



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/10119/2016

THE IMMIGRATION ACTS

Heard at Field House
On 14 May 2018

Decision and Reasons Promulgated
On 24 May 2018

Before:

UPPER TRIBUNAL JUDGE GILL

Between

Gull Zeb Mughal
(ANONYMITY ORDER NOT MADE)

Appellant

And

The Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr E Chaudhry of Eden Solicitors.

For the Respondent: Mr S Kotas, Senior Home Office Presenting Officer.

DECISION AND REASONS

1. The issue in this appeal is whether Judge of the First-tier Tribunal Parkes (hereafter the "judge") materially erred in law in his consideration of the Article 8 claim of the appellant. The appellant had appealed to the First-tier Tribunal against a decision of the respondent dated 29 March 2016 refusing his application for leave to remain on the basis of Article 8. The judge dismissed the appeal.
2. The appellant is a national of Pakistan, born on 10 March 1990. His Article 8 claim was based on his marriage to Ms Samara Din, a British citizen (hereafter the "sponsor"). The judge heard evidence that the appellant and his wife were undergoing fertility treatment in the United Kingdom and that his wife provided care for her mother, who lived close by. The mother suffered from various medical

problems. It was said that, as a consequence of her medical condition, she struggled with caring for herself.

Immigration history

3. The appellant arrived in the United Kingdom on 28 June 2010, aged 20 years, with leave as a Tier 4 student. His leave was subsequently extended as a Tier 4 student until 22 August 2013. He and the sponsor were married on 16 April 2013. They have no children.
4. An in-time application, made on 14 August 2013 for leave to remain as the spouse of a settled person, was refused on 10 September 2013. The appellant's leave under s.3C of the Immigration Act 1971 ended then. He has since remained in the United Kingdom without leave.
5. On 16 September 2013, the appellant made another application for leave to remain as the spouse of a settled person. This was refused on 24 January 2014.
6. The appellant then made two applications for leave to remain on the basis of his rights under Article 8, i.e. on 12 February 2015 and on 14 July 2015. These applications were refused on 29 March 2015 and on 4 December 2015, respectively.
7. The application which was the subject of the appeal before the judge was the applicant's third application for leave to remain on the basis of Article 8.

The judge's decision

8. Given that Mr Chaudhry submitted that there was no reference to Article 8 at all in the decision of the judge, it is necessary to quote almost the entirety of the judge's decision. However, the judge's reasoning and findings may be summarised as follows:
 - (i) (para 4) Pursuant to the judgment of the Supreme Court in Hesham Ali [2017] UKSC 60, the Immigration Rules (hereafter the "Rules") remain directly relevant to the assessment of where the public interest lies and so in relation to proportionality of an appellant's removal.
 - (ii) (para 9) Where the parties to a marriage are from different countries, one party will have to live outside their home country and therefore will have to make cultural adjustments to adapt to a new country.
 - (iii) (para 10) The appellant and the sponsor were married when the appellant's immigration status was precarious and therefore there was no expectation of being permitted to remain on any basis.
 - (iv) (para 11) It was not suggested that the relationship was not genuine or subsisting. There were no children. Although the couple were receiving fertility treatment, it was difficult to see how the appellant could be entitled to such treatment on the NHS. Fertility treatment was available in Pakistan although that would entail a change in the regime that the couple undergo and it may not be free.
 - (v) (para 13) The medical evidence relating to the sponsor's mother showed that she suffers from diabetes, debilitating osteoarthritis in her knees, hypertension and she struggles with self-care alone. In around February 2017, she was started on anti-depressants. At para 14, the judge said that the sponsor's father

also had health problems, in that, he has gall stones, mild recurrent depressive disorder and mild cognitive impairment and is managed with anti-depressants. He also has cardiac atherosclerosis and is treated with secondary prevention therapy, managed medically not surgically.

