



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

Appeal Numbers: AA/09988/2012  
AA/09991/2012  
AA/09989/2012

**THE IMMIGRATION ACTS**

**Heard at Bradford  
On 23 July 2013**

**Determination sent  
On 10 October 2013**

**Before**

**UPPER TRIBUNAL JUDGE CLIVE LANE**

**Between**

**AMTUL BASIT  
ROZINA ZAFAR  
IFRAN ULLAH KHAN**

Appellants

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Iqbal, Bake & Co Solicitors

For the Respondent: Mrs R Pettersen, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The first appellant is the mother of the second appellant and the grandmother of the third appellant. The appellants were born respectively on 3 January 1937, 29 July 1967 and 25 January 2001. They are all citizens of Pakistan. They arrived in the United Kingdom on 12 September 2012 and claimed asylum. By decisions dated 21 October 2012, the appellants were refused leave to enter and remain in the United Kingdom. They appealed against those decisions to the First-tier Tribunal which, in a determination dated 10 December 2012, dismissed the appeals on all grounds. The appellants now appeal, with permission, to the Upper Tribunal.
2. I shall deal with the grounds of appeal as they are set out in the application for permission and also the appellants' skeleton argument submitted by Mr Iqbal for the hearing before the Upper Tribunal on 23 July 2013. The appellants are Ahmadis who claimed that they will suffer persecution or ill-treatment if returned to their home area of Pakistan. The first appellant was born in Kampala, Uganda and moved to Pakistan in 1963. The account of the appellants relates to alleged incidents of vandalism and harassment in Pakistan which the appellants assert are likely to be repeated should they return to that country. The second appellant claimed that the house which he formerly occupied with the husband had been vandalised. Photographs were produced to the First-tier Tribunal Judge. The judge noted that, "Mrs Zafar maintains that these rocks had been deliberately dislodged from her driveway and that this is evidence that she and her family are being targeted by the religious extremists from the mosque opposite [their home]." The judge considered the photographs and concluded that they,

"show some very minor damage. They do appear to be rocks which have been dislodged but this could equally be caused by the over-revving of a motor vehicle and the tyres of the vehicles causing the damage shown. What is important is that the appellant does not assert that the gates have been covered in anti-Ahmadi graffiti. I simply could not accept that the photograph number 3 as described did show the vandalism which the appellant maintains."

3. I was not shown those photographs at the Upper Tribunal hearing. The grounds assert that the judge's comments which I have quoted above amount to "mere speculation". They complain also that the judge was not "an expert in photographic evidence". I reject both of those submissions. It was, perhaps, not particularly helpful for the judge to suggest another possible cause for the presence of the rocks or the damage shown in the photograph but the point that he has clearly and effectively made is that the photograph did not, in the absence of any other supporting evidence, prove that the damage had been caused in the manner which the appellants claim. The burden of proof was on the appellants to prove their case and the judge was, in the passage of the determination at issue, doing no more than weighing the evidence and assessing whether that burden had been discharged. To complain that the judge erred in law because he was not an "expert at photographic evidence" is, frankly, a

nonsense. If the appellants adduced photographic evidence to the Tribunal then they should not complain when the Tribunal makes findings in relation to it. I have no doubt that, if the judge found the photographs proved that part of the appellants' account, then the appellants would not have complained of the judge's lack of expertise.

4. The second ground considers an alleged kidnap by Muslim extremists of the second appellant's son. The appellants had alleged that there had been a knock at the gate by the public road from the yard of their house. The judge noted that it was "never clear how the knock would be heard within the house". The grounds submit that "the appellant explained that in her oral evidence that the knock was heard inside the house because it sounded as though someone was knocking with a metal object, like a set of keys". It was asserted that the judge failed to consider that explanation or give reasons for rejecting it.
5. The judge is not required to deal with each and every single item of evidence adduced by an appellant or to give reasons for rejecting it. The judge had made it clear in his determination that he had considered all the oral and documentary evidence carefully before reaching his conclusions. It follows from that statement that he had considered the explanation provided by the second appellant and any reading of the determination indicates that he had rejected it. If that were not the case, he would not have made the comment at [26(3)].
6. The judge had also gone on to say in the same paragraph that he did "not accept that [the Muslim extremists] were the type of people who would politely knock at the gate in order to gain entry". It was asserted that the appellant had never claimed that the knock had been "polite". Once again, I find that the grounds amount to nothing more than a disagreement with the finding which was open to the judge on the evidence. It was open to the judge to find that the Khat-E-Nabuwat (the Muslim extremists) would not have knocked at the gate of a property in order to gain entry in order to assault and/or kidnap the occupants. The judge has correctly examined the account given by the appellants in the context of the background material relating to the Khat-E-Nubuwat and their activities in Pakistan.
7. As regards the Khat-E-Nubuwat's attempts to kidnap the third appellant, the judge noted also that "it may be that the son was the subject of the attempt to kidnap for ransom and financial purposes rather than as a result of a conflict of religion". [26(3)]. The grounds assert that this is speculation on the part of the judge. It is asserted that the judge should have accepted the appellant's version of events.
8. As with the judge's interpretation of the photographs of rocks (see above), I find that the judge is here doing nothing more than suggesting that an event which the appellants assert arose for a particular reason might, in fact, have occurred reasons other than as asserted by the appellant. Once again, I note that it is for the appellants to discharge the burden of proving

that their account is true and that they have a real reason for fearing persecution or ill-treatment on return to Pakistan. It is clear from the determination that the judge found that they had not succeeded in discharging that burden. He considered all the evidence in reaching that conclusion and he was not obliged to accept the appellant's explanation of events.

