



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: EA/01924/2016

THE IMMIGRATION ACTS

Heard by Skype for business
On 21 May 2021

Decision & Reasons Promulgated
On 3 June 2021

Before

UPPER TRIBUNAL JUDGE REEDS

Between

MATTY SANNEH
(ANONYMITY DIRECTION NOT MADE)

Appellant

AND

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Al-Rashid, Counsel instructed on behalf of the appellant

For the Respondent: Ms Pettersen, Senior Presenting Officer

DECISION AND REASONS

Introduction:

1. The appellant appeals with permission against the decision of the First-tier Tribunal Judge (hereinafter referred to as the "FtTJ") who dismissed her appeal against the decision to refuse her application for a residence card as a dependent family member of an EEA national in a decision promulgated on the 14 August 2019.

2. The background is set out in the decision of the FtTJ and the evidence in the bundle. The appellant is a national of the Gambia. She entered the United Kingdom on a six-month family visit visa valid from 11 June 2010 until 11 December 2010. It appears that her sponsor for that application was her half-sister, a French national who was present in the United Kingdom exercising her treaty rights. The appellant did not return to the Gambia after the expiry of that visit visa.
3. It was the appellant's case that prior to her arrival in the UK, her sponsor who had always remained in France until she arrived in United Kingdom in 2008, had provided her with financial support and as a consequence she claimed that she was dependent upon her.
4. Following her arrival in the UK, the appellant lived with her half-sister until she made a claim for asylum and then she moved to Middlesbrough as a result of that application. The claim for international protection was subsequently dismissed.
5. The appellant states that she returned to live with her sister at 2 addresses and at the time of the application and hearing continued to reside with her sister upon whom she was dependent.
6. During the course of her residence in the UK, the appellant has made a number of applications for a residence card.
7. On 14 November 2012 the appellant made an application for residence card which was refused. No copy of that decision is in the papers before the tribunal.
8. A further application was made on 24 February 2012 which was refused on 17 August 2012. Again, there is no copy decision in the papers.
9. On 12 May 2015 the appellant made a further application for residence card on the basis that she was an extended family member who had been dependent on her EEA national sponsor/a dependent member of her EEA national sponsor's household and continued to be so in the UK.
10. In a decision letter of 28 January 2016, the application was refused. There was a separate reasons for refusal letter of the same date. In that refusal letter, the respondent took into account information that the appellant had provided in her visa application form submitted on 8 June 2010 which related to her employment as a beauty therapist since 2007, her income, her savings, and her reference to being dependent on her husband. The respondent considered that the information provided indicated that her husband had met her essential needs and those of the children and that the money that she had earned was her own to use or save as she saw fit. Furthermore the respondent considered that the evidence in her own application form when taken with the evidence of 3 money transfer slips which was produced to demonstrate that the sponsor was financially responsible for the appellant in Gambia, that the appellant failed to

provide sufficient evidence that she was dependent upon and/or residing with the sponsor prior to entering United Kingdom and that since entering the United Kingdom should continue to be dependent upon and, or residing with the sponsor.

11. The appellant sought to appeal that decision. However, in a decision determined on the papers on 3 January 2017, the First-tier Tribunal found that there was no valid appeal relying on the decision in Sala (EFM's; right of appeal) [2016] UKUT 00411. Therefore, no findings were made in relation to the substance of the appeal.
12. The appellant appealed the decision to the Upper Tribunal and by the time of that appeal, the Court of Appeal had reached its decision in Khan v SSHD [2017] EWCA Civ 1755 that the upper Tribunal had been wrong in its conclusion and rationale in Sala. Therefore, the decision that there was no jurisdiction was set aside.
13. The appellant came before the FtT and in a decision promulgated on 14 August 2019, the FtTJ dismissed her appeal. At the hearing, the respondent was not represented but the appellant and the sponsor both gave oral evidence before the FtTJ. The FtTJ was not satisfied that the appellant and the sponsor had given credible and consistent evidence firstly as to the whereabouts of the appellant's parents (paragraph 34) and about how the money transfer receipts (that had been produced in the appellant's documentary bundle) had been obtained from the Gambia (paragraph 35). The judge consequently placed no weight on the money transfer receipts to show that the sponsor was sending financial support to the appellant in Gambia and that the inconsistent evidence went to the credibility of the appellant's claim that she was dependent on her EEA national sponsor in the United Kingdom (paragraph 36). The FtTJ also made findings on credibility adverse to the appellant by reference to evidence that she had given orally concerning her husband. Consequently, the judge found that the appellant's appeal could not succeed under the Regulations she could not "demonstrate that she falls within any of the limbs under Regulation 8 (2)".
14. Permission to appeal was issued and on 11 December 2019 permission was granted by Upper Tribunal Judge Sheridan.
15. In the light of the COVID-19 pandemic the Upper Tribunal issued directions, inter alia, indicating that it was provisionally of the view that the error of law issue could be determined without a face-to-face hearing and that this could take place on the papers (see decision of UTJ Bruce on the 4 June 2020).
16. In response to the directions the respondent filed further submissions dated 5 June 2020 but were prepared in the absence of any submissions from the appellants. The respondent sought a remote hearing. The appellant's solicitors sent further submissions on the 24 June 2020 seeking a decision on the papers.

