



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

Appeal Number: IA/11574/2014
IA/11579/2014
IA/11581/2014

THE IMMIGRATION ACTS

**Heard at Phoenix House, Bradford
On 6th November 2014**

**Determination Promulgated
On 7th November 2014**

Before

UPPER TRIBUNAL JUDGE COKER

Between

**CHRISTOPHER ERAZUA
ILOBEKEMEN JUSTINA ERAZUA
OSEKHUENMEN BLESSING ERAZUA**

Appellants

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr D Amgbah of UK Law Associates
For the Respondent: Mr M Diwnycz, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellants appeal a decision of the First-tier Tribunal, which dismissed their appeal against a decision to refuse to grant leave to remain and to remove them pursuant to s47 Immigration Asylum and Nationality Act 2006. The first appellant had sought leave to remain as a Tier 1 (General Migrant) and the

other two appellants were his wife and child as dependants. The application had been refused on the grounds that the respondent was not satisfied that the evidence the appellant produced of his claimed income was reliable.

2. The judge, during the hearing stated that the presenting officer had made available to him and to the appellants' representative, copies of company records. The judge also stated at the commencement of the hearing that he had undertaken an Internet search and had found no evidence that one of the companies existed. The appellants' representative took instructions and said that the first appellant had an explanation but sought an adjournment so that the parties in question who ran those two companies could come to give oral evidence. The judge refused the adjournment on the grounds that the appellant could provide whatever explanation was required.
3. The judge then rejected the explanation given by the applicant and, also referring to the inadequacies of the documentary evidence, dismissed the appeal.
4. Mr Diwyncz submitted, as did the Rule 24 response, that even though the judge may have erred in failing to grant an adjournment, the error was immaterial because the appeal would have failed in any event because of the significant problems with the documentary evidence relied upon by the appellants.
5. Although it may well be that this appeal would in the end be unsuccessful because of documentary evidence problems, the research done by the judge, upon which he relied in major part to reach his decision and the failure of the judge to grant an adjournment to enable the parties whose *vires* were under challenge to come to give evidence, results in a perception that the judge was assisting the respondent and had acted in a manner capable of giving the appearance of bias. The weight placed by the judge on the research he undertook appears to have contributed significantly to his adverse credibility findings overall. It cannot be said that had the judge permitted an adjournment and had credible evidence been called then it would not have made a significant difference to his final conclusions. The perception that justice has not been done is overwhelming in this case.
6. In the circumstances of this appeal and the failure of the First-tier Tribunal to approach the evidence properly means that the appropriate approach is to remit this case for hearing *de novo* before the First-tier Tribunal, in accordance with the Practice statement dated 25th September 2012 of the Immigration and Asylum Chamber First-tier Tribunal and Upper Tribunal.

Conclusions:

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision and remit the hearing to the First-tier Tribunal.

Date 6th November 2014

Upper Tribunal Judge Coker