- (vi) At para 15, the judge said that the father was not in the best of health and whilst he may be stable, it would not appear that he can do much to assist his wife.
- (vii) At para 12, he referred to the fact that the sponsor's parents live near the appellant and the sponsor, that the sponsor's evidence was that she sees her mother on a daily basis before and after work, doing shopping, taking her to the doctors and making calls for her; that she also stays overnight and that her sister-in-law helped out the previous weekend but that that was not usual. At para 16, the judge said that he accept that the sponsor provides a lot of support for he mother and she was candid enough to accept that her sister-in-law had assisted in the weekend before the hearing. The judge said that there would be support available from social services and that, although there is no evidence to show that that has been explored as an option, it could not be ruled out as being available to the family.
- (viii) At para 17, the judge said that the relationship between the appellant and the sponsor had been established when the appellant was in the United Kingdom precariously with no expectation of being permitted to remain. The sponsor could not meet the financial requirements of Appendix FM and the evidence of the appellant's English language ability was limited. He had given evidence through an interpreter.
- (ix) The judge went on to find that the sponsor could live in Pakistan with the appellant's support and that it had not been shown that there would be very significant obstacles to their living together in Pakistan. Referring to the decision in R (Chen) v SSHD (Appendix FM – *Chikwamba* – temporary separation – proportionality) IJR [2015] UKUT 00189 (IAC), the judge found that there was nothing to prevent the appellant returning to Pakistan and making a valid, properly supported application for entry clearance or anything to suggest that that would be inappropriate or disproportionate.

9. Paras 4 to 20 of the judge's decision read:

- "4. Following the decision of the Supreme Court in Hesham Ali [2017] UKSC 60 a balance sheet approach is encouraged. The Immigration Rules remain directly relevant to the assessment of where the public interest lies and so in relation to the proportionality of an Appellant's removal. The assessment of a child's best interests under section 55 of the 2009 Act is a stand-alone exercise on the evidence provided by the Appellant. Any assessment under article 8 requires the overall circumstances to be considered and assessed having regard to the public interest, an Appellant's immigration and personal history, the best interests of any children, the factors in sections 117A and 117B of the 2202 Act and relevant ECtHR case law.
- 5. The Appellant applied for leave to remain on the basis of his marriage, a number of previous applications on the same basis having been rejected. The application was rejected for the reasons set out in the Refusal Letter. It was stated that the Appellant did not benefit from paragraph EX.1 of Appendix FM, the Appellant did not have a child in the UK. The Appellant could not succeed under paragraph 276ADE and there were no exceptional circumstances that would justify granting leave outside the rules.

6. The Notice and Grounds of Appeal argue that the decision is harsh and based on speculation. The Appellant is in a genuine and subsisting relationship with a British citizen and they wish to remain together, all of the Sponsor's ties are to the UK.
7. For the hearing the Appellant's representatives provided a bundle of documents under cover of a letter of the 16th of August 2017. That included witness statements, medical evidence relating to the fertility treatment of the Appellant and Sponsor and other supporting evidence. The evidence at the hearing and the submissions are set out in the Record of Proceedings and is referred to where relevant below.
8. The Appellant last had valid leave to remain in the UK in September 2013 and has remained since then without leave. He could have left the UK to make a valid out of country application but has chosen not to do so. The attitude of the Sponsor in evidence came across as being that as she was a British Citizen that was enough to justify the Appellant being permitted to remain and she did not appear to appreciate that UK, like any other country, can make rules to regulate the entry of non-nationals and can expect those who do not meet the rules to leave. Also there is an obligation on those in the UK to comply with the rules that apply and that obligation also applies to the Sponsor herself.
9. As with any marriage where the parties are from different countries it follows that one of the couple will have to live outside their home country and one of them will therefore have to make the cultural adjustments required to adapt to the new country. If all things were equal there would be no reason why the Appellant and Sponsor should not live in Pakistan, it would require adjustments on the Sponsor's part but that is no more than has been expected of the Appellant. Given what is noted above about the right of any country to set rules the *[sic]* regulate this area there is no particular advantage to being a British citizen.
10. It is accepted that the Appellant and Sponsor are married, they married at a time when the Appellant was in the UK with valid leave as a student and so his presence was precarious and with no expectation of being permitted to remain on any basis. There is no question that at that stage of non-compliance and to his credit an in-time in-country application was made to regulate his position on the basis of the marriage. Unfortunately for the Appellant that application, and subsequent applications, was refused.
11. It is not suggested that the relationship is not genuine or subsisting. There are no children although the couple are receiving fertility treatment. It is not clear on what basis as it is difficult to see how the Appellant could be entitled to such treatment on the NHS given his lack of lawful status in the UK. That treatment is continuing but has not been successful. Fertility treatment is available in Pakistan but that would entail a change in the regime that the couple undergo and it would not be free as it currently is under the NHS although as noted it is questionable that the Appellant is entitled to receive it.
12. The Sponsor's parents live near to them and her evidence was that she sees her mother on a daily basis before and after work doing shopping, taking her to the doctors and making calls for her. On days off the Sponsor said that she would stay and will also stay overnight. In evidence the Sponsor said that in the last weekend her sister-in-law had helped out but that was not usual - they were not family and they hardly ever went round.
13. The Appellant's bundle contains medical evidence relating to the Sponsor's parents at pages 14 to 23, her mother's being at pages 14 to 19. The Sponsor's mother has diabetes, debilitating osteoarthritis in her knees and hypertension and she struggles with self-care alone. In around February 2017

