Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: PA/02526/2018

THE IMMIGRATION ACTS

Heard at Field House	**Decision & Reasons Promulgated**
On 25 October 2018	**On 4 April 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE JORDAN

Between

MRS BIBI [A]
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms K. McCarthy, Counsel
For the Respondent: Mr L. Tarlow, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Bangladesh who was born on 12 August 1988. She is now 30 years old.

2. She appeals against the determination of First-tier Tribunal Judge Mays promulgated on 20 April 2018 in which she dismissed the appellant's

appeal against the decision of the Secretary of State made on 6 February 2018. The decision was a decision to refuse her asylum claim and her associated human rights claims advanced both under Article 3 and under Article 8.

3. The circumstances of the case are set out by the judge in the determination. The appellant is from a town in Chittagong. Her claim was that she had met her husband in 2005. She was then about 17 years old. They initially kept that relationship a secret and it was done because the couple's families were not happy about that relationship.

4. It made matters worse in 2009 when the appellant became pregnant prior to marrying Mr [A], her present husband. So they fled to another village but they were traced by Mr [A]'s family. Mr [A] arranged to marry the appellant in a marriage, an informal small-scale wedding, after which the appellant moved, as is the custom, into Mr [A]'s family home with her parents-in-law. During that time the appellant was severely abused, particularly by her mother-in-law. She was not supported in anything that she attempted to do in the home. Worse still, the appellant's mother applied so much pressure upon the appellant that she felt herself forced to undergo an abortion. That was done in a way that was both dangerous and unlawful.

5. The judge also accepted the appellant's account was that they had received ill-treatment from the Panchayat and had been punished accordingly. As a result of all this the appellant returned to live with her parents. Mr [A] was sent to the United Kingdom to be a student but he returned to Bangladesh in 2012 and married the appellant, this time formally, in accordance with Bangladeshi law and the appellant herself left Bangladesh in 2014, some five years after the initial difficulties that she experienced with her parents-in-law.

6. The judge described the appellant's case, which included the concession that after leaving the home of her parents-in-law in 2009 until she left Bangladesh some five years later, she did not experience any difficulties from Mr [A]'s family. This period of five years featured very heavily in the judge's consideration. It was submitted on behalf of the respondent that the appellant had lived with her parents for five years prior to leaving Bangladesh and had experienced no problems, either at the hands of religious extremists or at the hands of her parents-in-law, and that there was no evidence that, at any rate, the religious extremists had been able to relocate her when she moved to her parents' home.

7. Mr [A] himself gave evidence that he had only spoken to his family on two occasions and that no threats had been made by his family.

8. The judge said in paragraph 33, in encapsulating the submissions made by the respondent, that they had simply disowned Mr [A]. They made it clear that they would not accept him and his wife and child. There was no

continuing interest or intention on behalf of the appellant's parents-in-law to cause harm.

9. That was the submission that was made on behalf of the respondent and it was a submission that was supported by the evidence that was provided. That is found most significantly in paragraph 43 of the determination. The judge broadly accepted as credible the appellant's account of events that had happened in Bangladesh, including the actions of the religious extremists and of Mr [A]'s parents during the time that they were living together. However in paragraph 43 the judge concluded that the appellant had significantly overstated the level of interest in, and the threat posed, to her and her child from Mr [A]'s family. That finding was supported by evidence given by Mr [A] himself, recorded by the judge in paragraph 43, in which she says

> "I find that Mr [A]'s family have disowned Mr [A]. They are not willing to accept Mr [A]'s marriage to the appellant or Mr [A]'s child. Mr [A] was expressly asked however whether his family had said anything else and at no time in his oral evidence did he suggest that his family had sought to threaten the appellant or his child".

10. That was the evidence.

11. The judge then went on to consider the current risk. The judge accepted in paragraph 46 that the appellant's parents-in-law had been able to track her and Mr [A] down in Chittagong and that this had resulted in the appellant going back to their home to live with them. The judge also accepted the level of violence that had been meted out to her, both by the religious extremists and by her parents-in-law, but returned to the central issue in this case, namely, what had occurred in the five years since the appellant had returned to live with her family between the years of 2009 and 2014. The judge found that in those five years she was living with her parents in a house which was in the town. She was not approached by Mr [A]'s family or by any religious extremists.

12. The appellant's evidence was that she was living in the property which her parents owned in the house. Despite the appellant suggesting that Mr [A]'s family and the religious extremists have the reach and power to find the appellant throughout Bangladesh, they appear to have been unable or unwilling to find her in the five years during which she remained in Bangladesh living in her parents' home.

