



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/01141/2017

THE IMMIGRATION ACTS

Heard at Bradford
On 9 July 2018

Decision & Reasons Promulgated
On 14 August 2018

Before

UPPER TRIBUNAL JUDGE LANE

Between

MARLA DUMLAO
(NO ANONYMITY DIRECTION)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss Revill, instructed by VIP Legal

For the Respondent: Mr McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Marla Dumlao, was born on 3 February 1976 and is a female citizen of the Philippines. She appealed against the decision of the Secretary of State dated 29 December 2016 refusing her leave to remain as the unmarried partner of a person present and settled in the United Kingdom. The First-tier Tribunal (Judge Dearden) in a decision promulgated on 22 August 2017, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. The issue in this appeal is stated succinctly in the grant of permission by Judge Bird dated 29 January 2018:

“The appellant seeks permission to appeal against this decision. It is alleged that the judge made an arguable error of law in considering paragraph EX1 when the appellant had satisfied the requirements of paragraph R-LTRP1.1(a)–(c). EX1 was to be considered only if one of these subsections was not met (R-LTRP1.1(d)).”

3. I was assisted by Mr McVeety, who appeared for the Secretary of State at the Upper Tribunal hearing. It is entirely unclear why the judge proceeded to consider EX1 having found that the substantive immigration requirement had been met. Mr McVeety submitted that the judge should have proceeded to have allowed the appeal on human rights grounds (Article 8 ECHR). Having read the decision of Judge Dearden and the grounds of appeal, I agree.

Notice of Decision

4. **The decision of the First-tier Tribunal which was promulgated on 22 August 2017 is set aside. I have remade the decision. The appellant’s appeal against the decision of the Secretary of State dated 29 December 2016 is allowed on human rights grounds (Article 8 ECHR).**

No anonymity direction is made.

Signed

Date 2 AUGUST 2018

Upper Tribunal Judge Lane