



**Upper Tribunal
(Immigration and Asylum Chamber)
EA/06645/2017**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at Field House
On 19 December 2017**

**Decision & Reasons
Promulgated
On 19 February 2018**

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

**CARLVIC PILLA
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In Person

For the Respondent: Mr L Tarlow, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a national of the Philippines. She appealed to a Judge of the First-tier Tribunal against the respondent's decision on 14 July 2017 refusing her a permanent residence card as the family member of Valerio Mariano Pilla, an EEA national.
2. As the judge identified at paragraph 8 of his decision, the sole issue for determination was whether the appellant could show that her husband and sponsor had been a qualified person under Regulation 6 of the Immigration (European Economic Area) Regulations 2006 for five years continuously. She produced a good deal of documentation, which was considered by the judge.

3. At paragraph 10 of his decision the judge noted recent letters from the Hilton Group confirming the sponsor's employment beginning on 9 January 2012, two contracts of employment for the Hilton Group and in addition P60s for this employment and HMRC employment letters. The judge said that he was satisfied that this documentation appeared to show when taken together that the [sponsor] was in continuous employment for five years from January 2012 and thereafter to date.
4. The judge however went on in the subsequent paragraph to refer to a number of Barclays Bank statements from September 2016 which related to a joint account held by the appellant and the sponsor which only showed salary deposits for the sponsor for the month September 2016 to January 2017. As a consequence he concluded that the appellant had not shown that the sponsor had received an income from employment in the United Kingdom for a continuous period of five years.
5. The appellant sought permission to appeal this decision, and permission was granted by Judge Gibb on the basis that arguably the appellant had been prejudiced by a failure on the part of the respondent to provide a bundle, and that what he saw as an inconsistency between paragraphs 10 and 11 of the judge's decision arguably showed that the decision was materially flawed.
6. At the hearing the sponsor appeared in person and Mr L Tarlow, Senior Home Office Presenting Officer appeared on behalf of the respondent.
7. The appellant produced a bundle of documents to match the list of documents set out at paragraph 8 of the judge's decision. At my request Mr Tarlow went through the documents and the bundle and spoke to the sponsor about them.
8. Thereafter Mr Tarlow made most helpful submissions in which having considered the documentation then noted, as was accepted by the appellant, that the bank statements that had been put in had been submitted in error to the judge and did not show evidence of continuous employment. However full bank statements for the entire period had been provided now, and Mr Tarlow was satisfied that the sponsor had been continuously employed in the United Kingdom for five years.
9. I am very grateful to Mr Tarlow for the care he has taken in this case. I find that the judge materially erred in law in not attaching appropriate weight to the letters from the employer and the HMRC documentation in assessing the evidence as a whole. In effect the judge gave separate consideration to that from the bank statements that were provided and it was necessary in my view for the evidence considered at paragraph 10 to be balanced properly with the evidence considered at paragraph 11.
10. In light of the judge's material error of law I remake the decision. In the light of Mr Tarlow's helpful evaluation of the evidence, with which I entirely concur, I am satisfied that it has been shown that the sponsor has been

continuously employed for five years in accordance with the requirements of the Regulations. As a consequence the appellant's appeal against the decision refusing her a permanent residence card is allowed.

No anonymity direction is made.

A handwritten signature in black ink, appearing to be 'Allen', written in a cursive style.

Signed

Date 18 January 2018

Upper Tribunal Judge Allen