



**Upper Tribunal  
(Immigration and Asylum Chamber)  
IA/43561/2014**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 21 May 2015**

**Decision and Reasons  
Promulgated  
On 27 May 2015**

**Before**

**Deputy Upper Tribunal Judge MANUELL**

**Between**

**Mrs CHARDITA CENTINA BARREDO  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: No appearance

For the Respondent: Ms E Savage, Home Office Presenting Officer

**DETERMINATION AND REASONS**

*Introduction*

1. The Appellant appealed with permission granted by First-tier Tribunal Judge Shimmin on 16 March 2015 against the determination of First-tier Tribunal Judge P J Clarke who had dismissed the Appellant's appeal under Appendix FM as the spouse of British Citizen and on human rights (Article 8 ECHR family life) grounds against her removal in

a decision and reasons promulgated on 3 February 2015. The appeal was determined in her absence on the papers as the Appellant had requested.

2. The Appellant is a national of the Philippines, born on 19 September 1989. The Appellant had entered the United Kingdom with a visa granted outside the Immigration Rules, i.e., in the Secretary of State's discretion, valid from 20 March 2012 to 20 June 2014. The Appellant was not entitled to "switch" and did not meet the eligibility requirements of Appendix FM of the Immigration Rules. The judge found that family life could reasonably be enjoyed in the Philippines and that the Appellant's removal was proportionate.
3. Permission to appeal was granted because it was considered that it was arguable that the judge had erred by failing to have regard to all of the evidence. There appeared to have been documents submitted with the variation of leave application which the judge had not seen.
4. Standard directions were made by the tribunal, indicating that the appeal would be reheard immediately if a material error of law were found. A rule 24 notice had been filed on the Respondent's behalf, opposing the onwards appeal.
5. When the appeal was called on for hearing, there was no appearance by or on behalf of the Appellant. The tribunal file indicated that the notice of hearing had been correctly served in good time to the address nominated for service. There had been no further communication received from the Appellant or on her behalf. The Appellant had not supplied any other means of contacting her, e.g., telephone or email. The tribunal decided that the appeal could justly and fairly proceed in her absence.

### *Submissions*

7. Ms Savage for the Respondent relied on the rule 24 notice. It had been the Appellant's choice to nominate a paper hearing. The Appellant was simply seeking to attack the judge's findings of fact which had been open to him on the evidence as it stood on the day of the hearing. There was no error of fact. The Appellant was not entitled to switch

categories from leave outside the Immigration Rules to Appendix FM. The decision and reasons should stand.

8. No new matters had been raised by the Appellant. The documents which were said to make a difference had not been produced or identified.

*No material error of law finding*

9. The grounds of appeal raise a number of assertions which, if supported by proper evidence, would have required careful consideration. The judge was restricted to such evidence as had been provided by the parties. It was for the Appellant to support her case. The judge dealt with the appeal as sympathetically as he could, but his hands were tied: see [20] of the decision and reasons. In the tribunal's view, the Appellant's challenge amounted to no more than disagreement with the judge's conclusions. No errors of fact were identified in the decision and reasons. There was no procedural unfairness and the judge cannot be held responsible for the Appellant's choice of a paper hearing.
10. The tribunal finds that there was no material error of law in the decision and reasons and there is no basis for interfering with the judge's decision.

**DECISION**

The making of the previous decision did not involve the making of an error on a point of law and stands unchanged

**Signed**

**Dated**

**Deputy Upper Tribunal Judge Manuell**