she was started on anti-depressants although these were not mentioned in the later letter from the GP. Despite having lived in the UK for many years and having been registered at the GP since 1975 when she was 20 years old she apparently needs her daughter to translate for her. The letter at page 18 indicates that the Sponsor's mother has declined the possibility of a knee replacement.

14. So far as the Sponsor's father is concerned the evidence relating to him specifically is at pages 20 to 23. He was born in March 1940 and is 15 years older than his wife. He has gall stones although they do not appear to be a significant problem but are being investigated. He has a mild recurrent depressive disorder and mild cognitive impairment and is managed with anti-depressants. The Sponsor's father also has cardiac atherosclerosis and is treated with secondary prevention therapy, managed medically not surgically. He uses a number of different medications. The GP's letter does not suggest that he is [*sic*] need of daily assistance or that, despite the conditions listed, he is unable to cope. It does not suggest that he is able to assist his wife with her issues.
15. Given the age of the Sponsor's father and the medical issues that the evidence outlines he is clearly not in the best of health and whilst he may be stable it would not appear that he can do much to assist his wife. She could have surgery but appears to have ruled that out but there is nothing to suggest that that does not remain an option, she is in her mid 60s and the medical evidence does not indicate that she has become unsuitable for such a procedure.
16. I would accept the evidence of the Sponsor that she provides a lot of support for her mother and she was candid enough to accept that her sister-in-law had assisted in the weekend before the hearing. There would be support available from social services although there is no evidence to show that that has been explored as an option but it cannot be ruled out as being available to the family.
17. As matters stand the relationship between the Appellant and Sponsor was established when the Appellant was in the UK precariously and with no expectation of being permitted to remain. The Sponsor cannot meet the financial requirements of Appendix FM and the evidence of the Appellant's English language ability is limited, he gave evidence through an interpreter. They have no children although they have taken steps to address that as discussed above.
18. With the Appellant's support the Sponsor could live with him in Pakistan. As noted above there is no particular advantage to the Sponsor being British and, if all things were equal, no more reason why she should not live there than the Appellant be made to live outside his home country. The fact that she has lived here all her life and would prefer to continue doing so does not answer the issue. The more pressing issue is that of her parents and their health issues. Whilst other relatives may not provide the same level of support the evidence does show that support is available and I do not believe that if the Sponsor were to leave the UK her parents would be left without family assistance and there are other sources of help too.
19. To succeed under paragraph EX.1 it would have to be shown that there were very significant obstacles to family life continuing outside the UK. The usual incidents of moving from one place to another, finding a home and work and establishing networks of friends are not obstacles and would arise if they were to move anywhere else in the UK. The Appellant has the benefit of his education and he speaks Punjabi. Whilst unwilling the Appellant does not show that the Sponsor could not adapt to live in Pakistan with him.

20. In the circumstances I find that the Appellant and Sponsor have not shown that there would be very significant obstacles to their living together in Pakistan. I have also considered the case of Chen. If it is the preference of the Appellant and Sponsor to live in the UK there is nothing in the circumstances of this case that should prevent the Appellant from returning to Pakistan and making a valid, properly supported, out of country application or to suggest that would be inappropriate or disproportionate."

The grounds and the grant of permission

10. The grounds contend that the judge materially erred in law as follows:

- i) He made a material misdirection of law, in that, he appeared to find that the appellant should return to Pakistan and make an application of entry clearance, contrary to Chikwamba [2008] UKHL 40 as explained in SSHD v Hayat (Pakistan) [2012] EWCA Civ 1054. The grounds contend that this is a case in which there is no sensible reason for insisting on the making of an entry clearance application.
- ii) He failed to consider material matters, in that, his finding that the appellant and the sponsor have not shown that there would be very significant obstacles to their living together in Pakistan, ignored the position of the sponsor and her parents, failed to properly consider their rights and failed to weigh in the balance the rights of the family as a whole.
- iii) He made an irrational finding, in that, his finding at para 18 that "*Whilst other relatives may not provide the same level of support the evidence does show that support is available*", the judge failed to consider the evidence of the sponsor and other family members that the sponsor provides care almost full-time and that the care provided by the sister-in-law is limited to weekends only. The judge erred in finding that the sponsor's parents could survive in the absence of the sponsor.

