



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

Appeal Number IA/44097/2013  
IA/44098/2013  
IA/44099/2013

THE IMMIGRATION ACTS

Heard at Field House  
On 19<sup>th</sup> May 2014  
Prepared 2<sup>nd</sup> June 2014

Determination Promulgated  
On 3<sup>rd</sup> June 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

MUHAMMAD SAFEER KHAN

First Appellant

And

SHEIKH ABDUL MOIZ

Second Appellant

And

AZRZ SAFEER

Third Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Anonymity directions not made

For the Appellant: Mr G Davison (counsel, instructed by Morgan Mark Solicitors)

For the Respondent: Ms R Patten (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The First Appellant applied for leave to remain in the UK as a Tier 1 (Entrepreneur), the Second and Third Appellants applied as his dependents. The applications were refused with the Secretary of State expressing the view that the First Appellant had submitted false documents (banks statements) in support of the application and relying on a document verification report (DVR) of the 1<sup>st</sup> of October 2013.
2. The Appellants appealed to the First-tier Tribunal, their appeals were heard by First-tier Tribunal Judge Rose at Hatton Cross on the 25<sup>th</sup> of March 2014. In a determination promulgated

on the 31<sup>st</sup> of March 2014 the appeals were dismissed with the Judge finding that the Secretary of State had discharged the burden of proof on her to show that the documents submitted were false.

3. The Appellants sought permission to appeal to the Upper Tribunal in grounds of the 4<sup>th</sup> of April 2014. In the grounds it was observed that the Secretary of State had, at an earlier hearing, been granted an adjournment to enable her to verify two later letters from the bank submitted to rebut the DVR. The failure to obtain an updated DVR ought to have featured more heavily in the Judge's reasoning. It was also submitted that there was procedural unfairness in that the Judge made findings on the documentation without raising the points with the Appellants' representatives in the hearing.
4. The application was considered by Judge Cox who granted permission on the basis that it was just arguable that the Judge should have given more weight to the Respondent's failure to conduct further verification checks on the new evidence submitted by the Appellant. He was not impressed by the complaint about the failure to raise with the parties his analysis of the documents originally submitted.
5. At the hearing Mr Davison relied on the grounds that had been submitted and submitted that it was a matter of fairness that the concerns should have been raised with the parties and if need be the hearing could have been resumed. It was accepted that there was no explanation for the mathematical errors that the Judge had identified. There was no additional evidence available.
6. For the Home Office it was submitted that it was not simply the maths that placed the documents in question. The DHL envelope showed that the new letters had been sent from a residential address and not the bank itself. The evidence was that the account did not exist and the contents of the statements were problematic. The fact that the Judge considered the evidence after the hearing was not material, he had heard from the First Appellant and had an issue with the evidence given. Evidential flexibility did not apply to the decision.
7. In the determination the issues relating to the bank statements were considered at paragraphs 13 to 27. It cannot be said that he had dealt with the bank statements and the later supporting letters briefly or without regard to the wider issues. At paragraph 14 he noted correctly that as the letters related to the genuineness of the bank statements they could properly be considered in evidence. At paragraph 17 the relevant burden and standard in relation to allegations of forgery was set out.
8. In addition to the DVR the Judge considered the contents of the bank statements at paragraphs 19 to 21. It is not suggested that the Judge's analysis of the mathematics in the statements is incorrect. Not only was he referring to entries for November and December 2012 which showed errors in the balance shown but there was, and there remains, no evidence to explain how the errors were made or to show that they have been corrected by the bank at any stage. At paragraph 20 the Judge noted the anomaly that the account held over £500,000 but that the deposits and withdrawals were relatively small. In paragraph 21 the Judge referred to inconsistencies in the balances.
9. By the time the case came to be heard the nature of the bank statements was clearly in issue. The Appellant had the advantage of representation and, with the production of the bank letters, had taken steps to address the question of the statement's validity. The Appellant's representatives had had more time than the Judge to consider the actual contents of the statement relied upon.

10. In addition to the contents of the statements and the admitted and unexplained problems with the mathematics of the balances displayed the Judge also considered the letters that the Appellants relied upon in paragraphs 22 to 25. He gave good reasons for considering that the letters did not assist, that he could have given more reasons for rejecting the statements or for regarding the letters as at least of no real assistance does not alter the fact that he gave adequate reasons.
11. The complaints made in the grounds of application to the Upper Tribunal have no substance. It is clear from the determination that the Judge gave proper and full consideration to the documentation that had been provided for his consideration. The parties usually have the documents for far more time than a Judge and it is not the fault of the Judge that in this case the neither the First Appellant nor the representatives had not had regard to the clear contents of the bank statements even though their validity was already in issue. I note that despite that has been available there remains no explanation for the points made by the Judge in his analysis.
12. This was a fully and carefully considered determination in which the Judge was alert to the relevant issues that had been raised and considered all of the documents with care and attention. The reasons given for rejecting the bank letters submitted in support of the statements were clearly open to him and the reasons relied on for the conclusions reached were properly made out. The determination contains no errors of law.

## CONCLUSIONS

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision.

### Anonymity

The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and I make no order.

### Fee Award

In dismissing these appeals I make no fee award.

Signed:

Deputy Judge of the Upper Tribunal (IAC)

Dated: 2<sup>nd</sup> June 2014