



IAC-FH-CK-V1

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

Appeal Number: PA/02524/2019 (V)

**THE IMMIGRATION ACTS**

**Heard remotely at Field House  
On 11 September 2020**

**Decision & Reasons Promulgated  
On 05 October 2020**

**Before**

**UPPER TRIBUNAL JUDGE OWENS**

**Between**

**[M S]  
(ANONYMITY DIRECTION MADE)**

**Appellant**

**And**

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

**Respondent**

**Representation:**

For the Appellant: Mr Maqsood, Counsel instructed by Archbold Solicitors  
For the Respondent: Mr David Clarke, Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Introduction**

1. This is an appeal against a decision of First-tier Tribunal Judge Feeney promulgated on 4 June 2019. Permission to appeal was granted by First-tier Tribunal Judge Andrew on 10 July 2019.
2. The hearing was held remotely. Neither party objected to the hearing being held by video. Both parties participated by UK Court Skype. I am satisfied that a face to face hearing could not be held because it was not practicable and that all of the issues

could be determined in a remote hearing. Both parties confirmed that the hearing was fair.

### **Background**

3. The appellant is a national of Pakistan who entered the UK with entry clearance as a domestic worker. An application for further leave on this basis was refused and an appeal against this decision was unsuccessful. On 18 August 2016 the appellant was apprehended by immigration officers and detained. He claimed asylum on 24 August 2016. The claim was refused and certified. Following judicial review proceedings, a new decision to refuse the protection claim was taken on 5 March 2019. This is the decision under appeal.
4. The appellant claims to fear persecution from 'land mafia' who have appropriated the home the appellant purchased in Pakistan and threatened he and his wife. The appellant's wife and children have fled to Brazil where she has claimed asylum.
5. The respondent accepted that the appellant's home had been appropriated by 'land mafia', that both the appellant and his wife had been threatened, that the appellant had made a criminal allegation against the mafia and that the appellant had lodged civil proceedings in Pakistan to have his land returned to him. However, when assessing future risk, the view of the respondent was that there is both sufficiency of protection in Pakistan and a viable option for internal relocation. The appellant comes from Sialkot but it is open to him to relocate to another place such as Karachi which is over a 1000 miles away. The appellant failed to demonstrate that the 'land mafia' has an ongoing interest in or motivation to pursue him and there is no external evidence that they have power and influence or that they are connected to the government. It is not plausible that the 'land mafia' would locate the appellant in Pakistan. The respondent concluded that there would be no very significant obstacles to the appellant's integration in Pakistan and that there were no exceptional circumstances which would warrant a grant of leave outside of the Immigration Rules.

### **The appellant's position**

6. The appellant's position is that he has well founded fear of persecution from the 'land mafia'. He has previously been the victim of persecution and he would be persecuted again. The 'land mafia' are well connected and there is no sufficiency of protection throughout Pakistan.

### **The Decision of the First-tier Tribunal**

7. Given that the appellant's account was accepted by the respondent, the only issues before the judge were that of sufficiency of protection and internal relocation. The judge concluded that there were legal frameworks in Pakistan to address the problems of land grabbing, although she found that proceedings took a long time to conclude which was consistent with the court documents lodged by the appellant to demonstrate that he had issued civil proceedings to recover his land. The judge also concluded that given the background material in respect of the lack of effectiveness

of the police, the level of police corruption and limitations of the police that the appellant would not be able to avail himself of protection from the authorities in the local area.

