



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

Appeal Number:

OA/00279/2013

THE IMMIGRATION ACTS

Heard at: Field House

**Determination
Promulgated**

On: 25th June 2014

On: 26th June 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE BRUCE

Between

Entry Clearance Officer, Dhaka

Appellant

And

**Musammod Marjina Begum
(no anonymity order made)**

Respondent

For the Appellant: Mr Kandola, Senior Home Office Presenting Officer
For the Respondent: Mr Kalam, Kalam Solicitors

DETERMINATION AND REASONS

1. The Respondent is a national of Bangladesh date of birth 22nd March 1990. On the 28th March 2014 the First-tier Tribunal (Judge Fletcher-Hill) allowed her appeal against the Respondent's decision to refuse to grant her entry clearance as the spouse of a person present and settled in the United Kingdom. The Respondent now has permission to appeal against that decision.
2. The only matter in issue before the First-tier Tribunal was whether the marriage to the sponsor was valid. The ECO noted that the sponsor had been married twice previously, and since no documentary evidence had been

supplied in respect of the dissolution of those earlier marriages, the ECO could not be satisfied that he had been free to marry the Respondent when he did.

3. The determination sets out much of the evidence, and the submissions of the parties. The 'findings of fact and decision' amount to 3 short paragraphs in which the Judge accepts that the sponsor and Respondent are validly married. No reasons are given for reaching that conclusion. As Judge Nicholson observes in granting permission to appeal, determinations do not need to be lengthy but the losing party is entitled to understand how a decision was reached. If no reasons are given, it is impossible for the reader to know. I am satisfied that the determination is flawed for want of reasoning. I set the decision aside.
4. The agreed chronology of events, supported by the documentary evidence, is as follows. The sponsor married a British woman called Nazma Meah on the 5th February 1998 in Bangladesh. He was granted entry clearance as a result of that marriage later that same year and in 2005 he became a British national. On the 24th February 2006 he married in Bangladesh a woman named Ahia Khanom. She was domiciled in Bangladesh at the time but the sponsor was by then domiciled in the UK. That marriage may well have been recognised in Bangladesh but was not considered valid by UK law, since the first marriage to Ms Meah had not been dissolved. Ms Khanom appears to have remained in Bangladesh. As far as the Secretary of State is concerned she is not a British national and the post in Dhaka has no record of her ever having made an application to join the sponsor in the UK. On the 12th May 2006 the sponsor obtained a decree absolute from Dudley County Court dissolving his first marriage to Ms Meah. As we have seen, at that point the Sponsor was no longer a party to a marriage considered valid in UK law. He apparently however considered himself married to Ms Khanom, by either Islamic or Bangladeshi law or both, since he subsequently repudiated her by pronouncing *talaq* on the 22nd November 2010. That matter does not concern the Tribunal. The decree absolute issued by Dudley County Court in 2006 makes it clear that when the Sponsor married the Respondent on the 23rd February 2011 he was free to marry. The marriage is valid by UK law and the appeal is allowed.

Decisions

5. The decision of the First-tier Tribunal contains an error of law and it is set aside.
6. I re-make the decision in the appeal as follows: "the appeal is allowed under the immigration rules".

Deputy Upper Tribunal Judge Bruce

25th June 2014