



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: IA/16750/2013
IA/16752/2013

THE IMMIGRATION ACTS

Heard at Newport, Cardiff
On 25 March 2014

Determination Promulgated
On 2 April 2014

Before

The President, The Hon. Mr Justice McCloskey and
Vice-President Arfon-Jones

Between

WZ & MEZM
(Anonymity Direction Made)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

Appellant: Mr S Khan (of Counsel), instructed by Blakewells Solicitors
Respondent: Mr Richards, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. This appeal has its origins in a decision made on behalf of the Secretary of State for the Home Department (hereinafter the "*Secretary of State*"), dated 24 April 2013, whereby the applications of both Appellants for leave to remain in the United Kingdom were refused. The Appellants are mother and son respectively. Each is

of Filipino origin. The mother is aged 30 years and the son, born on 20 June 2007, is now aged 6 years. The Appellants appealed unsuccessfully to the First-tier Tribunal (the "FtT"). They now appeal with permission to this Tribunal.

2. The material facts, in addition to those rehearsed above, are uncontentious. In very brief compass, the two Appellants lived together in the Philippines as mother and son following the son's birth in 2007 for a period of some two years. There was no husband/father figure in their lives. Mother and son have been in the United Kingdom since 2009. Between 2009 and 2012, the mother was studying. This gave rise to some separation each week from her son, who lived with his grandmother, the first Appellant's mother. This separation was intermittent in nature. Since September 2012, all three have been living together constantly. More recently, the first Appellant has been commuting to London at weekends for the purpose of her part-time employment.

3. Permission to appeal was granted in the following terms:

"It is arguable that, having found that the second Appellant [the son] lived with and had established family life with his grandmother, the Judge gave inadequate reasons for his finding that the child's best interests lay with him being removed to the Philippines with the first Appellant, his mother."

We are mindful that the judicial duty to provide a properly reasoned Judgment has been considered most recently in the reported decision of the Upper Tribunal in MK (Duty to give Reasons) Pakistan [2013] UKUT 641 (IAC).

4. It is trite that the Determination of the FtT must be considered as a whole and in its full context. The latter includes the bundle of evidence submitted on behalf of the Appellants the contents whereof consisted of, *inter alia*, several witness statements, a letter from the second Appellant's primary school, documentary evidence of the first Appellant's studies in London between late 2010 and late 2012 and evidence of her weekend employment as a care assistant in Hammersmith, London. In addition, the FtT heard evidence from both the first Appellant and her mother.
5. It is appropriate to reproduce in full the key passage in the Determination of the FtT:

"The second Appellant's interests are a primary consideration. He will be returned to the Philippines in the care of his mother. I note that he lived in the Philippines for the first four years of his life. He has spent more of his life so far in the Philippines. His father remains in the Philippines. It will be in his interests to be able to have more frequent contact with his father and his father's family. I understand that the second Appellant has started school. I consider that the second Appellant's best interests are to remain with his mother and he will be removed with her to the Philippines. He is not a British National and has only spent a little over two years and four months in the UK. He is at an age where he can easily adapt to a return to the Philippines. The family life he has so far enjoyed with his grandmother will not continue in the form that it is now. However, his grandmother can maintain family

relations by visits and contact via the various forms of media (i.e. telephone, skype, Facebook etc)."

On behalf of the Appellants, Mr Khan criticised this passage. He submitted that it did not accord with the standards identifiable in ZH (Tanzania) v Secretary of State for the Home Department [2011] UKSC4, paragraphs [29]-[33]. In rejecting this submission, we draw attention to the full context in which the relevant passage must be considered. Furthermore we consider the test to be one of adequacy and we are satisfied that the Judge made an adequate assessment of the second Appellant's best interest. In addition, we would caution against unduly formulaic, slavish adherence to the relevant passage in the opinion of Baroness Hale. We do not consider that this was intended to be, or constitutes, a prescribed checklist. We are satisfied in any event that, in substance, the main considerations to which Baroness Hale drew attention were duly considered by the Judge. The reasons proffered for the Judge's conclusion are adequate and intelligible, do not lapse into the prohibited territory of irrationality and are not vitiated by any material omission.

6. It follows that we find no error of law in the Determination of the FtT and the appeal is dismissed accordingly.

Signed:

Seamus McCloskey.

THE HON. MR JUSTICE MCCLOSKEY
PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Date: 27 March 2014