11. In granting permission, Judge of the First-tier Tribunal Scott Baker (hereafter the "permission judge") added that the judge failed to self-direct that this was not an appeal under the Rules but that the sole ground of appeal was on Article 8 issues.

Submissions

12. Mr Chaudhry expanded upon the written grounds as follows:

- i) Chikwamba applies in the instant case because an entry clearance application could take some time and because Article 8 applies to entry clearance applications. Accordingly, even if the financial requirement is not satisfied and even if the appellant is unable to speak English, these requirements can be waived for Article 8 purposes.
- ii) The judge did not consider the implications on the sponsor's parents if the appellant and the sponsor were to relocate to Pakistan to enjoy family life. He failed to apply the Supreme Court's judgment in Beoku-Betts [2007] UKHL 39. Mr Chaudhry submitted that there was no evidence before the judge that social services could provide adequate care.

When I pointed out to Mr Chaudhry that it was for the appellant to produce evidence to show that adequate care could not be provided, Mr Chaudhry submitted that the appellant was only obliged to provide evidence on relevant

issues. It was not a relevant issue before the judge whether social services could adequate care because the sponsor was providing the care to her mother. He submitted that the public interest was better served by the sponsor remaining in the United Kingdom to provide care for her mother because public funds would thereby be saved.

13. Mr Chaudhry made a number of other submissions which went beyond the ambit of the grounds, for which he did not have permission and which may be summarised as follows:
 - i) There was no mention of Article 8 at all in the judge's decision. The judge's entire decision was therefore not about Article 8.
 - ii) The judge failed to consider s.117B at all. In particular, he failed to consider s.117B(2). Given that the appellant had entered the United Kingdom in order to study, this is not a case where the appellant could not speak English.
 - iii) The judge took into account that the appellant and the sponsor were not financially independent. However, the income threshold does not apply in relation to applications for leave to remain under the 10-year route.
 - iv) The judge was wrong to take into account that the appellant was not entitled to NHS treatment because the sponsor was entitled to fertility treatment as a British citizen.
 - v) The judge failed to take into account that the relationship between the appellant and the sponsor was established when the appellant still had one year's extant leave as a student.
14. Mr Chaudhry submitted that the key grounds that the appellant relied upon were that the judge had not considered Article 8 at all outside the Rules, that he did not conduct a balancing exercise and that he did not consider the human rights of the sponsor's parents.
15. In his submissions in reply to submissions by Mr Kotas, Mr Chaudhry added yet another ground, for which he did not have permission, that the judge had failed to consider whether there was family life between the sponsor and her parents.
16. I checked the judge's Record of Proceedings ("RoP") and informed Mr Chaudhry and Mr Kotas that it was not argued before the judge in submissions that the sponsor enjoyed family life with her parents. There was no skeleton argument before the judge.
17. I should add that no application for permission to amend the grounds was made by Mr Chaudhry.

Assessment

18. I have to say at the outset, firstly, that this is a hopeless case for which permission ought not to have been granted; and secondly, that even if Mr Chaudhry had permission to argue all of the grounds he advanced (which is not the case), his submissions were largely in the nature of submissions that could not properly be made in view of the relevant jurisprudence.
19. I shall deal first with the written grounds followed by the ground that the permission judge added and finally the grounds for which Mr Chaudhry did not have permission.

