



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

Appeal Number: PA/08779/2019

THE IMMIGRATION ACTS

**Determined at Field House without a
hearing
On 1 July 2021**

**Decision & Reasons
Promulgated
On 09 July 2021**

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

**T T T
(ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

1. On 7 May 2021 I gave the following directions:-

“1. I have reviewed the file in this case. In the light of the present need to take precautions against the spread of Covid-19, and the overriding objective expressed in the Procedure Rules¹, and having had regard to the judgment of Fordham J in **JCWI v President of the Upper Tribunal [2020] EWHC 3103** as well as the order made in that case I have reached the provisional view, that it would in this case be appropriate to determine the following questions without a hearing:

¹ The overriding objective is to enable the Upper Tribunal to deal with cases fairly and justly: rule 2(1) of the Tribunal Procedure (Upper Tribunal) Rules 2008; see also rule 2(2) to (4).

- (a) whether the making of the First-tier Tribunal's decision involved the making of an error of law, and, if so
 - (b) whether that decision should be set aside.
 2. I have reached this conclusion as, although it appears that a copy of the grant of permission and accompanying directions were not sent to the appellant, they were sent to the respondent who, in a letter of 27 January 2021, has stated that it does not oppose the appellant's application and invites the Upper Tribunal to remit the appeal to the First-tier tribunal for a hearing de novo. The respondent accepted that the FtTJ erred in taking an adverse credibility point against the appellant. On that basis alone, it is my preliminary view that the decision of the First-tier Tribunal involved the making of an error of law, and must be set aside. It is also my preliminary view that as that error goes to the issue of credibility, the decision must be set aside in its entirety with none of the findings of fact preserved.
 3. Accordingly, unless within **ten working days** of the issue of these directions there is any written objection to this course of action, supported by cogent argument, the Upper Tribunal will proceed to determine the appeal without an oral hearing and will remit it to the First-tier Tribunal to be heard again by a judge other than Judge Chana.
 4. In the absence of a timely response by a party, it will be presumed that it has no objection to the course of action proposed."
2. There has been no response to these directions by either party. Accordingly, I am satisfied that neither party objects to the matter being determined without a hearing and has nothing further to say. I am satisfied that that the determination of the First-tier Tribunal did involve the making of an error of law for the reasons set out above, and must therefore be set aside. In the circumstances, given that the assessment of credibility was flawed, it will be necessary for all the contested findings of fact to be remade, and thus, it is appropriate for the appeal to be remitted to the First-tier Tribunal to be heard again de novo by a judge other than Judge Chana

Summary of conclusions

1. The determination of the First-tier Tribunal did involve the making of an error of law and I set it aside.
2. I remit the appeal to the First-tier Tribunal for a fresh decision on all issues

Signed

Date: 1 July 2021

Jeremy K H Rintoul
Upper Tribunal Judge Rintoul