



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

Appeal Number: VA/03211/2013

THE IMMIGRATION ACTS

Heard at Field House

**Determination
Promulgated**

On 3 April 2014

On 9 April 2014

Before

UPPER TRIBUNAL JUDGE MOULDEN

Between

**MISS SIRINA SULEMANA
(Anonymity Direction Not Made)**

Appellant

and

ENTRY CLEARANCE OFFICER - ACCRA

Respondent

Representation:

For the Appellant: the appellant was not legally represented but her father and sponsor, Mr A S Abdulai, appeared for her

For the Respondent: Mr C Avery a Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Ghana who was born on 23 April 1991. She has been given permission to appeal the determination of First-Tier Tribunal Judge Zahed ("the FTTJ") who dismissed her appeal against the respondent's decision of 18 December 2012 to refuse to grant her a visa for entry to the UK as a family visitor under the provisions of paragraph 41 of the Immigration Rules. Her sponsor is her father, Mr A S Abdulai ("the sponsor").

2. The respondent refused the application because the appellant's evidence as to whether she was working was inconsistent, she had not shown how she was supported on a daily basis and provided no evidence to establish that she was married with one child. Her family circumstances were doubted as well as her intention to leave the UK at the end of the proposed visit. There were doubts about the tenancy agreement submitted by her sponsor which was printed on the same paper as the application form. Finally, there was no evidence that she and her father were related as they claimed. The application was refused under the provisions of paragraph 41 (i) (ii) (vi) and (vii).
3. The appellant appealed and the FTTJ heard her appeal on 13 September 2013. The sponsor appeared for her and gave evidence. The respondent was represented. In the light of the birth certificate which was produced the FTTJ accepted that the appellant and the sponsor were related as claimed as father and daughter.
4. The FTTJ found that the appellant had not established that she was married or had a child. He concluded that she was not working and lived in the sponsor's house with his mother. The money in her account belonged to the sponsor. She had not shown that she had ties to Ghana. Her father, half-brothers and sisters were in the UK. He concluded that she had not established that she was a genuine visitor who intended to leave the UK after a family visit. He dismissed the appeal.
5. The appellant sought permission to appeal which was refused by a Judge in the First-Tier Tribunal but granted on renewal to the Upper Tribunal. The grounds argue that there are errors of law in the determination. The conclusions were based on no more than suspicions as to the appellant's intentions. The FTTJ raised the issue of whether the appellant was married and had a child which had not been put to her by the respondent. There was no proper balancing exercise or adequate reasoning. The FTTJ should have inferred that the sponsor would have given his daughter's hand in marriage and accepted his evidence that she was married. The sponsor had been in the UK for nine years and could have brought his daughter here before she became an adult. On the evidence the FTTJ should have concluded that the appellant only intended to make short-term visit and then return. There was no credibility finding in respect of the sponsor's evidence.
6. In reply to my question, the sponsor said that the evidence he gave was correctly recorded in paragraph 7 of the determination. He told me that there was no documentary evidence of his daughter's marriage. His daughter and her husband were of the Muslim faith and her husband had refused to register the marriage. He volunteered the information that evidence could have been provided from a number of people who attended the wedding. There was a

birth certificate for his daughter's child and it was in her possession. It showed her as the mother and her husband as the father. He could not provide any explanation as to why the original or a copy had not been produced except to say that he did not think that it was necessary. He accepted that he had not said that he had given his daughter's hand in marriage, only that he knew that she was married. He submitted that his oral evidence was sufficient to overcome the doubts of the respondent and the FTTJ and the lack of documentary evidence. He lived in this country with his second wife and their three children. The appellant was his daughter by his first marriage and he had no other children living in Ghana.

7. Mr Avery submitted that it was puzzling why no documentary evidence had been provided as to the appellant's marriage or the existence of her child. The refusal letter made it clear that the respondent did not accept that the appellant was married or that she had a child. It was clear that the FTTJ had properly considered the sponsor's evidence. There was no error of law and the FTTJ had reached conclusions open to him on all the evidence. I was asked to uphold the determination.
8. In reply the sponsor said that it was not material that his daughter and her husband lived in separate houses.
9. I reserved my determination.
10. I find that the respondent did put the appellant and the sponsor on notice that it was not accepted that she was married or had a child. The relevant passage in the decision states; "you state that you are married with one child, however I am not satisfied that you have provided adequate evidence to substantiate this". The FTTJ did not raise a new point or catch the appellant and the sponsor by surprise when this was addressed at the hearing and dealt with as an important factor in the determination.
11. The information which the sponsor provided at the hearing before me makes it more puzzling as to why documentary evidence of his daughter's marriage and the existence her child was not produced. He is clearly an intelligent man with a good grasp of English. After the issue had been raised by the respondent in what I find to be clear terms I am unable to accept that he and the appellant did not think it necessary to produce the original or a copy of the child's birth certificate, knowing that it existed and was in the appellant's possession. He said that it showed his daughter's name as the mother and her husband's name as the father. Even if, as he said, the appellant's husband refused to allow their marriage to be registered he volunteered the information that there were witnesses at the wedding who could have confirmed that it had taken place. He did not offer any explanation as to why this evidence was not provided.

12. I find that the respondent's and the FTTJ's conclusions were not based on mere suspicion but on inconsistencies and a lack of relevant and important documentation where there has been no satisfactory explanation for its absence. It is sufficiently clear that the FTTJ did not accept the evidence of the sponsor in most important respects. His evidence that the appellant was his daughter was accepted because it was supported by her birth certificate. I find that the FTTJ reached conclusions properly open to him on all the evidence. There was no reason for the FTTJ to speculate that the sponsor was likely to have given his daughter's hand in marriage where he had not said that he had done so. The contention that the sponsor had not tried to obtain the appellant's entry to the UK for settlement before she became an adult, even if it had been suggested, was not a factor which had any material bearing on the issues before the respondent and the FTTJ.
13. I find that there are no errors of law and I uphold the determination.

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Signed
Upper Tribunal Judge Moulden

Date 4 April 2014