8. The judge made a clear finding at [36] that although the appellant feared that the 'land mafia' might issue a false criminal allegation him, there was no evidence that this had been done. The judge concluded that the appellant would not be of interest on arrival in Pakistan.
9. The judge then turned to the issue of internal relocation. The judge noted at [39] and [40] that Karachi is over 1,000 miles from the appellant's home region, that it has a population of 16 million and that Karachi is described as having a mixed ethnic and religious community. The Punjabi language is spoken by 48% of the population and Punjabis represent 44% of ethnic groups in Pakistan. The appellant can safely relocate to another part of Pakistan. The judge also found that there was insufficient evidence before her that the civil proceedings were extant and commented that it was unclear why the appellant would be of interest after such a passage of time. The judge at [50] summarised the position, concluding that notwithstanding his subjective fear the appellant did not have a well-founded fear of persecution.
10. The judge went on to dismiss the human rights appeal finding that it is not a disproportionate breach of Article 8 ECHR to remove the appellant from the UK.

### **Grant of Permission**

11. First-tier Tribunal Judge Andrew granted permission on the basis that "there was an arguable error of law in the determination in that the judge states at [45] that he has not seen documents to show on what basis the appellant's wife had claimed asylum in Brazil. In fact the documents were included in the bundle and 'may corroborate the appellant's claims'".

### **The Grounds of challenge**

#### Ground 1

12. It is said that the judge failed to consider the appellant's assertion that a First Information Report ('FIR') had been filed against him in Pakistan but that due to the his financial circumstances he is unable to obtain it. It is said that there is a material misdirection in law by failing to give proper consideration to the appellant's full account.

#### Ground 2

13. The judge has failed to take into account that there is a lack of sufficiency of protection throughout Pakistan.

#### Ground 3

14. At [45] the judge has erred in law by misreading the documentary evidence. The appellant has submitted documents relating to the applicant's wife's and children's

claim for asylum in Brazil. The wife's claim is consistent with and corroborative of the appellant's claim in the UK.

15. No challenge was made to the judge's decision on the Article 8 ECHR claim.

### **Respondent's Position – Rule 24 response**

16. The respondent opposes the appellant's appeal. It is submitted that the judge directed herself appropriately and there is no material error of law.

### **Decision on Error of Law**

17. At the outset of the hearing, Mr Maqsood clarified that it is not the appellant's case that he has a FIR registered against him. The appellant's fear is that a FIR may be registered in the future and it is no longer submitted that the judge erred in the way asserted in the grounds. The only ground relied on is Ground 3 which is the ground on which permission was granted.
18. For the sake of clarity, I am satisfied that Ground 2 is not made out in any event. The judge finds that there is a lack of sufficiency of protection in Pakistan in the local area and indicates at [37] that the evidence before her is that sufficiency of protection is not generally available. However the judge goes to find that she is not satisfied for the reasons given, that the 'land mafia' who are third-party agents of persecution would be interested in pursuing the appellant now or outside of his home area and that the appellant can safely relocate elsewhere in Pakistan. In my view Mr Maqsood was correct not to pursue this ground.

### **Ground 3**

19. Mr Maqsood submitted that the judge failed to take into account the documentary evidence in the bundle relating to the appellant's wife and children. The asylum application sets out the basis of the wife's claim. The documents are said to confirm that the wife and children were granted status from 15 October 2015 until 2016. The appellant's son now has a Brazilian passport. He submits that given that the appellant's wife and children have been granted refugee status, this must be weighty evidence that the Brazilian authorities accepted that internal relocation is not possible and corroborates the appellant's account. There should be a holistic appraisal and an inference made that the appellant's claim to be at risk from the 'land mafia' is made out.
20. I am not satisfied that the judge failed to take into account the documents in respect of the appellant's wife's asylum claim and further that even had the judge failed to take these documents into account, that the error would have been material.
21. In his bundle at pages 8 to 16 the appellant enclosed a copy of his wife's claim for asylum. At page 17 to 19 there are some untranslated copies of status documents in Portuguese and at 20 to 22 there are some documents which appear to be health care permits. There is also evidence that the appellant's son is now a Brazilian national.
22. At [45] the judge stated;

"I also take into account that his wife has sought asylum in Brazil and that his son now has Brazilian citizenship, but I have not seen any documents to show the basis upon which his wife was granted status and the appellant could have obtained these documents quite easily from his wife in Brazil as he speaks to her daily. He tells me she has been granted asylum, but his witness statement asserts that her claim is pending so there is some confusion to what her current status is and the basis upon which she has been allowed to stay".

