



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

Appeal Number: OA/06733/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 31 July 2017**

**Decision Promulgated
On 01 August 2017**

Before

UPPER TRIBUNAL JUDGE CANAVAN

Between

**J A
(ANONYMITY DIRECTION MADE)**

Appellant

and

ENTRY CLEARANCE OFFICER (ACCRA)

Respondent

Anonymity

Rule 14: The Tribunal Procedure (Upper Tribunal) Rules 2008

Anonymity should have been granted at an earlier stage of the proceedings because the case involves child welfare issues. For this reason, I find that it is appropriate to make an order. Unless and until a tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the appellant and to the respondent.

Representation:

For the appellant: Mr R. Khosla of DJ Webb & Co. Solicitors
For the respondent: Mr E. Tufan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a young child who appeals, with the assistance of his UK sponsors, against the respondent's decision to refuse entry clearance as an adopted child.

2. First-tier Tribunal Judge Chana (“the judge”) dismissed the appeal in a decision promulgated on 29 November 2016. After having heard evidence from the UK sponsors, and in the absence of a Home Office Presenting Officer, the judge made a series of findings relating to the reliability of the documents produced in support of the appeal that were not raised in the original decision letter. She concluded that the evidence was not sufficiently reliable to find that the appellant was adopted in accordance with a decision taken by the competent administrative authority or court in the country of origin. Nor was there sufficient evidence to show that the appellant met the other requirements of paragraph 310 of the immigration rules.
3. The appellant appealed the First-tier Tribunal decision on the following grounds:
 - (i) The First-tier Tribunal failed to put various matters relating to the reliability of the documents, that would later be used to make negative findings, to the sponsors to explain in accordance with the *Surendran* guidelines.
 - (ii) The First-tier Tribunal failed to apply the principles outlined in the decision in *Buama (inter-country adoption – competent court) Ghana* [2012] UKUT 146 in which the Tribunal suggested that a challenge to the validity of an adoption order should be done by way of expert evidence.
4. The respondent’s written response under rule 24 of The Tribunal Procedure (Upper Tribunal) Rules 2008, dated 04 July 2017, stated that she did not oppose the appellant’s appeal. Mr Tufan asserted that the appellant could not meet the requirements of the immigration rules. However, in relation to the fairness issues raised in the grounds of appeal he accepted that there had been a concession on those points.
5. It appears that there were several issues raised in the written decision that were not put the sponsors to allow them an opportunity to explain at the hearing in accordance with the *Surendran* guidelines. I accept that this discloses an error of law relating to the fairness of the First-tier Tribunal decision. After discussion with both parties at the hearing it was agreed that the appropriate course of action would be to remit the appeal to the First-tier Tribunal for a fresh hearing. The appellant is entitled to a First-tier Tribunal hearing at which all the issues can be raised, answered and assessed.

Decision

The First-tier Tribunal decision involved the making of an error on a point of law

The appeal is remitted to the First-tier Tribunal for a fresh hearing

Signed  Date 31 July 2017
Upper Tribunal Judge Canavan