



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

Appeal Number: IA/06221/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 25 November 2015**

**Decision and Reasons
Promulgated
On 5 January 2016**

Before

UPPER TRIBUNAL JUDGE CANAVAN

Between

WILLIAM CHARLES ANTI-TAYLOR

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr W. Akahu of BWI Solicitors

For the Respondent: Mr N. Bramble, Home Office Presenting Officer

DECISION AND REASONS

Background

1. The appellant appealed the respondent's decision dated 11 January 2014 to refuse to issue him with a residence card recognising his claimed right of residence as the family member of an EEA national.

2. First-tier Tribunal Judge Quinn (“the judge”) dismissed the appeal in a decision promulgated on 27 January 2015. The judge heard evidence from the appellant and his partner but did not find them to be reliable witnesses because they gave conflicting accounts of events. He gave reasons for concluding that the appellant had failed to produce sufficiently reliable evidence to show that the customary marriage that took place by proxy in Ghana was a valid marriage for the purpose of The Immigration (European Economic Area) Regulations 2006 (“the EEA Regulations 2006”). In the alternative, he also gave reasons why he concluded that there was insufficiently reliable evidence to show that the appellant was in a durable relationship with the EEA national sponsor.
3. The original grounds of appeal were settled by the appellant’s previous legal representatives. It is fair to describe them as rather rambling and confused. The main errors alleged in the First-tier Tribunal decision are not particularised in a clear or coherent manner. At the hearing Mr Akahu extracted the following grounds of appeal:
 - (i) The First-tier Tribunal misapplied the law in relation to Ghanaian customary marriage (including the application of the principles outlined in *Kareem (Proxy marriages - EU law) Nigeria* [2014] UKUT 00024).
 - (ii) The First-tier Tribunal erred in suggesting that documents may have been fraudulently obtained in the absence of any such allegation made by the respondent [31].
 - (iii) The First-tier Tribunal erred in apparently requiring a two year period of residence in order to establish a ‘durable relationship’ for the purpose of the EEA Regulations 2006 [37]: *Duhoo (EEA Regulations - reg 8(2))* [2012] UKUT 79 and *YB (EEA reg 17(4) - proper approach) Ivory Coast* [2008] UKAIT 00062 referred.
 - (iv) The First-tier Tribunal erred in taking into account the fact that the appellant had overstayed [51].

Decision and reasons

4. After having considered the grounds of appeal and oral arguments I am satisfied that the First-tier Tribunal decision did not involve the making of a material error on a point of law.
5. I shall deal with the third ground first. No specific challenge was raised in those terms in the original grounds of appeal save for general assertions made at paragraph 50 of the original grounds of appeal that there was “overwhelming evidence pointing to a durable relationship”. The grounds did not particularise any meaningful error of law and amounted to no more than a disagreement with the judge’s adverse credibility findings.
6. Mr Akahu did his best to formulate a legal challenge with reference to the decisions in *Duhoo* and *YB (Ivory Coast)*. In light of those decisions he is correct to point out that there is no requirement under EU law for a couple

to co-habit for a period of two years before their relationship is considered 'durable' for the purpose of the EEA Regulations 2006. However, a proper reading of the impugned part of the decision shows that the judge was simply referring to what the respondent had said in her reasons for refusal letter [37]. There is nothing to indicate that the judge applied this as a requirement. He gave clear and adequate reasons for rejecting the credibility of the evidence given by the witnesses [39-49] and concluded that there was very little other evidence produced to show to the required standard of proof that they were likely to be in a genuine and durable relationship [54-60]. No meaningful challenge has been made to those findings, which were open to the judge to make after having considered the oral and documentary evidence.

7. In view of the fact that there is no successful challenge to the First-tier Tribunal's findings relating to the genuine nature of the relationship it is difficult to see how any criticism of his other findings, even if correct, could be material to the overall outcome of the appeal. I will nevertheless briefly address the arguments put forward.
8. It is quite clear that the judge dealt with the further evidence produced by the appellant from the Belgian embassy in Ivory Coast with reference to the principles outlined by the Tribunal in *Kareem*. The judge outlined the extent of the evidence produced by the appellant and noted that the original document was not produced and the signature not certified. He noted that the letter stated that "this legalisation does not certify the content of the document" [38]. The judge went on to observe that there was nothing from the Belgian embassy to show that they had seen the original documents relating to the marriage [53]. In view of the very limited nature of the evidence from the Belgian embassy in Abidjan it was open to the judge to conclude that there was insufficient evidence to show that Belgian law recognised the proxy marriage as a valid marriage for the purpose of the EEA Regulations 2006 [51].
9. In light of those findings it is immaterial whether the judge's findings relating to the requirements of Ghanaian customary law had been met were correct or not because the appellant failed to produce sufficient evidence to show that the marriage was also recognised under Belgian law. The judge did not make any clear findings relating to forgery but merely took into account background evidence referred to in the Country of Origin Information report for Ghana, which indicated that forged and fraudulent documents could be obtained in Ghana [31]. He took that evidence into account as part of his overall assessment of the reliability of the documents produced in support of the appellant's claim to have contracted a valid customary marriage in Ghana. The judge's other findings relating to those documents have not been challenged in any serious way and were open to him to make on the evidence.
10. In assessing the appellant's credibility and whether there was sufficient evidence to show that he was likely to be in a genuine and durable relationship it was also open to the judge to take into account the

appellant's immigration history, which indicated that he may have contracted the marriage in an attempt to remain in the UK. This was a material consideration that he was entitled to take into account. Although Mr Akahu mentioned it at the beginning of his submissions the point was not developed in any meaningful way and does not disclose an error of law.

11. For the reasons given above I conclude that the First-tier Tribunal decision did not involve the making of a material error on a point of law. The decision shall stand.

DECISION

The First-tier Tribunal decision did not involve the making of an error on a point of law

The First-tier Tribunal decision shall stand

Signed



Date 22 December 2015

Upper Tribunal Judge Canavan