17. Following this Upper Tribunal Judge Mandalia reviewed the file and directed that the appeal should be listed for an oral hearing by way of remote hearing (see directions issued on 5 March 2021).
18. Subsequently, the appeal was listed for a remote hearing via Skype. The Tribunal listed the hearing to enable oral submissions to be given by each of the parties.
19. The hearing took place on 21 May 2021, by means of *Skype for Business*, which has been consented to and not objected to by the parties. A face-to-face hearing was not held because it was not practicable, and both parties agreed that all issues could be determined in a remote hearing. The advocates attended remotely via video as did the appellant, Ms Sanneh. There were no issues regarding sound, and no substantial technical problems were encountered during the hearing and I am satisfied both advocates were able to make their respective cases by the chosen means.
20. Mr Al-Rashid relied upon the grounds which he amplified in his oral submissions. He submitted that the FtTJ had not accepted that the appellant had demonstrated dependency when she was in the Gambia and that the decision was based on credibility issues and as outlined in the written grounds, those credibility issues relied upon mistaken evidence and/or inconsistencies which were not properly set out in the evidence.
21. In particular he made reference to the issue of the remittance slips provided by the sponsor. There had been 3 remittance slips provided before the respondent for the purposes of the decision. However, the appeal bundle contained 10 additional remittance slips. He submitted that it was unclear which ones or how many of those remittance slips the FtTJ discredited applying Tanveer Ahmed but in any event the FtTJ was not entitled to do so given that the respondent had not asserted at any time that any of the slips were in any way unreliable or not credible.
22. As set out in the grounds, rather than considering those documents the judge relied on other evidence to discredit the slips and the dispute in the evidence centred upon how those slips had come into existence. The finding made by the judge was that the evidence given by the appellant and the sponsor was inconsistent with each other. However, Mr Al -Rashid submitted that looking at the evidence recorded there was nothing inconsistent in the evidence despite what the judge had found; one described where the appellant had left the documents in 2010 the other evidence described how the sponsor had acquired them later. That did not make the evidence dishonest or unreliable so that the evidence should just be summarily rejected in the way that the judge had done.
23. He outlined a second inconsistency by reference to paragraph 34.
24. The third error of law was set out at paragraph 6 of the grounds and is related to the judge's assessment of the evidence relating to dependency in the context

of the visit Visa application form. Mr Al -Rashid submitted that the judge erred in law by reference to the decision in MH [2010) UKUT 168 and by reference to rule 13 of the procedure rules. There was a procedural unfairness in play he submitted.

25. Lastly, he submitted that the judge erred in law by failing to consider the documentary evidence provided to demonstrate that the appellant was a membership of the same household as her sponsor.
26. He therefore submitted that the decision should be set aside.
27. Ms Pettersen on behalf of the respondent relied upon the written submissions that had been sent to the tribunal on 5 June 2020. She submitted that the respondent had taken account of the receipts when assessing the appellant's application for a residence card as set out in the decision letter and the judge's summary. The respondent had compared the evidence of the receipts with the statement of the appellant's employment when she had been granted a visit Visa in assessing whether the appellant had been dependent on her sponsor prior to coming to the United Kingdom.
28. It was submitted that whilst the grounds took issue with the respondent taking into account the material in the visit Visa application form, the judge was entitled to consider the claim as to the appellant's circumstances in the Gambia.
29. In her oral submissions Ms Pettersen submitted that even if the FtTJ had misunderstood the evidence relating to the remittance slips there still remained an issue with those documents and the issue of dependency. Furthermore, it was not a material error because the judge was entitled to look at the evidence is a whole when considering credibility.
30. As to the criticism of the respondent's reliance on the Visa application form, she submitted that the judge at [39] did analyse the evidence given by the appellant and the sponsor as to the difficulties in the relationship but the judge gave reasons why she did not find that evidence to be credible and therefore the judge overall gave adequate reasons for dismissing the appeal.

