



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

Appeal no: **EA/09002/2017**

THE IMMIGRATION ACTS

At **Royal Courts of Justice**

Decision & Reasons
Promulgated

on **26.11.2018**

On 30.11. 2018

Before:

Upper Tribunal Judge
John FREEMAN

Between:

Alimamy BANGURA

appellant

and

Secretary of State for the Home Department

respondent

Representation:

For the appellant: Mr Geoff Cutting (registered by OISC), RG Immigration

For the respondent: Mr Nigel Bramble

DETERMINATION AND REASONS

This is an appeal, by the appellant, against the decision of the First-tier Tribunal (Judge Lisa Gibbs), sitting at Hatton Cross on 31 July, to dismiss an EEA appeal by a citizen of Sierra Leone, born 1966. The appellant had married a French citizen on 29 January 2011, and on 23 May 2017 applied for a permanent residence card on that basis. On 27 October this was refused: the reason upheld by the judge was that the appellant had not shown his (by then former) wife had remained a 'qualified person' till the date of the decree absolute dissolving their marriage on 31 March 2017.

2. It was common ground however between Mr Cutting and Mr Bramble that

- (a) (as accepted all along) the appellant's ex-wife had been a 'qualified person' as a worker for the whole of the tax years beginning in 2010, 2011, 2012, 2013 and 2014; so that

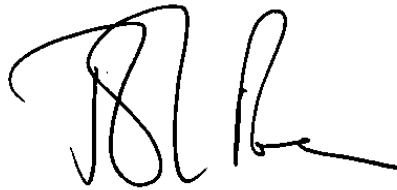
NOTE: (1) *no anonymity direction made at first instance will continue, unless extended by me.*

(2) *persons under 18 are referred to by initials, and must not be further identified.*

- (b) it followed that she had become entitled to permanent residence at the end of those five years, on 6 April 2015; and
- (c) so had the appellant, once he had been here and married to her for five years himself, on 29 January 2016, regardless of whether his ex-wife would still have been a 'qualified person' on the basis of her income; and
- (d) although the two of them had since been divorced, that right had come into existence on the date in question, and had not been affected by the dissolution of their marriage.

3. The judge dealt with the case very shortly (which is good, in case there should be any doubt about that) and clearly. Where she seems to have gone wrong is in her paragraph 10, summarizing Mr Cuttings's argument as being that the appellant had 'got there' by April 2015, when his reference had been to the ex-wife. It was indeed the ex-wife's status that had to be considered; but, for the reasons at **2**, that could only have resulted in the appeal being allowed. For those reasons it is now allowed by consent.

Appeal allowed

A handwritten signature in black ink, appearing to be 'JBL' followed by a horizontal line.

(a judge of the Upper
Tribunal)