23. I agree with Mr Clarke for the respondent. Firstly, I am satisfied that the judge has taken into account the documents in the bundle from the judge's reference to the fact that she accepts that the appellant's son is a Brazilian citizen.
24. In her application for asylum the appellant's wife states;

"If I go back my country enemies of my husband and me could be [sic] killed us".

"Me and my children have a problem in Pakistan. Because my husband MS live in England, bought a house for us to live with a peace in our house. But just like I was lonely with my childrens. Some group of land mafia want to stole my house and land of house. They threat me to leave the house, if not you will suffer. I am lonely woman and could not do anything against my enemies. They threat me if I did not leave this house for them, they will kill me and my children. This reason I have to leave my country and come to Brazil".
25. The document provided relates to her claim for asylum, rather than to the outcome of her claim and cannot be said to demonstrate the basis on which the appellant's wife was granted status in Brazil. There is no error in the judge's approach to this evidence.
26. The judge also correctly comments that there is no document confirming that the appellant's wife has been awarded refugee status. The documents at page 70 to 72 are headed 'Documento Provisorio de Identidade de Estrangeiro' and are not translated. The judge was properly entitled to find that these documents on their own did not demonstrate the basis on which the appellant's wife has been granted status in Brazil. The judge was also entitled to rely on inconsistencies in the appellant's evidence about the status of his wife's claim for asylum which had described as 'pending' in his witness statement and was entitled to draw an inference from the fact that the appellant's wife had not provided any further evidence to demonstrate the basis on which she has been granted status.
27. Since there was insufficient evidence to demonstrate that the appellant's wife has been granted refugee status, I do not accept Mr Maqsood's argument that the fact that the appellant's wife has been granted status means that the Brazilian authorities have accepted that there is no sufficiency of protection for her and that she is not able to relocate internally.
28. I am also satisfied from the contents of the wife's application, that the appellant's wife's claim was made on the same factual basis as that of her husband but that she was claiming asylum as someone who would be returning to Pakistan as a single female which is a different scenario to that of the appellant which may in any event have led to a different outcome in relation to the issue of internal relocation.

29. I am satisfied that there was no error of law in the judge's approach to this evidence.
30. I am further satisfied that this evidence, even if it had been ignored by the judge, is not material to the outcome of the appeal. The judge accepted that the appellant's land was taken by 'land mafia', that the land mafia have threatened him and his wife and that he has issued civil proceedings. This is the same factual basis of the appellant's wife claim. The factual basis of the appellant's wife's claim does not take the appellant's claim any further.
31. Even had the appellant's wife been granted refugee status, it does not automatically follow that her husband has a well-founded fear of persecution. As I have already stated there may have been different considerations surrounding the issue of internal relocation.
32. I am satisfied that the judge properly considered the issue of sufficiency of protection and found that this was not available. The judge gave cogent and sustainable reasons for finding that there is no FIR against the appellant which would lead to his arrest in Pakistan and the appellant confirms that there is no FIR currently outstanding against him. The judge gave cogent and sustainable reasons based on the evidence, for finding that the 'land mafia' would have no interest in pursuing the appellant. The mafia have taken the land and there has been a passage of time since these events occurred. The appellant is not at risk outside his own area and for the reasons properly given by the judge at [38] to [40] the judge finds that the appellant has the option of relocating within Pakistan to another area where he will not be at risk of serious harm.

### **Conclusion**

33. It follows that none of the grounds of appeal are made out and the appellant's appeal is dismissed.

### **Decision**

34. The FtT decision does not contain an error of law and I do not set it aside.

Signed *R J Owens*

Date 29 September 2020

Upper Tribunal Judge Owens