Decision on error of law:

31. The application by the appellant was to remain in the UK as an extended family member of her half-sister, the EU sponsor. The application was refused, and it appears to be accepted that the appellant's half-sister was an EEA citizen and that she was in the United Kingdom working and as such was a qualified person. The central issue was whether or not the appellant satisfied the requirements under the Regulations (and the Directive) to be an extended family member.

32. The term “extended family member” is defined in Regulation 8 of the 2006 regulations. There is a clear distinction between Regulation 7 which deals with family members and those under Regulation 8.
33. Regulation 8
- “Extended family member”**
- 8.- (1) In these Regulations ‘extended family member’ means a person who is not a family member of an EEA national under regulation 7 (1) (a) (b) (c) and satisfies the conditions in paragraph (2), (3), (4) or (5).
- (2) A person satisfies the condition in this paragraph if the person is a relative of an EEA national, his spouse or his civil partner and-
- (a) the persons residing in a country other than the United Kingdom and is dependent upon the EEA national or as a member of his household:
 - (b) the person satisfied the condition in (a) and is accompanying the EEA national to the United Kingdom or wishes to join him there: or
 - (c) the person satisfied the condition in paragraph (a), has joined the EEA national in the United Kingdom and continues to be dependent upon him or to be a member of his household.
34. The provision of the regulations mirrors the provisions of Council Directive 2004/38/EC (Citizens’ Free Movement) Articles 2 and 3 and Recital 6.
35. Extended family members consistent with article 2 and 3 of the Directive and Regulation 8 have to prove either financial dependency upon the EU member or membership of the EU sponsor’s household in a country outside and prior coming to the United Kingdom and also either financial dependency upon the EU member or membership of the EU sponsor’s household in the United Kingdom at present.
36. In respect of Regulation 8 when reading the Regulations each element of Regulation 8 (2) requires the provisions of 8(2) (a) to be satisfied. Thus, financial dependency in the past in the Gambia or membership of the household previously in Gambia were required elements. Therefore, a finding that the applicant had not been financially dependent upon the EEA national (or a member of the household prior to the applicant comes United Kingdom) would be fatal to an application and this appeal.
37. The conclusion reached by the FtTJ was that the appellant’s appeal could not succeed as she could not demonstrate that she fell with any of the limbs under Regulation 8 (2) of the 2006 regulations. In essence, the judge did not accept that the appellant had demonstrated any prior dependency upon her sponsor, her half-sister whilst she resided in the Gambia.

38. The grounds seek to challenge this assessment. The account given in the witness statements refer to the appellant's sister having provided financial support for the appellant via money remittances and also by other methods such as by cash payments on the occasions she was in the Gambia from 2006 onwards and when after she had entered the UK in 2008. It was claimed that she continued to support the appellant until her entry to the UK via a visit Visa in July 2010.
39. In support of this the appellant produced 3 remittance slips. At the hearing before the judge a further 10 remittance slips were provided in the appellant's bundle demonstrating significant payments to the appellant in Gambia.
40. The FtTJ heard oral evidence concerning these remittances set out at paragraph 26, in relation to the appellant and at paragraph 30 in relation to the appellant sponsor. Having set out their evidence the judge concluded at [35] that the appellant and the sponsor's evidence was inconsistent as to how the money transfer receipts were provided and that "the appellant said that the sponsor went to Gambia and found them where she had last lived which was at her uncle's house. The sponsor said that she asked her cousin to find them, and he found them from her husband's house and gave them to her and she brought them back to the United Kingdom."
41. The judge therefore set out that she found that "inconsistent evidence goes to their credibility and to the credibility of the appellant's claim that she is dependent on her EEA national sponsor in the United Kingdom" (at [36]) and at [37] by applying the decision in Tanveer Ahmed, the judge place no weight on those money transfer receipts to demonstrate that the sponsor was sending financial support to the appellant in Gambia.
42. Mr Al- Rashid on behalf of the appellant submits that the judge erred in law by reaching this conclusion. He submits firstly, the respondent had not asserted at any time that the earlier remittance slips were not reliable or credible in the decision letter and therefore the 13 remittance slips were credible and compelling evidence of the money sent by the sponsor to the appellant.
43. Furthermore, he submits that the judge relied on irrelevant evidence to undermine those remittance slips and made a finding on that evidence which was incorrect and thus not open to the judge to make. He directed the tribunal to the paragraph that I have earlier set out and submitted that the appellant had said she had left the remittance slips with her uncle in 2010 and the sponsor said they were given by the sponsor's cousin who had got them from the appellant's husband in 2019. Therefore, he submits that there was nothing inconsistent in the evidence given.
44. Mr Al- Rashid drew the tribunal's attention to the grant of permission where it was identified that arguably the evidence summarised at paragraph 35 did not disclose an inconsistency given that the appellant's evidence was that she had

