



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/16177/2016

THE IMMIGRATION ACTS

Heard at Manchester
On 8th May 2018

Decision & Reasons Promulgated
On 29th May 2018

Before

THE HON. MR JUSTICE LANE, PRESIDENT

Between

MRS PAPAIPIT LINSE
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Ed Linse (Sponsor)
For the Respondent: Mr Bates, Home Office Presenting Officer

DECISION AND REASONS

1. This is an application brought with permission by the appellant, Mrs Linse, to challenge the decision of the First-tier Tribunal made on 13th February 2017 whereby that Tribunal dismissed the appellant's appeal against the decision of the Entry Clearance Officer Bangkok to refuse her entry clearance to the United Kingdom.

2. The issue in this case can be shortly put because helpfully His Honour Judge Eyre QC, who granted permission by way of judicial review to challenge the decision of the Upper Tribunal refusing permission to appeal, has put it clearly.
3. As a result of being able to consider Judge Eyre's decision and also the material that was submitted in connection with the judicial review, Mr Bates, who appears on behalf of the Secretary of State, has helpfully indicated that the requirements of the Rules are met. This is because the relevant financial requirements were satisfied by reason of the appellant having sold a property in her native country and having deposited the proceeds of sale in two tranches, one in April and one in May. It was shortly after the second deposit that the appellant made the application for entry clearance.
4. By looking only at the position as it was when the first deposit was made, both the Entry Clearance Officer and the First-tier Tribunal, and I have to say also the Upper Tribunal when it looked at the permission application, reached an erroneous conclusion. The position therefore is that the requirements of the Rules can be seen to have been met. That means the human rights challenge falls to be allowed. Immigration control is effected in large part through the Immigration Rules. Given that the requirements of the Rules have been met, there is nothing that stands in the way of the appeal being allowed. To do otherwise would occasion a disproportionate interference with the Article 8 family life rights of the appellant and her husband.

Notice of Decision

5. The decision of the First-tier Tribunal contained an error of law. It is set aside. I re-make the decision to appeal by allowing it.

No anonymity direction is made.

Signed

Date: 25.5.18

The Hon. Mr Justice Lane
President of the Upper Tribunal
Immigration and Asylum Chamber