



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/25441/2015

**THE IMMIGRATION ACTS**

Heard at Field House  
On 26<sup>th</sup> July 2018

Decision & Reasons Promulgated  
On 7<sup>th</sup> August 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE ROBERTS

Between

EMMANUEL AKWASI OSEI  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr V Aning, Legal Representative  
For the Respondent: Mr N Bramble, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The Appellant, a citizen of Ghana born 24<sup>th</sup> November 1989 appeals against the decision of the First-tier Tribunal (Judge Rowlands) dismissing his appeal against the Respondent's decision of 25<sup>th</sup> June 2015 refusing him leave to remain in the UK as the spouse of Maggy Paul, "the Sponsor", a woman settled here.

2. In a decision promulgated on 20<sup>th</sup> June 2017, Judge Rowlands concluded that the Appellant and Sponsor were not in a genuine and subsisting relationship and that therefore their marriage was one of convenience. This was the only issue before him.
3. The Appellant sought permission to appeal and this was originally refused by the First-tier Tribunal. A renewed application was granted by Upper Tribunal Judge Bruce in a decision dated 30<sup>th</sup> May 2018. UTJ Bruce's reasons for that decision are as follows:-

“The grounds are drafted by counsel who asserts that there was a good deal of documentary evidence that was not considered by the First-tier Tribunal. I am prepared to grant permission on that ground because it does not appear that these utility bills etc. are expressly considered by the Tribunal. The second ground is rather less clear, but then so are the findings in the determination which are arguably less detailed than (sic) they ought to be. Permission is therefore granted on all grounds.”

Thus the matter comes before me to decide whether the decision of the First-tier Tribunal discloses such error of law that it needs to be set aside and remade.

### **Error of Law Hearing**

4. Mr Aning appeared for the Appellant and Mr Bramble for the Respondent. At the outset of the proceedings Mr Bramble sensibly in my view acknowledged that having read the FtTJ's decision and considered the grant of permission he was satisfied that the grounds seeking permission were made out. Following that acknowledgement I did not need to call on Mr Aning.
5. It is clear that there is a great deal of documentary evidence which was put forward by the Appellant to support his case. It is evidence which goes to the core of the issue before the FtT. It comprises among other things evidence of cohabitation, utility bills and a joint bank account. For some inexplicable reason the FtTJ fails to acknowledge this evidence and make findings sufficient to show that he has kept this evidence in mind when making his decision. I find therefore that the judge has failed to give adequate reasons for rejecting the core aspect of the Appellant's claim. It is trite law to say that an Appellant is entitled to have considered all the relevant evidence produced by him. The decision in this appeal fails to show that the FtTJ has looked at the evidence holistically. That is a material error in that the Appellant cannot be said to have had a fair hearing.
6. Both representatives were of the view that the appropriate course in this appeal would be to remit the matter to the First-tier Tribunal for a fresh hearing. I agree with that course. Nothing is to be preserved from the original hearing and I hereby set it aside in its entirety. The decision will have to be remade by a judge other than Judge Rowlands.

**Notice of Decision**

The decision of the First-tier Tribunal promulgated on 20<sup>th</sup> June 2017 is set aside for material error. The appeal is remitted to the First-tier Tribunal for that Tribunal to remake the decision. It should be heard by a judge other than Judge Rowlands.

No anonymity direction is made.

Signed

C E Roberts

Date

31 July 2018

Deputy Upper Tribunal Judge Roberts