left the remittance slips at her uncle's place (paragraph 26) and that the sponsor's evidence was that she obtained them several years later and posed the question that it was not necessarily the case that the remittance slips would be located in 2019 in the same place where they were left in 2010.

45. Ms Petterson on behalf of the respondent submitted that the judge was entitled to consider the evidence and that the appellant's credibility as a result was undermined.
46. I have considered with care the submissions of the parties and have done so in the light of the decision. Whilst Mr Al - Rashid submits that the 3 money transfer receipts were not challenged as being unreliable or not credible in the decision letter that does not mean that the respondent accepted that the appellant had demonstrated that she was dependent on sponsor whilst residing in Gambia. As a decision letter set out, the respondent considered other evidence alongside that provided by the appellant which the respondent considered had failed to provide sufficiency of evidence to demonstrate that the appellant was dependent on her sponsor.
47. Furthermore, even if it could be said that the respondent did not expressly state that the 3 receipts were not reliable, it does not mean that the respondent had accepted the 10 new receipts. Those had not been provided to the respondent at the date the application was made and therefore the respondent did not have the opportunity to consider them in reaching a decision on the evidence.
48. However, having considered the grounds in the light of the recitation of the evidence given by both parties, I am satisfied that the judge was in error in reaching the conclusion that there was an inconsistency in their evidence. At [26] the judge recorded the evidence given by the appellant and that she had been asked a question as to where her sister found the receipts and that "she said that the appellant left things at her uncle's place". At [30] the sponsor's evidence is recorded as follows "in respect of the money transfer receipts which have been provided, she asked her cousin brother to look for them where the appellant used to live, and the cousin brother found the money transfer receipts at her husband's house."
49. The judge found at [35] that this evidence was inconsistent because "the appellant said that the sponsor went to Gambia and found them where she had last lived which is at her uncle's house. The sponsor said that she asked her cousin to find them and found them from her husband's house". That is not reflected in the evidence set out at paragraphs [26] and [30]. The appellant's evidence appeared to be that she had left those documents at her uncle's house and that the sponsor said they had been given to her by her cousin who had got them from the appellant's husband's home in 2019. The point made by Mr Al Rashid is that the appellant described where she left them in 2010 and that the sponsor described how she'd acquired them in 2019.

50. I have carefully considered the recitation of the evidence and what the judge appeared to be stating was that the appellant's evidence was that her sister had obtained them from her uncle's house which was inconsistent with the sponsor's evidence that she had found them at the appellant's husband's house. However, that does not appear to be reflected in the evidential paragraphs and in my judgement, there is an ambiguity in the way the evidence has been set out and then relied upon by the judge.
51. It may have been open to the judge to consider the significant period of time between the dates of the documents and the year in which they were discovered and this appears to be reflected at [26] when the appellant was asked "where did she find the receipts after such a long time" however there was no finding made on that basis and in the light of the ambiguity of the recording of the evidence and thus the conclusion to be reached from it, I am satisfied that the finding on credibility was therefore undermined.
52. The other inconsistency that was set out in the decision is that at [34]. The judge recorded that the appellant and the sponsor were inconsistent in their evidence at the hearing in the following way. "The appellant said that her parents have died. The appellant sponsor said that her parents are living in France". The judge found that that inconsistency in the evidence "goes their credibility". Mr Al - Rashid made reference to the grounds and the decision letter. He submits that this was a clear misperception of the evidence and that the relationship between the appellant and the sponsor had not been challenged by the respondent. The appellant and the sponsor are half -sisters. Thus, they do not share the same set of parents; they have the same father. Secondly, he submits that the appellant did not say in evidence "her parents have died" but it said, "my mum died; father abroad". In respect of this submission, Counsel did not provide any evidence although in the grounds he stated that the notebook could be reduced if required. Whilst I had the record of proceedings in the file, it was handwritten and not easy to ascertain where this was set out in the evidence.
53. I agree with the observation made by Mr Al - Rashid that the respondent did not appear to challenge the relationship between the appellant and sponsor in the decision letter. It seems to me that this was the basis upon which the respondent considered the appellant fell within the regulations dealing with extended family members rather than under family members. However, paragraph 34 does not, in my judgement, seek to reach any finding from that evidence that the parties were not related in the way claimed. It seems to me that when reading that paragraph, all the judge was setting out was inconsistent evidence given by each of the witnesses (if it was inconsistent). Thus, even if there had been an inconsistency, it was not material to the substance of this appeal. At its highest, it was a matter of credibility in general terms.

