



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

Appeal number: IA/22001/2014

THE IMMIGRATION ACTS

**Heard at Field House
On August 24, 2015**

**Decision & Reasons Promulgated
On August 26, 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MS ABISOLA KISMOT FAHM
(NO ANONYMITY DIRECTION)**

Respondent

Representation:

Appellant

Ms Brocklesby-Weller (Home Office Presenting Officer)

Respondent

Mr Ojukotola, Counsel, instructed by SLA Solicitors

DETERMINATION AND REASONS

1. Whereas the original respondent is the appealing party, I shall, in the interests of convenience and consistency, replicate the nomenclature of the decision at first instance.
2. The appellant is a national of Nigeria. On January 24, 2014 she applied as a spouse of an EEA national for a residence card confirming her right of residence in the United Kingdom but this was refused on March 16, 2014 by the respondent on the grounds that the marriage was not recognised and that it was a marriage of convenience.

3. The appellant appealed this refusal under section 82(1) of the Nationality, Immigration and Asylum Act 2002 and Regulation 26 of the 2006 Regulations.
4. The matter came before Judge of the First-tier Tribunal Cooper on March 11, 2015 and in a decision promulgated on April 20, 2015 the Tribunal allowed her appeal to the extent that it was remitted back to the respondent for lawful decision to be made.
5. The respondent applied for permission to appeal on April 23, 2015 submitting the Tribunal had erred by not following the decisions in Kareem (Proxy marriages-EU law) [2014] UKUT 24 and TA and others (Kareem explained) Ghana [2014] UKUT 00316. Permission to appeal was granted by Judge of the First-tier Tribunal Fisher on June 10, 2015.
6. The First-tier Tribunal did not make an anonymity direction and pursuant to Rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008 I see no reason to make an order now.

PRELIMINARY ISSUE

7. Mr Ojukotola submitted that evidence that the marriage was recognised in Portugal had been submitted to the First-tier Tribunal and that by agreement the representatives had submitted to that Tribunal that the case be remitted back to the respondent for a fresh decision to be made. The Tribunal had agreed with this approach.
8. I reviewed the court file but could not find the relevant documents confirming the Portuguese authorities recognised the marriage but as Mr Ojukotola was present at the original hearing I accepted that these documents had been handed in as the record of proceedings referred to additional documents having been submitted.
9. Clearly the respondent must consider whether the marriage is legally valid in Portugal as a starting point and as the Tribunal has already remitted the matter back to the respondent for a decision to be made I suggested to Ms Brocklesby-Weller that this seemed the most appropriate way to deal with the matter.
10. Ms Brocklesby-Weller did not disagree with this approach and in those circumstances I found there was no error of law.

DECISION

11. There was no material error. I uphold the original decision.

Signed:

Dated:



Deputy Upper Tribunal Judge Alis

**TO THE RESPONDENT
FEE AWARD**

No fee award payable.

Signed:

Dated:

A handwritten signature in black ink, appearing to read "SPAL" with a flourish underneath.

Deputy Upper Tribunal Judge Alis