



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

Appeal Number: IA/43279/2013

THE IMMIGRATION ACTS

**Heard at Field House
On 10 February 2015 & 21 April
2015**

**Decision & Reasons Promulgated
On 28 April 2015**

Before

DEPUTY JUDGE OF THE UPPER TRIBUNAL G A BLACK

Between

**MRS ALEXCY MARIBEL MENDOZA LOPEZ
(NO ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms G Brown, Counsel instructed by Farani Javid Taylor
Solicitors

For the Respondent: Mr S Avery (Senior Home office Presenting Officer)

**RESUMED HEARING
DECISION AND REASONS**

1. Further to my decision and directions dated 26th February 2015 a resumed hearing took place in order for submissions to be made following **Singh & Khalid 2015 EWCA Civ 74**. I rely on my decision and reasons dated 26th February 2015 for the background facts and discussion of error of law.
2. The appellant' claim was based on her long residence in the UK and her close relationship with her adult son. In summary the FTT found that the

Appellant failed to meet the “new” Immigration Rules in force as from 9th July 2012. The error of law issue raised was that the appellant’s application ought to have been considered under rules in force pre 9th July, although this was not a matter raised at the FTT hearing. The appellant relied on the decision of **Edgehill [2014] EWCA Civ 402** and further argued that the Article 8 assessment was inadequate.

Submissions

3. Ms Brown acceded that the recent decision of **Singh & Khalid** had effectively rendered the appellant’s argument void. The Court of Appeal had significantly restricted in time any application of old rules that the decision maker was to apply and thus the Appellant could no longer rely on **Edgehill**. Ms Brown renewed her submissions under Article 8 ECHR and argued that the Upper Tribunal could proceed to hear further evidence as to the service of the enforcement notice in 2007 which was a relevant matter that the FTT failed to consider. This would in turn illuminate the findings as to length of residence and that could be taken into account in the Article 8 assessment.
4. Mr Avery relied on the reasons for refusal letter and submitted that the decision made by the FTT under Article 8 should stand.

Discussion and decision

5. Whilst acknowledging that in my previous decision I indicated a degree of support for the arguments put by the appellant as to the application of the “old rules”. However, in light of the judgment in **Singh & Khalid**, the scope of any **Edgehill** argument is now significantly restricted. Accordingly I am satisfied that it can have no application in this appeal and it cannot therefore be said that the FTT decision was vitiated by an error of law.
6. As a consequence I confirm my decision that I find little merit in the grounds advanced as to the FTT’s consideration of Article 8 ECHR. The FTT properly assessed Article 8 by following the 5 questions put in **Razgar**. It found that the decision was proportionate taking into account the length of residence and the appellant’s relationship with her adult son [16 & 17]. I see no reason to hear further factual evidence on the service of the Notice of Enforcement, which is now not material to the appeal.

Notice of decision

7. There is no material error of law in the decision of the First-tier Tribunal. The decision shall stand. The appeal is dismissed under immigration and human rights grounds.

No anonymity order is made.

Signed

Date 25.4.2015

Deputy Upper Tribunal Judge G A Black