54. The third issue relied upon by the appellant is that the judge erred in law by assessing the evidence of dependency against the backdrop of the appellant's visit Visa application which was made in 2010.
55. It is clear from the decision letter that the respondent relied upon the information provided in the visit Visa application form dated 8 June 2010. That document set out evidence purportedly given by the appellant concerning her income, her savings and who she was dependent upon.
56. It is plain from reading the reasons for refusal letter that based on that evidence the respondent reached the conclusion that the appellant was neither resident with the sponsor nor was she dependent upon her in another state. Furthermore, given her employment that her essential needs and travelling expenses had been paid for by other persons who were not the EU sponsor and thus the respondent concluded the appellant had failed to provide sufficient evidence that she was dependent upon the sponsor prior to entering the United Kingdom.
57. It is common ground between the parties that the respondent, who was not present at the hearing had not disclosed the visit Visa application form. As a result, it is submitted on behalf of the appellant that the judge should not have considered that evidence and relies upon the decision in MH [2010] UKUT 168 and by reference to rule 13 of the Procedure Rules. In short, it was submitted that where a document is mentioned in the refusal letter but not supplied, the Tribunal should assume that the document is no longer be relied on by the respondent. It is further submitted that apart from the issue of reliance it would be procedurally unfair to discredit a witness when the document relied upon is not presented to the appellant.
58. The decision in MH (as cited) had not been provided for the tribunal for the purposes for the hearing. However, during the course of submissions both myself and the presenting officer were able to consider that decision and in the light of the procedure rules as they were at the time of that decision in 2010.
59. Rule 12 of the Asylum and Immigration Tribunal (Procedure) Rules 2005 ("*the 2005 Rules*") provides that upon receipt of a Notice of Appeal, the First-tier Tribunal ("*the FtT*") shall serve same upon the Respondent (the Secretary of State) as soon as reasonably practicable. Rule 13 provides:
- "(1) When the Respondent is served with a copy of a Notice of Appeal, it must ... file with the Tribunal a copy of –*
- (a) *the notice of the decision to which the Notice of Appeal relates, and any other document served on the Appellant giving reasons for the decision.*
- (b) *any –*
- (i) *statement of evidence form completed by the Appellant; and*
- (ii) *record of an interview with the Appellant,*

in relation to the decision being appealed.

(c) any other unpublished document which is referred to in a document mentioned in (a) or relied upon by the Respondent; and

(d) the notice of any other immigration decision made in relation to the Appellant in respect of which he has a right of appeal under section 82 of the 2002 Act."

