



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

Appeal Number IA/27145/2014

THE IMMIGRATION ACTS

Heard at Centre City Tower
On 29th June 2015

Decision and Reasons Promulgated
30th June 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

OUNANCER HRA
(ANONYMITY DIRECTION NOT MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr I Cherradi (McKenzie friend)

For the Respondent: Mr I Richards (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellant entered the UK on the 31st of January 2014 as the spouse of Mr Khayi, a Spanish national living in the UK. On the 23rd of May 2014 she applied for a residence card which was refused as it had been shown that the Sponsor was exercising treaty rights in the UK. Her appeal was considered on the papers by First-tier Tribunal Judge Monson and dismissed in a decision promulgated on the 8th of September 2014.
2. The Appellant sought permission to appeal to the Upper Tribunal in an application of the 11th of September 2014. It was argued that the Judge had made an error in relation to the annual return and the Sponsor's share holding in the company for which he worked and an annual return of the

2nd of July 2014 was enclosed. There was also said to be an error with regard to his wages and a table was provided.

3. The application was considered by Judge Murray who granted permission to appeal on the 21st of October 2014. He noted that it seemed that the Sponsor earned the minimum wage according to the table provided and the annual return before the judge showed that the Sponsor had 50 shares.
4. At the hearing before the Upper Tribunal the Appellant was assisted by Mr I Cherradi a friend of his who addressed the Tribunal and translated for the Appellant. The submissions are set out in the Record of Proceedings.
5. Having read the papers that the Judge had I am satisfied that he correctly summarised the evidence that was before him. The annual return that he had was dated the 13th of June 2014 and clearly states that the Sponsor did not have any shares whereas the other 2 shareholders had 50 each. There is an error in that the Judge said that they had 5 each but that is not material, the important detail is that the printed evidence submitted and before the Judge showed the Sponsor had no shares. It is clearly not an error for a Judge to rely on evidence submitted and the later return submitted with the application for permission to appeal has no bearing on this issue.
6. There were other features of the evidence that the Judge had regard to in assessing the paperwork and the difference between the various documents relating to shareholding would not have assisted the Appellant. On the evidence that was before the Judge he was entitled to find that it had not been shown that the Sponsor was exercising treaty rights and accordingly the decision contains no error of law.
7. At the Upper Tribunal hearing Mr Cherradi said that the Appellant's wife now has a Spanish passport. That of course does not affect the nature of the hearing or decision of Judge Monson. It does put the Appellant in a different position and she would be well advised to inform the Home Office of her EEA national status and to provide evidence of that for their consideration.

CONCLUSIONS

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision and the decision of Judge Monson stands as the disposal of the Appellant's appeal.

Anonymity

The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and I make no direction.

Fee Award

In dismissing this appeal I make no fee award.

Signed:

Deputy Judge of the Upper Tribunal (IAC)

Dated: 29th June 2015