13. This undermines the credibility of the appellant's claim that the religious extremists and Mr [A]'s family have any ongoing interest in her.

14. It was on the basis of this evidence, evidence that resulted in what the appellant and her husband told the judge, that the judge found that the appellant would not be at risk of harm from her parents-in-law should she return to her home area with Mr [A] and their child. I find that the appellant's parents-in-law have disowned Mr [A] and would simply have nothing more to do with the family. They are not prepared to accept Mr

[A] is married to the appellant or the child of that marriage. That is notwithstanding the fact that the appellant and Mr [A] were married on 25 August 2012 in Bangladesh and that they now have a son, U, who was born on 30 April 2017 in the United Kingdom and is of course the legitimate son of the couple.

15. The judge went on to find that the appellant would be returning almost nine years after the religious extremists had wished her harm and that it was not reasonably likely that those religious extremists would seek to target her. That finding of fact is not challenged in the grounds of appeal. The judge therefore made twin findings. First of all that the husband's family had disowned the appellant's husband and the appellant and now their child. Secondly that there was no harm from religious extremists. Those findings were properly open to the judge on the evidence that she heard and on the material that was before her.

16. In submissions made to me by Ms McCarthy it is said that the judge materially misunderstood the evidence and that was that the lack of interest shown by Mr [A]'s parents was a lack of interest because they believed the relationship had ended in 2009 when they had sent their son off to the United Kingdom to act as a student. Consequently, on return to Bangladesh, the couple would face the renewed animosity of Mr [A]'s parents. That was a matter which the judge did not properly take into account.

17. I reject that submission for the reason that the appellant's husband himself gave evidence, as I have summarised above, and that at no time in his oral evidence did he suggest that his family had sought to threaten the appellant or their child. It would have therefore have been irrational for the judge to have found that the risk was somehow resurrected and that there was to be a renewed animosity. There was simply no evidence to that effect. It would have to have been a matter upon which there was some direct evidence if that renewed threat were to materialise.

18. Consequently in my judgment it is a central finding, and a sustainable finding, of the First-tier Tribunal Judge that the appellant's parents-in-law had disowned Mr [A] and would simply have nothing to do with the family. That is not a finding which is specifically challenged in the grounds of appeal. It seems to me that, were this to be advanced, it would have to be established that the judge was *Wednesbury* unreasonable in reaching the conclusion that Mr [A]'s parents had disowned him.

19. In my judgment the evidence did not suggest that there was a renewed interest on the part of his family. That would simply be speculation but indeed was something which was undermined by Mr [A]'s own evidence about the continuing interest shown by his parents.

20. That is the substantial finding which in my judgment has not been undermined by anything that has been said or submitted on the appellant's behalf this morning. I can therefore turn to the issue of

internal relocation. Internal relocation does not, of course, arise on the principal finding made by the judge that the couple would not be at risk in their home area. The sustainable finding of fact that Mr [A]'s parents have disowned the couple has the effect that there is no risk. Were there to be a risk, then the judge went on to deal with that and concluded that there was the reasonable possibility of internal relocation. Inevitably, that was predicated upon the judge's findings that the husband's parents were no longer interested in pursuing the appellant. It therefore does not matter whether he was a policeman or a former policeman. It does not matter whether he had the reach to approach whatever officers in the police force he may have contact with in whatever area he may be able to identify so that the appellant and her husband would be at risk. Even if his reach was as submitted on behalf of the appellant since there was no risk that her parents-in-law had a continuing interest then that would not be a matter which would exacerbate or render it unduly harsh for her to relocate.

21. Finally it is suggested that even if there was no risk, it would nevertheless be a violation of their human rights to relocate in Bangladesh. That is an unsustainable submission to make. The appellant is finding work in the United Kingdom as a chef. There is no question of his being incapable of work. The fact that employment prospects may not be as good in Bangladesh as they are in the United Kingdom is nothing to the point. The assessment that the Tribunal had to make was whether a couple in good health with a child born in 2017 would be able to relocate to some part in Bangladesh. It is inevitable that the conclusion on that assessment would be that there is nothing unreasonable in requiring them to relocate. As long as there is the prospect of the appellant or her husband finding work then that is sufficient to establish that they are able to form a new home for themselves in Bangladesh without a violation of any of their human rights.

22. In those circumstances I am satisfied that the judge did not make a material error of law and he was entitled to conclude that on the material before him the appellant, her husband or her child would not be at risk of a violation of any of their rights either under the Asylum Convention or under the ECHR.

23. Accordingly I dismiss the appellant's appeal.

No anonymity direction is made.

ANDREW JORDAN
DEPUTY JUDGE OF THE UPPER TRIBUNAL
2 April 2019l