



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

Appeal Number: IA/10292/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 18th May 2016**

**Decision & Reasons
Promulgated
On 27th May 2016**

Before

UPPER TRIBUNAL JUDGE FRANCES

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**GANIYAT BOLANLE BODUN
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr E Tufan, Home Office Presenting Officer
For the Respondent: Mr S Karim, Counsel instructed by MA Consultants
(London)

DECISION AND REASONS

1. Although this is an appeal by the Secretary of State, I shall refer to the parties as in the First-tier Tribunal. The Appellant is a citizen of Nigeria born on 5 August 1960. Her appeal against the Respondent's decision to remove her from the UK, pursuant to Section 10 of the Immigration and Asylum Act 1999, was allowed under the Immigration Rules by First-tier Tribunal Judge Owens in a decision promulgated on 29th September 2015.

2. The Respondent appealed on the grounds that the judge had failed to provide adequate reasons for concluding that there were significant obstacles to the Appellant's integration in Nigeria and allowing the appeal under paragraph 276ADE.
3. Secondly, very significant obstacles to integration was a very high threshold test entailing something which would prevent or seriously inhibit the Appellant from integrating and establishing a private life, or those obstacles which would cause very serious hardship. The fact that the Appellant may find it difficult or challenging on return to her country of nationality is not the relevant test.
4. The question was whether the Appellant had the ability to form an adequate private life by the standards of the country of return, not UK standards. The Appellant was very familiar with Nigerian society and culture, spending most of her adulthood resident there. The judge had failed to apply the appropriate test and had misdirected herself in law. The delay on the part of the Respondent was not a factor which weighed in the Appellant's favour given that her appeal was dismissed in 2009 and a fresh application was not raised until 2015.
5. Permission was granted by First-tier Tribunal Judge McDade on 12th April 2016 on the basis that it was arguable that the judge failed to properly justify the Appellant's situation was such that reintegration would be highly problematic.
6. In submissions Mr Tufan relied on the grounds. He submitted that the Appellant came to the UK, aged 37. The judge had erred at paragraph 30 in applying the case of Ogundimu (Article 8 new rules) Nigeria [2003] UKUT 60 to the Appellant's case. This did not deal with significant obstacles, but dealt with links to the Appellant's home country. Ties were not relevant in the assessment of significant obstacles which was a high test. The judge had applied the wrong test set out in Ogundimu and therefore the Appellant had failed to show that there were significant obstacles to her integration.
7. Further, the judge relied on the phrase at paragraph 37 of his decision that Immigration Judge Bartlett accepted in June 2009 that the Appellant would have great difficulty re-adjusting to life in Nigeria. He had equated this phrase to the very significant obstacles test and had failed to apply the high threshold to the facts of the Appellant's case.
8. Mr Karim relied on the case of Shizad (sufficiency of reasons: set aside) [2013] UKUT 00085 (IAC). He submitted that the grounds of appeal amounted to a disagreement with the judge's findings. Contrary to Mr Tufan's submissions ties to the country of origin were relevant in considering whether there were significant obstacles to integration.

9. Paragraph 4 of the head note to Ogundimu stated:

“The natural and ordinary meaning of the word ‘ties’ in paragraph 399A of the Immigration Rules imports a concept involving something more than merely remote or abstract links to the country of proposed deportation or removal. It involves there being a connection to life in that country. Consideration of whether a person has ‘no ties’ to such a country must involve a rounded assessment of all of the relevant circumstances and is not to be limited to ‘social, cultural and family’ circumstances.”

