



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: EA/03273/2019 (P)

**THE IMMIGRATION ACTS**

Decided under rule 34  
On 14 August 2020

Decision & Reasons Promulgated  
On 25 August 2020

Before

UPPER TRIBUNAL JUDGE SHERIDAN

Between

MERXHAN PALUSHI  
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation**

For the Appellant: TLS Solicitors

For the Respondent: Ms Isherwood, Senior Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is appealing against a decision of Judge of the First-tier Tribunal Peer (“the judge”) promulgated on 19 December 2019. The judge found that it was more likely than not that the appellant’s marriage was one of convenience and on that basis dismissed his appeal against the respondent’s refusal to issue him with a residence card.
2. Permission to appeal was granted by Judge of the First-tier Tribunal Andrew on the basis that, arguably, there was no finding as to whether the respondent

had discharged the burden of proof, the judge made unclear/contradictory findings and the judge did not address the issue of the appellant's intention at the time of entry into marriage.

3. On 24 June 2020 directions were issued expressing the preliminary view that the error of law issue in this appeal could be determined without a hearing.
4. On 30 June 2020 the respondent submitted a rule 24 response, which stated that the respondent did not oppose the appellant's application for permission to appeal and accepted that the judge materially erred in law in line with the grant of permission.
5. In the light of the position of the respondent as set out in rule 24 response, I find that the decision of the First-tier Tribunal should be set aside on the basis that it involved the making of an error on a point of law. As the appeal will need to be considered afresh with no findings preserved, having regard to para. 7.2(b) of the Practice Statements of the Immigration and Asylum Chambers of the First-tier Tribunal and Upper Tribunal, I have decided that the appeal should be remitted to the First-tier Tribunal.

### Notice of Decision 's

- a. The appeal is allowed.
- b. The decision of the First-tier Tribunal is set aside and the appeal is remitted to the First-tier Tribunal to be heard afresh by a different judge.

Signed

*Daniel Sheridan*

Upper Tribunal Judge Sheridan

Dated: 14 August 2020

