



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

Appeal Number: IA/50179/2013

**THE IMMIGRATION ACTS**

**Heard at Birmingham  
On 12 January 2015**

**Decision & Reasons  
Promulgated  
On 27 February 2015**

**Before**

**UPPER TRIBUNAL JUDGE DAWSON**

**Between**

**THOMAS HAGAN**

**and**

Appellant

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

Respondent

**Representation:**

For the Appellant:

For the Respondent: Mr Mills, Senior Presenting Officer

**DECISION AND REASONS**

1. The appellant, who is a national of Ghana born 5 January 1978, has been granted permission to appeal the decision of First-tier Tribunal Judge T R P Hollingworth. For reasons given in his determination dated 8 July 2014 the judge dismissed the appeal under the 2006 EEA Regulations and on human rights grounds that the appellant had brought against the decision dated 17 November 2013 refusing to issue him with a residence card based on a durable relationship with an EEA national.

2. Mr Mills readily conceded that there is an error of law in the judge's determination as it appears from [59] that it was a draft piece of work. Furthermore he accepted that there was procedural unfairness in that the judge had found that the parties had not entered into a genuine marital relationship despite the absence of such an assertion in the refusal letter that accompanied the decision. He acknowledged that the decision of the Upper Tribunal in *Kareem* (Proxy marriages - EU law) Nigeria [2014] UKUT 24 had not been properly applied. The issue the judge should have asked was whether the marriage was valid under Dutch law.
3. With commendable candour Mr Mills also considered that there were aspects of the determination which indicated an unreasonable approach to the evidence in the light of the challenge from the Secretary of State.
4. In the light of the extent and nature of matters conceded and the error of law correctly identified by Mr Mills, I set aside the decision of the First-tier Tribunal. Having regard to the factual findings that need to be made, I remit the case to the First-tier Tribunal for its consideration; none of the findings of T R P Hollingworth stands.

Signed

Date 26 February 2015



Upper Tribunal Judge Dawson