



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: HU/16342/2019
HU/16344/2019

THE IMMIGRATION ACTS

Heard at Field House
On 28 May 2021

Decision & Reasons Promulgated
On 18 June 2021

Before

UPPER TRIBUNAL JUDGE SHERIDAN

Between

KHURRAM SHAZAD MIR
MAMOONA KHURRAM MIR
(ANONYMITY DIRECTION NOT MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellants: Mr Broachwalla, Counsel instructed by F R Solicitors
For the Respondent: Ms Everett, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This has been a remote hearing to which both parties have consented. The form of remote hearing was video by Microsoft Teams (V). A face to face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. I did not experience any difficulties, and neither party expressed any concern, with the process.

2. The appellants are appealing against the decision of Judge of the First-tier Tribunal Sullivan (“the judge”) promulgated on 20 November 2020 dismissing their human rights appeal.
3. The hearing was listed for, and took place on, 11 November 2020. Neither the appellants nor a representative on their behalf attended. The judge was satisfied that the notice of hearing had been properly served and decided to hear the appeal in the appellants’ absence pursuant to rule 28 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014.
4. The appellants claim that the only reason for their non-attendance was that they were not aware of the hearing. Both appellants and their solicitor have filed witness statements stating that they did not receive notice of the hearing.
5. Ms Everett expressed the view that if I accepted the evidence of the appellants and their solicitor it would be procedurally unfair for the decision to stand.
6. I have no reason to doubt the veracity of the witness evidence. In particular, I note that one of the witness statements is from a solicitor and any dishonesty on his part would constitute very serious professional misconduct.
7. Although the judge cannot be faulted for proceeding with the hearing given the information that was available when the appeal was heard on 11 November 2020, the decision nonetheless must be set aside for procedural unfairness as the appellants, through no fault of their own, were unable to present their case at the hearing.
8. I make the observation that it might have been preferable had the First-tier Tribunal considered whether to set the decision aside pursuant to rule 32 of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014. See *TPN (FtT appeals - withdrawal) Vietnam [2017] UKUT 00295 (IAC)*.

Notice of Decision

The decision of the First-tier Tribunal is set aside and remitted to the First-tier Tribunal to be made afresh by a different judge.

Signed

D. Sheridan

Upper Tribunal Judge Sheridan

Dated: 3 June 2021