



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

Appeal Number: IA/00015/2016

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision and Reasons**

**Promulgated**

**On 15 March 2019**

**On 25 March 2019**

**Before**

**UPPER TRIBUNAL JUDGE GLEESON**

**Between**

**SAMUEL KOFI ASABRE**  
(anonymity direction not made)

Appellant

**and**

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

Respondent

**DECISION OF THE UPPER TRIBUNAL**  
**PURSUANT TO RULE 40(3)(a) OF**  
**THE TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

1. The appellant appeals with permission from the decision of the First-tier Tribunal dismissing his appeal against the respondent's decision on 13 December 2015, to refuse him admission to the United Kingdom pursuant to Regulation 20(2) of the Immigration (European Economic Area) Regulations 2006 on the basis that his residence card had been revoked on 3 July 2014 because his alleged marriage was bigamous and did not entitle him under the Regulations to be treated as the spouse of his claimed partner, and to remove him to Ghana under Regulation 23 of the 2006 Regulations.
2. On 27 March 2017, applying *Sala v Secretary of State for the Home Department* [2016] UKUT 00411, the First-tier Tribunal found that there

was no valid appeal. In *Khan v Secretary of State for the Home Department* [2017] EWCA Civ 1755, the Court of Appeal found that *Sala* had been wrongly decided.

3. Permission to appeal was granted on 27 November 2017 on the basis of the *Sala* error. The respondent was invited to write to the Upper Tribunal confirming whether he agreed to the First-tier Tribunal decision being set aside and the appeal remitted for rehearing afresh.
4. By a Rule 24 Reply dated 31 January 2019, the respondent indicated, significantly out of time, that he does not oppose the application for permission to appeal and invited the Upper Tribunal to determine the appeal by setting aside the decision of the First-tier Tribunal and remitting the appeal to the First-tier Tribunal for hearing afresh. I extend time for the Rule 24 Reply and admit it, in the interests of justice.
5. Pursuant to rule 40(3) of The Tribunal Procedure (Upper Tribunal) Rules 2008 (as amended), the Upper Tribunal is not required to provide written reasons for its decision under paragraph 40(2)(a) of the Rules, where the decision is made with the consent of the parties (rule 40(3)(a)).
6. I am satisfied that the requirements of sub-paragraphs 40(3)(a) are met and that the decision of the First-tier Tribunal can properly be set aside without a reasoned decision notice.

## Decision

7. I therefore set aside the decision of the First-tier Tribunal, with no findings of fact or credibility preserved. The decision in this appeal will be remade in the First-tier Tribunal on a date to be fixed.

Signed: [Judith A J C Gleeson](#)  
2019

Date: 15 March

Upper Tribunal Judge Gleeson