

On 9 October 2015

Determination Promulgated

On 26 November 2015

Before

**UPPER TRIBUNAL JUDGE CRAIG
UPPER TRIBUNAL JUDGE STOREY**

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

FB

Respondent

Representation:

For the Appellant: Mr S Kandola, Home Office Presenting Officer

For the Respondent: Mr T Hodson, Elder Rahimi Solicitors

DETERMINATION AND REASONS

1. This is an appeal brought by the Secretary of State against a decision of First-tier Tribunal Judge Watt promulgated on 16 March 2015 in which the judge had allowed FB's appeal against the Secretary of State's decision refusing to grant her either asylum or humanitarian protection.
2. For ease of reference I shall throughout this determination refer to the Secretary of State who was the original respondent as "the Secretary of State" and to FB who was the original appellant as "the claimant".

3. The claimant is a citizen of Iran who is 73 years old or certainly was at the time of the hearing before the First-tier Tribunal and is illiterate. Having been granted a visit visa she claimed asylum whilst in this country. The claim was based on her fear of persecution in Iran because she would be believed on return to have been involved in anti-regime activities. The reason why she claimed she would be at risk is that following an inheritance dispute with her daughters [and] her sons-in-law, both of whom were Revolutionary Guards, had fabricated allegations against her. The determination of her claim depended essentially on whether or not her account was considered to be plausible.
4. The Secretary of State did not accept that her claim was plausible and accordingly she refused asylum and/or humanitarian protection. The claimant appealed against this decision and following a hearing at Hatton Cross on 4 March 2015 her appeal succeeded.
5. The Secretary of State was initially refused permission to appeal by First-tier Tribunal Judge Davidge but renewed the application for permission to appeal to the Upper Tribunal and eventually was granted permission to appeal by Deputy Upper Tribunal Judge Chamberlain on 3 July 2015.
6. In the grounds of appeal submitted to the Upper Tribunal there are essential two grounds. The first is that it is said that Judge Watts had made contradictory findings because, it is said,

“At paragraph 35 [the judge had found] against the appellant on the matter of her sons’-in-laws employment with Sepah before finding that the letter from the neighbour, in which the same claim is repeated, was one on which he could attach weight (paragraphs 54, 59, 41)”.
7. The second ground was that in accepting the accuracy of the letter from the neighbour referred to above, the judge had failed to have proper regard to the guidance given in *Tanveer Ahmed v SSHD* [2002] ImmAR 318, and he should not have accepted the veracity of that document without having regard to all the evidence in the round.
8. Before us, on behalf of the Secretary of State, in his admirably concise submissions, Mr Kandola essentially relied on these grounds. He first of all set out the Secretary of State's reasons for saying that the decision was not compliant with *Tanveer Ahmed* which was that if the judge had had reservations about the evidence given by the applicant he had to reconcile those doubts before dismissing them merely on the basis of the letter which he accepted as genuine. Mr Kandola also submitted that the judgment “required better reasoning and analysis” and that the findings were essentially so inconsistent as to render the judgment itself arguably irrational, although he did not put it in quite those words.
9. On behalf of the claimant Mr Hodson relies on a very detailed written argument which had been served on the Tribunal in good time before the hearing and his arguments can be briefly summarised as follows. The judge had had full regard to various evidential difficulties which were apparent with the claimant's case. There were some inconsistencies in the evidence which was put forward on her behalf and the judge had

formed the view (see para 30) “that some of her evidence might be exaggerated”. The judge also at paragraph 34 had expressed “some doubts” about “the appellant’s version that she was taken to the village police station, shortly after she arrived back in Iran”.

