



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

Appeal Number: OA/00297/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 24th March 2015**

**Determination Promulgated
On 15th April 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE JUSS

Between

**MRS DORA ANANE FRIMPONG
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr C Talacchi (Counsel)

For the Respondent: Miss J Isherwood (HOPO)

DECISION AND REASONS

1. This is an appeal against the determination of First-tier Tribunal Judge Clough, promulgated on 12th December 2014, following a hearing at Hatton Cross on 9th October 2014. In the determination, the judge allowed the appeal of Mrs Dora Anane Frimpong. The Respondent subsequently applied for, and was granted, permission to appeal to the Upper Tribunal, and thus the matter comes before me.

The Appellant

2. The Appellant is a female citizen of Ghana who was born on 28th October 1973. She sought entry to the UK to settle with her husband, in an application which was refused on 25th September 2013, because the Respondent was not satisfied that the Appellant was in a subsisting relationship with her husband, that no documentation was supplied to show that the Sponsor had undergone a valid divorce from his previous wife; that the Sponsor had not shown he met the income requirements; and the Appellant did not supply an original report for the speaking part of her English test.

The Judge's Findings

3. By the time of the appeal before the judge, all but one of the four matters set out above had been conceded by the Secretary of State. It was now said that the only issue on an appeal before Judge Clough was that the marriage was not a genuine and subsisting one.
4. The judge considered the evidence. This included the refusal letter, but it also included the Entry Clearance Manager's review of the refusal decision (see paragraph 4). The Sponsor appeared before the judge. He adopted his witness statement. He gave oral evidence (paragraph 5), he explained how his wife called him from Ghana regularly (paragraph 6). He also pointed out that he sent money for school fees and bills, and that "he has sent £10,000 in all" (paragraph 6). There was evidence before the judge that the Sponsor could not bring his two children here, as he would have to earn £24,000. When his wife came they saved and could bring them together. "The children would stay with their maternal grandmother meanwhile. She is a school teacher and they would go to her school" (paragraph 7). There was evidence before the judge that the children were registered in their births after they were born but that "the certificates were obtained for their passports" (paragraph 8). The judge concluded that, "after hearing evidence from the Sponsor and considering all the information before me I am satisfied that the Appellant and the Sponsor's marriage is subsisting and that they intend to live together in the UK" (paragraph 9).
5. The appeal was allowed.

Grounds of Application

6. The grounds of application state that the judge failed to give adequate reasons in support of material findings. The judge did not record that the Sponsor was credible. He accepted that the Sponsor had divorced but did not record whether the divorce certificate was an original or a copy. Furthermore, whilst he accepted that the Appellant and the Sponsor intended to live together in the UK, he did not record if that was on a permanent basis.
7. On 2nd February 2015, permission to appeal was granted.

Submissions

8. At the hearing before me on 24th March 2015, Miss Isherwood, appearing on behalf of the Respondent Secretary of State, relied upon the refusal letter. She explained that there were extensive reasons given by the ECO for the refusal. These extensive reasons were then examined by the ECM in his review. They were endorsed in a decision dated 13th March 2014. This was what the judge was faced with. For him to be able to make a sustainable and rational decision, he had to deal with the reasons given by the decision makers for refusing the application. However, there was no proper analysis. Miss Isherwood in particular relied upon the ECO's basis for refusal that:

“It is reasonable to expect that in a genuine subsisting, supportive and affectionate relationship, there will be evidence of regular contact, signs of companionship, emotional support, affection and an abiding interest in each other's welfare and wellbeing ...”.

9. The judge, submitted Miss Isherwood, did not deal with any of these issues. There was no finding in relation to them.

10. For his part, Mr Talacchi submitted that all the judge needs to do is to explain why one party won and that the other lost. This was clear in the determination. It was clear, because by the time that the matter came before the judge, there was only one issue left of the four that had originally been raised, and the judge dealt with this one issue very extensively from paragraph 4 to paragraph 8 of the determination. He was aware of all the evidence before him.

11. This is why he expressed himself (at paragraph 9) in terms that, “... considering all the information before me I am satisfied that the Appellant and the Sponsor's marriage is subsisting and they intend to live together in the UK”. He was satisfied that the registration of the children's birth was perfectly legitimate. He was satisfied that the Sponsor had sent £10,000 to his family abroad. The bundle showed (at pages 56 to 58) that over the period there covered there has been expenditure of over £7,000 by the Sponsor for his family in Ghana.

12. It is all very well to talk about a lack of “supportive and affectionate relationship”, but there was evidence, which the judge accepted, of the Appellant calling from Ghana “as it was cheaper to do so, using an Africa phone card” (paragraph 6). It was properly explained that “a £5 credit lasted three days and he spoke to his wife and children” (paragraph 6). It was difficult to see what more the Appellant needed to produce, given that the test was on a balance of probabilities, as a threshold for the Appellant to meet. He met that admirably.

13. In reply, Miss Isherwood relied upon the case of **Budhathoki (reasons for decisions) [2014] UKUT 341**, which was to the effect that “it is generally unnecessary and unhelpful for First-tier Tribunal judgments to rehearse every detail or issue raised in a case”, but that it is “necessary for judges to identify and resolve key conflicts in the evidence ...”.

No Error of Law

14. I am satisfied that the making of the decision by the judge does not amount to an error on a point of law (see Section 12(1) of TCEA 2007) such that I should set aside the decision. In fact, the decision is admirable in its clarity, to the point, and deals with the issue in a clear and proportionate manner. There was one issue before the judge, and one alone. This was whether the marriage was genuine and subsisting.
15. The judge considered the evidence at length in relation to this one issue, from paragraphs 4 to 8. The parties' commitment to each other was expressly set out at paragraphs 6 and 7. The judge accepted the telephone contact between the parties. He accepted the monies sent by the Sponsor to the Appellant totalling £10,000 in all. He accepted that the Sponsor also shipped items via his brother for the children (paragraph 6). In addition, the judge recorded, the wise and considered decision of the Appellant and the Sponsor, that they would not seek to bring the children to the UK until such time that the Appellant wife had also come to the UK, and started earning money and saved money, so that they could meet the financial threshold of £24,000, which they at present could not (see paragraph 7).
16. To suggest that the judge had failed to make it clear that the parties, now intending to live together in a genuine and subsisting marriage, did not intend to do so on a "permanent" basis is untenable. It is as untenable to say that the judge failed to record whether the divorce certificate was an original or a copy. The judge accepted the evidence before him. It cannot be over-emphasised that the only issue before the judge was whether the marriage was genuine and subsisting.
17. The judge gave a determination that was perfectly compliant with **Budhathoki** in that the parties know why they won or lost. The reason why **Budhathoki** makes it clear that it is generally unnecessary and unhelpful to rehearse every detail raised, is because "this leads to judgments becoming overly long and confused and is not a proportionate approach to deciding cases". In this case, the judge abided by the principle. There is no error. The decision stands.

Notice of Decision

18. There is no material error of law in the original judge's decision. The determination shall stand.
19. No anonymity order is made.

Signed

Date

Deputy Upper Tribunal Judge Juss

11th April 2015