



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

Appeal Number: OA/15353/2013

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 2<sup>nd</sup> September 2014**

**Determination  
Promulgated**

**On 10<sup>th</sup> September 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE J G MACDONALD**

**Between**

**MRS CALISTA EBERE ONU**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr V Onipede, Counsel, instructed by Fountain Gate Solicitors

For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The Appellant is a national of Nigeria whose appeal to be allowed to enter the United Kingdom as the spouse of a person with limited leave to remain

here was allowed by the First-tier Tribunal Judge Devittie in a determination promulgated on 9<sup>th</sup> May 2014. The judge found that the Appellant was in a genuine and subsisting marriage relationship with the sponsor.

2. There is no challenge to that finding but grounds of application were lodged on the basis that the Appellant made her application more than 30 days after the Sponsor's Tier 4 residence permit was issued, a point which had been raised by the Respondent in the refusal notice. It was said that the judge had not considered this issue within the determination and it was submitted that he had erred in law by omitting to do so. Permission to appeal was granted on the basis that this point was arguable.
3. Thus the matter came before me on the above date.
4. I explained to the parties that I had not been able to find any such time limit contained within the Immigration Rules. As it transpired both parties said to me that despite their own research into the matter they could not point to any provision in the Immigration Rules either.
5. I formally reserved my decision.

### **Conclusions**

6. As the judge put it, the respondent had said that the Appellant was required to apply for a visa within 30 days of the Sponsor's residence permit being issued. It did not seem to me to be very logical to think that there would be a time limit of this nature in such an application.
7. Given what the parties said to me about the lack of any provision in the Immigration Rules allied to my own research, I am bound to conclude that the time limit point is not one that is well made. The foundation of it remains unclear.
8. There is no challenge to any other part of the determination and there therefore appears to me to be no error in it. Accordingly this decision must stand.

### **Decision**

9. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.
10. I do not set aside the decision.

Signed

Date

Deputy Upper Tribunal Judge J G Macdonald