



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

Appeal Number: IA/08952/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 3 February 2015**

**Decision & Reasons
Promulgated
On 24 February 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE APLEYARD

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**AMINE AMGHAR
(ANONYMITY ORDER NOT MADE)**

Respondent

Representation:

For the Appellant: Ms. L. Kenny, Home Office Presenting Officer.
For the Respondent: Mr. D. O'Callaghan, Counsel.

DECISION AND REASONS

1. No anonymity order has previously been made in these proceedings and no application was made to me today to suggest that such an order was required. Therefore none is made.
2. The appellant in this case is the Secretary of State for the Home Department. However, for the sake of clarity, I shall use the titles by which the parties were known before the First-tier Tribunal, with the Secretary of State referred to as "the respondent" and Mr Amghar as "the appellant".

3. The appellant is a citizen of Algeria, who was born on 29 March 1979. He entered the United Kingdom on a visitor's visa valid from 26 August 2008 until 26 February 2009. On 13 March 2013 he applied for a residence card as a confirmation of a right of residence in the United Kingdom as the family member of an EEA national, Ms Aminata Dieye, exercising treaty rights in the United Kingdom. On 22 March 2013 the application was refused and Mr Amghar appealed. That decision was withdrawn on 27 August 2013 prior to the appeal hearing. Mr Amghar and Ms Dieye were interviewed on 4 November 2013. Further representations were submitted by the appellant's solicitors dated 8 November 2013. The application was refused on 14 January 2014.
4. The appellant appealed and following a hearing at Hatton Cross Judge of the First-tier Tribunal Seifert, in a decision promulgated on 4 November 2014, allowed the appellant's appeal. In so doing she found the appellant and Ms Dieye credible witnesses and that the requirements of the relevant Regulations were met.
5. The respondent sought permission to appeal. Permission was granted by Judge of the First-tier Tribunal Foudy on 19 November 2014. Her reasons for so doing were:-
 - "1. The Respondent seeks permission to appeal, in time, against a decision of the First-tier Tribunal Judge Seifert who, in a determination promulgated on 4 November 2014 refused the Appellant's appeal against the Respondent's decision to refuse him an EEA Residence card.
 2. The grounds argue that the Judge made errors in his assessment of the evidence that the marriage was one of convenience. The grounds also argue that the Judge failed to give adequate reasons for his decision.
 3. The Judge was not satisfied that the Appellant had entered into a marriage of convenience. He gave some reasons for making his findings however he appears not to have dealt with a number of important aspects of the evidence.
 4. The grounds disclose an arguable error of law."
6. Thus the appeal came before me today.
7. Ms Kenny relied on the authorities of **MK (duty to give reasons) Pakistan [2013] UKUT 00641 (IAC)** and **Budhathoki (reasons for decisions) [2014] UKUT 00341 (IAC)**. She submitted that the judge had failed to resolve key conflicts in the evidence, that the refusal letter raised a number of discrepancies arising from the interviews of the sponsor and appellant that were identified by the respondent as being significant. She accepted that the judge did not have to deal with every point raised in the refusal letter or rehearse every detail but submitted that whilst the judge recorded at paragraph 41 of her decision that many of the discrepancies were satisfactorily explained, the decision does not

disclose what inconsistencies were satisfactorily explained. Ms Kenny further argued that the nub of the position was that the judge had given inadequate reasons for the findings made in an appeal where at its nub was the issue of the appellant's marriage to the sponsor and the contention of the respondent that it was a marriage of convenience.

8. Mr O'Callaghan submitted that the judge had given adequate reasons at the end of her decision, that she had been made aware of the discrepant evidence identified by the respondent but having had the benefit of both examination-in-chief and cross-examination found in the appellant's favour in concluding that the inconsistencies identified by the respondent had been resolved within the oral evidence.
9. I find that the judge has carried out a thorough credibility assessment and was entitled to come to the conclusions that she did in relation to the credibility, not only of the appellant but also of his sponsor. In so doing the judge has come to an "omnibus decision" where at paragraph 41 of her decision she states:-

"41. Having considered the evidence as a whole, I am satisfied that it has been shown that Mr Amghar and Ms Dieye were credible witness in respect of the genuineness of their marriage and relationship. In so far as there were some inconsistencies in their answers, many of these were satisfactorily explained in their evidence. I do not consider that the remaining inconsistencies were significant or undermined the genuineness of the application. Their account is supported by the documents, including photographs and bills addressed to them jointly. I find that it has not been shown that this is a marriage of convenience."

10. The judge has appropriately attached weight to evidence that required it both of an oral nature and in the form of documentary materials including a marriage certificate, utility bills and photographs. Where appropriate she has given limited weight to some aspects of the appellant's evidence including that of his friend Mr Haddour who, although providing a witness statement, did not attend the hearing before the judge. The evidence of the appellant and sponsor explained the highlighted discrepancies and enabled the judge to come to conclusions that were fully open to be made on the evidence taking into account the totality of the oral evidence and written materials. Adequate reasons have been given by the judge for coming to the conclusions that she did as to why the appeal was allowed.

Notice of Decision

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.

No anonymity direction is made.

Signed

Date 23 February 2015.

Deputy Upper Tribunal Judge Appleyard