The written grounds

20. Insofar as the written grounds and Mr Chaudhry relied upon Chikwamba, the submissions are misconceived. They fail to appreciate that Chikwamba applies only in cases where the individual facing removal would satisfy the requirements for entry clearance and the sole purpose for expecting him to make an entry clearance application is to comply with the procedural requirement that he should make an entry clearance application. This was explained in Chen. One can see why, if the requirements for the grant of entry clearance are satisfied, it can be said that there is no sensible reason for insisting on the making of an entry clearance application.
21. In the recent judgment of the Court of Appeal in TZ (Pakistan) and PG (India) v SSHD [2018] EWCA Civ 1109, the Court of Appeal noted (at para 39) that the facts of the case in TZ (Pakistan) were not analogous to the circumstance in Chikwamba because the outcome of a subsequent entry clearance application by TZ "*was not certain: both the nature and extent of his relationship with [his partner] and his financial situation at that time would be relevant*". In other words, the Court of Appeal was saying that, as it was not certain that entry clearance would be granted, the principle in Chikwamba did not apply.
22. In the instant case, the appellant had had two previous applications for leave to remain as a spouse refused, i.e. the applications of 14 August 2013 and 16 September 2013 which were refused on 10 September 2013 and 24 January 2014 respectively. In the appeal, the judge found that the sponsor could not meet the financial requirements of Appendix FM (para 17). This is therefore *not* a case in which it could be said that the applicant would be entitled to re-entry if he were to make an application for entry clearance.
23. Accordingly, Mr Chaudhry's submission that Chikwamba applies could not properly have been made even if (which is not the case given that the judge was also not satisfied as to the appellant's English language ability and there was no evidence before the judge that the appellant had obtained a relevant English language qualification) the only requirement under the Rule that was not satisfied was the financial requirement.
24. Mr Chaudhry's submission, that it was possible that the financial requirement could be waived in the assessment of Article 8 outside the Rules in any entry clearance application, is simply misconceived. The fact that the appellant did not satisfy the financial requirement under the Rules is relevant in assessing the weight to be given to the state's interests in assessing the Article 8 claim outside the Rules. It is not certain in any case that any refusal to waive the financial requirement outside the Rules would be in breach of Article 8.
25. Next, the written grounds contend that the judge did not consider the position of the sponsor's parents if the sponsor were to live in Pakistan with the appellant, that the judge failed to take into account that the sponsor provides care for her mother almost full-time and that the care provided by the sister-in-law is limited to weekends only.
26. This ground, which simply ignores the judge's reasoning, is hopeless. The judge *did* consider the position of the sponsor's parents. He *did* take into account the sponsor's evidence that she provides a lot of support for her mother. He was entitled to note that there was no evidence to show that support from social services had been explored as an option.

27. When I drew Mr Chaudhry's attention to the fact that there was no evidence before the judge that social services could not provide adequate care, Mr Chaudhry's submission in response - summarised at my para 12 ii) - was (again) hopeless. It failed to appreciate that the burden of proof was on the appellant and he could reasonably be expected to have anticipated that the judge would consider whether there was evidence that adequate care could not be provided by social services.
28. The submission in the written grounds that the judge failed to consider the rights of the family member concerns the principle in Beoku-Betts. This was a ground for which Mr Chaudhry did not have permission. In any event, it is plain that he considered the position of the sponsor's mother, her father and the sponsor herself.
29. Likewise, the third of the written grounds, that the judge made an irrational finding at para 18 when he said that "*Whilst other relatives may not provide the same level of support the evidence does show that support is available*", is hopeless. He plainly *did* consider the evidence that the sponsor provides a lot of support for her mother and that the care provided by the sister-in-law was limited.
30. The written grounds, as expanded by Mr Chaudhry in oral submissions, were therefore hopeless.
31. The permission judge added that the judge had failed to self-direct that this was not an appeal under the Rules whereas the sole ground of appeal was Article 8. This appears to suggest that the permission judge was of the view that the judge arguably erred in law in considering the position under the Rules and failed to consider Article 8 outside the Rules on a free-standing basis. If my interpretation of her reasoning is correct, then she was misconceived. It is plain from the Supreme Court's judgment in R (Agyarko) v SSHD [2017] UKSC 11 that, if an applicant does not satisfy the requirements under the Rules for leave to remain on the basis of Article 8, this will be relevant in deciding the weight to be given to the state's interests in assessing the Article 8 claim outside the Rules.
32. That is precisely what the judge said at para 4 of his decision. That is precisely the approach he took in his decision. In other words, he assessed the position under the Rules not because (as the permission judge incorrectly considered) he was mistaken in thinking that the issue before him was whether the appellant satisfied the requirements under the Rules but so that he would be able to assess the weight to be given to the state's interests in his consideration of the appellant's Article 8 claim outside the Rules. The judge's approach was entirely in line with Agyarko (see paras 19 and 48 of Agyarko and para 24 of TZ (Pakistan)). It is plain from his reasoning that he was fully aware that the sole issue in the case was whether the decision was in breach of the appellant's rights under Article 8 outside the Rules.
33. I turn to the grounds advanced at the hearing before me and in respect of which Mr Chaudhry did not have permission. I record at this point that no application for permission to amend the grounds was made. True it is that I did not raise this with Mr Chaudhry, although Mr Kotas submitted that Mr Chaudhry did not have permission to argue that the judge had erred in failing to decide whether family life was being enjoyed between the sponsor and her mother. However, the responsibility was primarily with Mr Chaudhry to ensure that he had permission for the grounds he wished to advance.