9. The judge had also recorded that, "Mrs Zafar told me that the mosque was already there [opposite the appellants' home] when the house was built but Mrs Basit told me the house was built before the mosque. Both accounts could not be true". [26(4)]. The grounds state that the second appellant gave oral evidence to the effect that the first part of the house had been built before the mosque and that her own home had been built on land adjacent to that of the first appellant and in front of the mosque. It would perhaps have been helpful if the judge had dealt with that explanation and expressly rejected it but I am satisfied that the judge has considered all the evidence carefully as he claims to have done and that, notwithstanding the fact he had heard the second appellant's explanation, he still considered that the apparent inconsistency in the evidence had not been resolved. Even if I am wrong in that finding, any error or misunderstanding on the part of the judge in this instance does not undermine his findings of fact or, indeed, his assessment of the risk faced by these appellants upon return to Pakistan.

10. At [29], the judge wrote that,

"The appellants say they are Ahmadis and that they left their own country because of the persecution which they suffered there because they were unable to practice their religion freely. One would have thought that as soon as they arrived in the United Kingdom, a country renowned for its religions tolerance, that they would have gone to the nearest Ahmadi mosque in order to practice that which had been denied to them in Pakistan. Whilst there are letters from the Ahmadiyya Muslim Association in the United Kingdom describing their situation in Pakistan, there is no evidence that any of the appellants have attended any Ahmadi mosque whilst in the United Kingdom. The fact that they have not so attended persuades me that Mrs Zafar is not a committed Ahmadi but only a low level Ahmadi who chose of their own volition to have a low profile in Pakistan. Her mother, out of free choice, is retired from her previous activities."

11. The grounds assert that there was documentary evidence before the judge (in particular, pages 78 to 89 of the appellants' bundle) which indicated that the appellants had been involved in distributing Ahmadi literature in the United Kingdom. Further, the judge recorded at [22] that permission had been sought by the appellants' representative at the stage of submissions to reopen the evidence and to ask the appellants whether they had attended an Ahmadi mosque in the United Kingdom. It appears that the Presenting Officer had submitted that there was no evidence to show that they had attended any mosque. The judge records that he "declined to reopen the evidence in the manner described. In my view this was far too late. There was certainly no oral or written evidence from any

person in the United Kingdom other than the appellants to the effect that they had attended at any Ahmadi mosque.” The grounds assert that the evidence should have been reopened and that it was wrong for the judge to make the comments which I have recorded above.

12. The grounds appear to ignore the careful wording used by the judge at [22]. The judge had noted that there was no oral or written evidence “from any person in the United Kingdom *other than the appellants*” [my emphasis] that they had attended any mosque in the United Kingdom. Had the judge reopened the evidence, then it is clear that the appellants would have repeated their claim to have attended an Ahmadi mosque in the United Kingdom. I consider that the judge’s comments at [29] should be read in the light of that finding at [22]. What was lacking was any evidence from witnesses other than the appellants themselves regarding their attendance. I am also aware that the judge had before him the witness statement of Rozina Zafar (which is undated) which states at [11] that “since being in the United Kingdom, I had continued to live as an Ahmadi, even I am not active in the community yet but I would continue to practice the religion as a lifelong believer.” The appellants were legally represented before the First-tier Tribunal and they put their case before that Tribunal by way of oral and written evidence. I do not consider that the judge erred in law by refusing the appellants the opportunity to add further evidence in order to contradict a valid submission made by the Presenting Officer. In any event, it is very difficult to see how oral evidence regarding this part of the appeal would have added further weight to the appellants’ case.
13. The judge made it clear at [27] that he had considered the relevant country guidance including **MN (Ahmadis - Country Conditions - Risk) Pakistan CG [2012] UKUT 000389 (IAC)**. The grounds assert that the judge failed to apply the case law properly. However, the grounds do little more than to assert that the appellants are active and devout Ahmadis who had suffered severe harassment and persecution in the past and would do so again if they returned to Pakistan. The judge made firm findings at [30] that he did not accept what had been said about “the vandalism, the harassment or the kidnap in Pakistan”. Those findings were clearly open to him on the evidence. The judge also found that the first and second appellants, whilst they were members of the Ahmadi faith, had chosen of their own volition to adopt a low profile in Pakistan and that they would not now upon return enter into open discourse in such a way as to expose themselves to persecution or ill-treatment or refrain from doing so only because of a fear of persecution. The grounds complain that the judge had “quoted one sentence from an entire judgment [**MN**]”; with respect, the quality of a determination is not to be assessed simply by reference to quotation from case law but rather by an application of the principles of that case law. I find that the judge has applied the principles of the relevant jurisprudence in and there is nothing in the grounds to suggest to me otherwise.

14. As regards the question of internal flight, the judge deals with this at [30]. The judge stated that he had,
- “decided that there was no real risk of persecution or serious harm should the appellants return to their ordinary home in Pakistan. Even if I were wrong on that, bearing in mind that the house is opposite the mosque, there is in my conclusion a reasonable internal flight alternative. In new premises they could practice their religion in the same way as they have chosen to do so hitherto”.
15. It would, perhaps, have been better if the judge had dealt with internal flight at greater length; if the appellants had faced problems as Ahmadis living opposite a mosque it is not entirely clear how those problems might be avoided by moving to new premises in the same town. However, given the judge’s primary finding that the appellants will be safe in their home area, I find that this alternative finding regarding the possibility of internal flight does nothing, even if it is faulty in law, to vitiate the validity of the judge’s primary conclusion on risk on return.
16. For the reasons which I have given above, I find that the appeal should be dismissed. The judge did not err in law such that his determination falls to be set aside.

## **DECISION**

17. This appeal is dismissed.

Signed

Date 20 August 2013

Upper Tribunal Judge Clive Lane