10. The test therefore involved more than abstract links and was equated with the significant obstacles test. The test was a high one, but in this case it had been met. The Respondent had not shown that the judge’s conclusion was perverse and there was no challenge to the judge’s factual findings. The judge had considered the Appellant’s ties to Nigeria and ties to UK, whether she was a vulnerable individual, her family network, her employment and the prevailing conditions in the country of origin and her ability to obtain accommodation. These were all relevant to the assessment of whether there were significant obstacles to integration. The judge had addressed all relevant factors and found in favour of the Appellant. There were no factors which she had failed to take into account.
11. In relation to paragraph 37, the judge did not equate this with the test of significant obstacles, but had merely stated that this was the judge’s finding in 2009. The judge then went on to consider the situation since then and found that the difficulties had been compounded by the intervening six years. The Appellant was 55 years old and had been away from Nigeria for a period of eighteen years and four months. The judge took into account all relevant factors and applied the appropriate test to the appropriate standard, namely the high threshold of very significant obstacles to integration. There was no arguable error of law and the decision should be upheld.
12. In response Mr Tufan submitted that the judge found that the Appellant had ties to Nigeria. The judge had applied the wrong test and the decision was lacking in reasons. This was not a perversity challenge. There were insufficient reasons to support the judge’s finding. Further, the failure to remove the Appellant did not go in the Appellant’s favour. The judge had erred in relation to delay and the conclusions in that respect were perverse.

Discussion and Conclusion

13. It is quite clear from paragraphs 30 and 31 that the Appellant must establish that there were significant obstacles to her integration in Nigeria and that was the issue before the judge and the test that she applied to the facts as she found them. The judge’s reference to Ogundimu did not

undermine this and, in fact, whether there were significant ties to Nigeria and the UK was relevant to the assessment of whether there were significant obstacles to integration.

14. The judge accepted that the Appellant grew up in Nigeria and lived there until the age of 36 and that she spoke the native language. The judge found that the Appellant had some ongoing ties to Nigeria because her daughters resided there and she communicated with them by telephone. However, this relationship was limited because they lived with the Appellant's ex-husband who had subjected her to domestic violence. Therefore, the Appellant would not be able to return to her husband's household and her daughters could not financially assist her or visit her should she return to Nigeria.
15. The Appellant had been absent from Nigeria for a significant number of years, her parents had died and she had no siblings or other family members there. She had no connection to any other person and the fact that she had converted to Christianity may in fact hinder her integration. The judge took into account that the Appellant was 55 years old, she was single, she was not highly educated and did not have significant skills or experience to enable her to find employment easily. Lack of employability was compounded by her age and her health. She suffered from asthma, was depressed and was currently undertaking tests for her kidneys. The Appellant was a victim of domestic violence and therefore was a vulnerable person.
16. These factors were all relevant in assessing whether there were significant obstacles to the Appellant's integration in Nigeria. The judge's finding that in these circumstances, after such a long absence, the Appellant does not have any meaningful connection with Nigeria and that there is no one in Nigeria who can assist her on a temporary basis while she seeks to re-establish herself was a finding that was open to her on the evidence before her.
17. The judge does not merely follow the findings of Immigration Judge Bartlett but looked at the situation since the decision in June 2009 and accepted that the Appellant had remained in the UK for a further six years and had now been away from Nigeria for eighteen years and four months. There was delay on the part of the Respondent, although I accept that the Appellant could have left voluntarily. However, the fact of the matter was that the Appellant had been absent from Nigeria for a significant amount of time and given the other factors mentioned above, there were very significant obstacles to integration.
18. At paragraph 38, the judge concluded that, given the individual circumstances, of this case, there would be very significant obstacles to the Appellant's integration in Nigeria and it would be unjustifiably harsh for her to return there, given the strength of the ties she has to the UK and the lack of an ongoing connection to Nigeria. The judge's findings were

open to her on the evidence before her and she has gave adequate reasons for her conclusions at paragraphs 31 to 37.

19. The judge appreciated the high threshold test and the Respondent was well aware why the appeal had been allowed. Accordingly, I find that there was no error of law in the judge's decision dated 29th September 2015 and I dismiss the Respondent's appeal.

Notice of Decision

The appeal is dismissed

No anonymity direction is made.

J Frances

Signed

Date: 26th May 2016

Upper Tribunal Judge Frances