60. The rules governing proceedings in the FtT have changed, with the introduction of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014, in operation from 20 October 2014 and amended. Within the new regime, rule 24 (1) (d) is the equivalent of the former rules 12 and 13.
61. Ms Pettersen accepted that rule 24 (1) (d) was the equivalent of the former rule and thus applied at the time of the decision. It was also accepted that the application form had not been provided. However, Ms Pettersen submitted that the FtTJ was entitled to consider the claims as to the appellant circumstances in Gambia and assessing the evidence before her.
62. There is no dispute that the respondent relied upon the application form and it had not been provided to the appellant as set out in rule 24 (1) (d). Furthermore, it was not the case that the appellant accepted what had been stated in that form. Her witness statement at paragraph 5 set out that she would like to see what the Home Office was referring to and that "I cannot fairly comment without seeing the form with the questions and answers".
63. I am therefore satisfied that the judge he did use a document that was not made available to the appellant as a backdrop to the credibility findings. However, it is not as straightforward as Mr Al -Rashid submits because the FtTJ's assessment of the evidence did not solely rely upon the information based in the Visa application form but also from the oral evidence given by each of the parties as reflected at paragraphs [39 - 41]. Nonetheless, having considered the decision as a whole, I am satisfied that there was a procedural unfairness for the judge to seek to use the evidence in the visit application form, even as a backdrop to her later findings, when that document had not been made available.
64. It was as a result of the lack of credibility that the FtTJ reached the overall view that the appellant had failed to demonstrate reliably the factual elements of her claim and thus it was material to the outcome.
65. As set out earlier, I am satisfied that there is sufficient ambiguity in the way that the judge recorded the evidence that related to the production and discovery of the remittance documents which led to the finding being unsafe. Furthermore, for the reasons set out in the preceding paragraphs, whilst the judge was entitled to make reference to the oral evidence of the parties it was to some extent set in the context of the application form which had not been produced.

66. I am therefore satisfied that there are material errors of law in the decision of the FtTJ and that the judge failed to assess material evidence and make sustainable credibility findings in respect of the factual assertions of both the appellant and the sponsor.
67. It is not the case that the documents (in this case the remittance documents) stand on their own and the circumstances of the claimed dependency will require further consideration in the light of the evidence given by the appellant and the sponsor.
68. As highlighted by Mr Al - Rashid, the FtTJ did not make any findings on the other limb necessary to show dependency/membership of household either in accordance with the documents or the oral/written evidence of the witnesses.
69. He further accepted that in the light of the grounds which challenged the findings of credibility as being unsafe that the court would be required to assess the issue of dependency again and in the light of the evidence as a whole. There had been no written evidence given as to how the documents had been obtained.
70. At the conclusion of the hearing, I invited each party to provide submissions as to their preferred course should the tribunal find that the decision of the FtTJ involve the making of an error on a point of law. Mr Al - Rashid submitted that in view of the fact finding that would be necessary and in the interests of fairness to the appellant the appeal should be remitted to the FtT for a further hearing. Ms Pettersen did not disagree with that submission as to the disposal of the appeal.
71. I have therefore considered whether it should be remade in the Upper Tribunal or remitted to the FtT for a further hearing. In reaching that decision I have given careful consideration to the Joint Practice Statement of the First-tier Tribunal and Upper Tribunal concerning the disposal of appeals in this Tribunal
- "[7.2] The Upper Tribunal is likely on each such occasion to proceed to re-make the decision, instead of remitting the case to the First-tier Tribunal, unless the Upper Tribunal is satisfied that:-
- (a) the effect of the error has been to deprive a party before the First-tier Tribunal of a fair hearing or other opportunity for that party's case to be put to and considered by the First-tier Tribunal; or
- (b) the nature or extent of any judicial fact finding which is necessary in order for the decision in the appeal to be re-made is such that, having regard to the overriding objective in rule 2, it is appropriate to remit the case to the First-tier Tribunal."
72. I have considered the further consideration of the appeal in the light of the practice statement recited above and by reference to the history of the appeal and in the light of the submission made by Mr Al Rashid that it should be

remitted to the FtT. It will be necessary for the sponsor and the appellant to give evidence and to deal with the evidential issues, and therefore further fact-finding will be necessary and in the light of the relevant documentary evidence. Having considered the submissions of Mr Al - Rashid I am satisfied that the best course and consistent with the overriding objective is for it to be remitted to the FtT for a hearing.

73. For those reasons, I am satisfied that it has been demonstrated that the decision of the FtTJ did involve the making of an error on a point of law. I therefore set aside the decision of the FtTJ. It is to be remitted to the First-tier Tribunal.
74. The respondent is on notice that the visit Visa application form should be served and filed upon the FtT and the appellant if that document is relied upon.
75. Furthermore, any decisions taken in respect of applications made by the appellant should be provided.

Notice of Decision

The decision of the First-tier Tribunal did involve the making of an error on a point of law and therefore the decision shall be set aside and remitted for a hearing before the FtT.

Signed *Upper Tribunal Judge Reeds*

Dated: 24 May 2021