



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

Appeal Number: IA/24901/2014

THE IMMIGRATION ACTS

**Heard at Glasgow
On 20 January 2015**

**Determination issued
On 21 January 2015**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

FLORENCE ANYOMI

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms H Jones, of Hamilton Burns, Solicitors

For the Respondent: Mrs M O'Brien, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Ghana. She appeals against a determination by First-tier Tribunal Judge Mozolowski, dismissing her appeal against refusal of leave to remain based on her family life interests and those of her husband, a UK citizen.
2. The five grounds in summary are as follows:

(i) the judge wrongly thought that the sponsor did not receive psychiatric back-up care, and so erred in thinking that his care needs could be replicated in Ghana;

(ii) the judge speculated that medication needed by the sponsor might be available in Ghana;

(iii) the sponsor's visit to the appellant in England for three weeks was not comparable to moving to Ghana when he had never travelled outside the UK and is aged 64 with chronic medical conditions;

(iv) the assessment that the appellant could return to Ghana alone failed to take account of the economic wellbeing of the UK, as she provides all aspects of personal care, which costs would fall on the public in her absence; and

(v) the tribunal overemphasised the public interest rather than considering the impact of removal on the appellant's family life.

3. Ms Jones submitted further to the grounds as follows. Ground (i): there was evidence that the sponsor had counselling and outpatient psychiatric appointments, contrary to paragraph 27 of the determination, where the judge said that he received "no social work or psychiatric backup as the appellant attends to all the sponsor's needs". The judge went wrong about the evidence which led into the further error of finding that his support "could be replicated in Ghana" because he would be with the appellant. There should have been a finding that the support for the sponsor would not be the same in Ghana, but rather there would be serious hardship. Ground (ii): it was accepted there had not been evidence about what medication was available in Ghana. However, there had been evidence of advice to expatriates to buy an international health insurance plan; of the sponsor's health problems; his lack of savings; and his dependency on benefits. The judge had fallen into speculation in saying that his treatment could continue, there having been no evidence that he could afford long term health insurance. Ground (iii) spoke for itself. Grounds (iv) and (v) ran together. The judge had not mentioned the positive economic effect of the appellant remaining in the UK. The determination should be set aside and reversed.

4. Mrs O'Brien submitted along these lines. The judge showed that she was aware of the type of support the sponsor receives, particularly at paragraphs 13 - 15 where several sources are mentioned. In context the judge's conclusion at paragraph 27 was clearly that the sponsor did not receive any intensive or day-to-day care and treatment. His conditions were well controlled and his psychiatric appointments are for biannual checkups only. The determination should be read fairly and as a whole. Ground (i) made a point which was only superficially attractive and which ignored the earlier paragraphs of the determination. The thrust of the appellant's case had been the care the sponsor received from her not from anywhere else. It had not been shown that his needs for support

diminished after the appellant came into his life. As to ground (ii) it had been for the appellant to show what care the sponsor would need in Ghana, what it would cost and what his financial situation would be. The judge was criticised for speculation but any absence of evidence went against the appellant not in her favour. Grounds (iv) and (v) were only disagreement on matters of weight and of proportionality which were for the judge. There was no such error as to require the determination to be set aside. Even if the judge had gone wrong about the evidence of support the sponsor required, it was on examination only support of a limited nature and not such as to lead to any different result.

5. Ms Jones in reply said that the evidence had shown that the appellant devoted much care to the sponsor yet he still required significant other input from sources such as his GP, physiotherapy, an acupuncture pain clinic, and a long term conditions group. Altogether his conditions including his mental health difficulties demanded a high level of support from the NHS and other sources. It would be devastating for him to be made to move to an unfamiliar country. A letter from a welfare officer of 22 August 2013 feared rapid deterioration of his mental health in particular. A GP's letter of 26 August 2013 set out the assessments which would take place on departure of his wife in relation to matters to which she attends. A breakdown of costs had not been provided, but it was evident that the sponsor would have expensive care needs in absence of his wife.
6. I reserved my determination.
7. The appellant's strongest point at first sight is ground (i) about overlooking evidence. However, I do not think it stands up on examination of the determination as a whole. As well as the passages pointed out by the Presenting Officer, in her proportionality assessment at paragraph 34 the judge referred to the sponsor having "a whole raft of hospital appointments for monitoring and assistance with various ailments" and found that the appellant's care would be "consistent ... and superior to anything which could be provided by the local authority". The appellant could not have asked for a more favourable description of her side of the case.
8. The judge perhaps attached a rather high degree of significance to a three week visit to West Sussex, which is a different undertaking from removal to Ghana as a first voyage abroad relatively late in life; but that comparison is only a small part of the whole balancing exercise.
9. The judge directed herself appropriately about the test of insurmountable obstacles at paragraph 24 and went on to justify the conclusion on that point reached at paragraph 32. In that light, although she went on to balance the various considerations from paragraphs 33 - 40, it is doubtful whether there was any remaining Article 8 proportionality issue to consider. No legal flaw is shown in the exercise that was conducted, even if it was not strictly required.

10. The grounds of appeal to the Upper Tribunal do not in the end disclose any more than reassertion of the case put to the First-tier Tribunal. It was for the appellant to make her case there. The judge was entitled to find that she had not done so, for the reasons given.
11. No error has been shown which would entitle or require the Upper Tribunal to interfere. The determination of the First-tier Tribunal shall stand.
12. No anonymity direction has been requested or made.

A handwritten signature in black ink, reading "Hugh Macleman". The signature is written in a cursive style with a large, stylized initial 'H'.

20 January 2015
Upper Tribunal Judge Macleman