34. Contrary to Mr Chaudhry's submission that there was no mention of Article 8 at all in the judge's decision, he did mention Article 8 in terms, see the final sentence of para 4 of his decision. True it is that he only mentioned Article 8 once in his decision. Nonetheless, it would be nonsense to suggest, on that basis alone, that he did not have Article 8 in mind as there could be no other reason for him to mention ss.117A and 117B of the 2002 Act, Appendix FM, EX.1. (at para 5 of his decision) or Hesham Ali (at para 4) or Chen (at para 20) or the balance sheet approach recommended by the Supreme Court in Hesham Ali. Indeed, it is plain from the judge's decision that he was focused on Article 8. Mr Chaudhry could not properly have made this submission.
35. Likewise, Mr Chaudhry's submission that the judge had not considered s.117B. He plainly did. He considered, in terms, the evidence of the appellant's ability in the English language. Mr Chaudhry submitted that this was not a case in which the appellant could not speak English. However, this submission was based on pure speculation because in support of his submission Mr Chaudhry relied upon the fact that the appellant had entered the United Kingdom in order to study. It does not follow, from the mere fact that the appellant entered the United Kingdom in order to study, that he is able to speak English. The judge's finding, that the appellant's English language ability is limited because he gave evidence through an interpreter, is unassailable, not only because the appellant gave evidence through an interpreter but because he saw and heard the appellant give evidence. He was therefore well placed to make this judgment.
36. The next submission is that the judge erred in taking into account that the appellant and the sponsor were not financially independent because the income threshold does not apply in relation to applications for leave to remain under the 10-year route. This submission simply ignores s.117B(3) to the effect that it is in the public interest that persons who seek leave to enter or remain are financially independent. This submission could not properly have been made.
37. The next submission was that the judge failed to take into account that the relationship between the appellant and the sponsor was established when the appellant still had one year's extant leave as a student. This submission is entirely hopeless as it shows an ignorance of the relevant jurisprudence to the effect that family life established whilst a person's immigration status is precarious affects the weight to be attached to the family life (see, for example, para 25 of TZ (Pakistan)). Given that the appellant entered into his relationship with the sponsor at a time when he had leave as a student, his immigration status was precarious, as the judge correctly said at para 10 of his decision.
38. The only point that had anything in it was the submission that the judge erred in taking into account that the appellant was not entitled to receive fertility treatment given that the sponsor was entitled to such treatment as a British citizen. However, I am satisfied this was not material to judge's overall conclusion on proportionality, given the remaining reasons he gave for his decision. If he had not made this error, he was bound to have reached the same conclusion on any reasonable view, for the remainder of the reasons he gave.
39. Finally, Mr Chaudhry added in his submissions in reply to the submissions of Mr Kotas, that the judge failed to consider whether family life was being enjoyed between the appellant and the sponsor.

40. Although the written grounds contended that the judge had failed to consider the rights of the family as a whole, there was no mention in the written grounds that the judge had failed to consider whether there was family life between the sponsor and her parents. In any event, the judge's RoP shows that it was not argued before the judge that the relationship between the sponsor and her parents amounted to family life. The judge cannot be said to have erred in law for failing to deal with an issue not relied upon before him. The mere fact that the sponsor provides care to her mother does not, of itself, mean that they enjoyed family life within Article 8(1). Providing care for one's sick parent does not, of itself, show that there is dependency beyond normal emotional ties and thus this was not an obvious point for the judge to have dealt with under the 'Robinson obvious' principle.
41. For the reasons given at paras 34-40 above, I refuse permission to argue the grounds that Mr Chaudhry advanced at the hearing for which he did not have permission and in respect of which he did not make an application for permission. For the same reasons, even if the appellant had had permission to advance these grounds, I would have rejected them.

Decision

The decision of Judge of the First-tier Tribunal Parkes did not involve the making of any error on a point of law such that it falls to be set aside.

The appellant's appeal to the Upper Tribunal is dismissed.



Signed
Upper Tribunal Judge Gill

Date: 23 May 2018