10. Then at paragraph 35 the judge expressed “some concern” about the claimant's evidence that “both her sons-in-law work for Sepah, the Islamic Revolutionary Guard’s corps”. The judge noted that “It would seem to me to be a considerable coincidence if two of the appellant’s sons-in-law work for Sepah”.
11. It is perhaps worth noting also however that the judge had “no concerns at all about the evidence of the appellant concerning there being a land dispute between herself and two of her daughters” and he accepted the evidence of the claimant “that the two daughters have raised a court action against her regarding the ownership of land formerly owned by the appellant's husband”. Also, at paragraph 37 the judge accepted “completely” the evidence of the claimant that there is currently a land dispute ongoing between her daughters and herself regarding the ownership of the land which formerly was owned by her husband and in particular he also accepted her evidence “that she attended court on at least three occasions and was asked questions about that land dispute and also about whether or not she had forged a signature”. The judge then expressed some doubts as to the evidence given as to the precise questions she was asked in that court hearing.
12. Accordingly, the position absent the evidence from the neighbour to which I will turn in a moment is that part of the claimant's case was accepted but the judge had reservations as to whether or not other parts of it might have been exaggerated and these reservations were fully and carefully considered. However in addition to the claimant's own evidence she produced a witness statement from a neighbour, Miss Biroon, which was supportive of her case and which if true showed that the claimant's house had been visited by a number of security forces personnel who had “stated that [the claimant] is a spy and an anti-revolutionary and had fled to England for that very reason”. It is also said in this statement that these personnel had “added that nobody was permitted to enter her house [and that] if [the claimant] returns to Iran, she would be imprisoned immediately and subsequently executed”.
13. The claimant’s representatives lodged a nationality identity card of Miss Biroon with a photograph and her ID number in which her date of birth was said to be 23 September 1953. Although the judge noted there were inconsistencies in how these documents came to be with the claimant and lodged, which the judge referred to at paragraph 43, and although there were concerns as to other parts of the evidence set out in the following two paragraphs, nonetheless overall having considered all the evidence before him including the witness statement, the judge found that even though he did not accept all of the evidence given by the claimant, he nonetheless considered that there was a real possibility that she would be at risk on return.

14. As he put it at paragraph 46 “I have to consider whether the appellant has satisfied me on the lower standard of proof that there is a real risk of persecution if she is returned to Iran” and with this test in mind he noted that the evidence from the neighbour was accompanied by her national identity card which showed that she was not an imaginary person, and he also had to have in mind (see paragraph 57) “that the appellant is old, uneducated, illiterate and anxious”.
15. The judge had in mind “the considerable country information that is available regarding Iran and anti-regime activities” and in particular that what he had to assess “is not whether the appellant has been involved in any anti-regime activities but the perception of the Iranian authorities about this” (see paragraph 58). He accepted that there was an ongoing property dispute between the claimant and two of her daughters and her sons-in-law and that “there clearly will be a motive for the daughters and sons-in-law to make allegations about anti-regime activities being carried out by the appellant” (also at paragraph 58).
16. Accordingly the judge had set out the factors on either side of the scale, those which caused him to consider that the claimant may be at risk and those which suggested that her evidence might be exaggerated and that it might not be honest. As the judge noted at paragraph 59 “This is a difficult case” but he then went on to say that “It is one where I consider that the benefit of the doubt should be given to the appellant” and that he had “especially noted the witness statement from the neighbour who speaks to threats being made by the security forces when they visited the appellant’s home to seal it up”.
17. It seems to us that the judge directed himself properly as to the test he had then to apply. He considered all the difficulties in the case before deciding to accept the evidence of the witness and clearly considered all the evidence in the round before so doing. While it may have been open to a different judge to reach a different conclusion on the same evidence, it was this judge’s task to consider that evidence and to decide on the basis of that evidence whether the claimant would be at real risk on return. His decision that she would be at risk on return is a decision that was open to him on the evidence. His findings are adequate reasoned and it follows that there was no material error of law within the determination.
18. Accordingly the Secretary of State’s appeal against this decision must be dismissed.

Decision

The Secretary of State’s appeal against the decision of the First-tier Tribunal allowing the claimant’s appeal against the Secretary of State’s decision refusing to grant her asylum is dismissed.

The decision of the First-tier Tribunal allowing the claimant’s appeal is affirmed.

Signed:

A handwritten signature in black ink, appearing to read "Ken Craig". The signature is written in a cursive style with a large, looped "C" at the end.

Upper Tribunal Judge Craig

Date: 16 November 2015