



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

Appeal Numbers: DA/01083/2013  
DA/01084/2013

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 23 January 2014**

**Determination Promulgated  
On 26 February 2014**

**Before  
MISS E ARFON-JONES DL, VICE PRESIDENT  
UPPER TRIBUNAL JUDGE MARTIN**

**Between**

**MRS POORNIMAH RUNGOO  
MR MANRAJ RUNGOO**

**Appellants**

**and**

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

**Respondent**

**Representation:**

For the Appellants: Mr J Martin, Counsel instructed by Raj Law Solicitors  
For the Respondent: Mr N Bramble, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellants, husband and wife, are both citizens of Mauritius, born 15 August 1958 and 2 August 1965 respectively.
2. These two appellants together with their adult son and daughter appealed against a determination of a First-tier Judge (Judge R J N B Norris and Mr Getlevog) following

appeals heard at Hatton Cross on 22 July 2013. All four appeals against the Secretary of State's decision to deport all four to Mauritius were dismissed. The first appellant, the mother, had been convicted of using a false passport and received an eighteen month sentence in respect thereof.

3. What happened has caused confusion in that when the mother was released from prison she was notified of the Secretary of State's intention to deport her. She then made an application in August 2012 for leave to remain in the UK on Article 8 grounds. That was before the other deportation decisions had been made. In October 2012 the other three members of the family, namely husband, son and daughter, also made applications for leave to remain in the UK on Article 8 grounds. At the date of those applications, the daughter (the fourth Appellant) was 17 years of age. Her brother was over the age of 18.
4. The Secretary of State made a Decision in September 2012 rejecting the mother's application on Article 8 grounds. That decision carried no right of appeal as she then had extant leave. The Secretary of State has never made decisions in relation to the applications by the other three members of the family. The Secretary of State seems to think that she might have done because the Rule 24 reply suggests decisions were made in September. However the only decision made in September 2012 related to the mother's application.
5. The Secretary of State then made a Deportation decision. That she then revoked and made fresh deportation decisions against all four Appellants on 15 May 2013. However, by May 2013 the youngest child was also over the age of 18.
6. The appeal against the deportation decisions came before us on 9 October 2013.
7. The power to deport family members is to be found in the Immigration Act 1971 and in particular Section 3(5) which provides:

"A person who is not a British citizen is liable to deportation from the United Kingdom if –

  - a) the Secretary of State deems his deportation to be conducive to the public good; or
  - b) another person to whose family he belongs is or has been ordered to be deported."
8. The definition of "family" is contained in Section 5(4) of that Act which provides:

"For the purposes of deportation, the following shall be those who are regarded as belonging to another person's family-

  - a) where that other person is a man, his wife or civil partner, and his or her children under the age of 18; and

- b) where that other person is a woman, her husband or civil partner, and her or his children under the age of 18
- 9. The Secretary of State's decision in respect of the two "children" was unlawful, as she has no power to deport adult children of a person to be deported.
- 10. We, therefore, set aside the determination and allowed the appeals of the third and fourth appellants as the decision to deport them was not in accordance with the law.
- 11. Their subsequent applications to remain on Article 8 grounds have been refused and are awaiting appeal hearings in the First-tier.
- 12. With regard to the two appeals before us today, we consider that they are best heard together with those of their children as their reliance on Article 8 will be inter-dependent.
- 13. Accordingly we allow their appeals to the extent that they be remitted to the First-tier for hearing with the appeals of their two children: Kehar Rungoo (DA/01086/2013) and Greata Rungoo (DA/01087/2013).

E ARFON-JONES DL  
VICE PRESIDENT

Date: