



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: DA/01165/2012
DA/01166/2012
DA/01167/2012

THE IMMIGRATION ACTS

Heard at Field House
On 8 October 2013
Ex tempore judgment

Determination Promulgated
On 15 November 2013

Before

THE PRESIDENT, MR JUSTICE MCCLOSKEY
UPPER TRIBUNAL JUDGE PERKINS

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

MR AHMED SHEHAR
MRS SIHAM HERHAR
MS RANYA HERHAR

Respondents

Representation:

For the Appellant: Mr Saunders, Home Office Presenting Officer
For the Respondent: Ms S Naik (of counsel) instructed by Fadiga & Co Solicitors

DETERMINATION AND REASONS

[1] This is the Secretary of State's appeal against the determination of the First-tier Tribunal promulgated on 16 August 2013.

- [2] All three Appellants were the subject of decisions of the Secretary of State dated 20 November 2012. By these decisions the Secretary of State refused to revoke previously made deportation orders in respect of each Appellant.
- [3] The First-tier Tribunal allowed the appeals, firstly, under the Immigration Rules; secondly, under Article 3 ECHR ; and, thirdly, under Article 8 ECHR. The Secretary of State registered an appeal against that determination. The grounds of appeal focus predominantly on the Immigration Rules and Article 8.
- [4] At the outset of the hearing conducted before this Tribunal today Mr Saunders on behalf of the Secretary of State acknowledged, properly and correctly in our view, that the grounds of appeal do not formulate any challenge to the assessment, findings and conclusions of the First-tier Tribunal in respect of Article 3 ECHR. The jurisdiction of this Tribunal is shaped by the grounds of appeal. This Tribunal does not exercise any original or inherent jurisdiction. Rather, it is an appellate court. There being no formulated challenge of the kind that I have just mentioned in the grounds of appeal it follows inexorably that the appeal must be dismissed. This consequence was, realistically, recognised by Mr Saunders.
- [5] As we have observed the First-tier Tribunal allowed the father's appeal on two other grounds, namely under the Immigration Rules and under Article 8 ECHR. It may be said that those two grounds are inter-related. In the events which have occurred at today's hearing this Tribunal has not considered any argument of any substance on those issues. It would, in principle, be open this Tribunal to investigate and consider those issues in full and to make its own determination of whether the First-tier Tribunal committed any material error of law in respect thereof. However, the appeal has taken a certain course and we have declined to conduct such exercise, taking into account, inter alia, the overriding objective and all of the principles which constitute that important standard.

DECISION

- [6] Accordingly we dismiss and affirm the Determination of the First - tier Tribunal.

Signed:

Bernard McCloskey

Mr Justice McCloskey,
President of the Upper Tribunal

Dated: 25 October 2013