



**Upper Tribunal  
(Immigration and Asylum Chamber)    Appeal Number: UI-2021-000649  
[EA/01202/2020]**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On the 20 July 2022**

**Decision & Reasons Promulgated  
On the 15 September 2022**

**Before**

**UPPER TRIBUNAL JUDGE PERKINS  
DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN**

**Between**

**ABBAS SAYED MUHAMMAD ZOHAIR  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr E Pipi, Counsel instructed by Haider & Hasan

For the Respondent: Mrs A Nolan, Home Office Presenting Officer

**DECISION AND REASONS**

1. This is an appeal by an appellant against a decision of the First-tier Tribunal dismissing the appellant's appeal against a decision of the Secretary of State refusing him an EEA family permit as the family member of an EEA sponsor exercising Treaty rights.
2. There was some doubt about whether the EEA sponsor was exercising Treaty rights but that was resolved in the appellant's favour and that stands.

3. The First-tier Tribunal dismissed the appeal because the judge found the evidence unsatisfactory. The Secretary of State has indicated the kind of evidence that she would have expected to have been relied upon and the failure to provide such evidence can be a revealing omission. The difficulty we have in the case is that the First-tier Tribunal has heard oral evidence from the sponsor stating unequivocally that money was provided for the essential maintenance of the appellant and that evidence has not been considered in the Decision and Reasons. We do not know if the judge disbelieved the sponsor or found that the sponsor gave evidence that was overly optimistic or incomplete or if the sponsor was just passing on hearsay. We just do not know.
4. There is no reason in law why the assertion of the sponsor is not sufficient to prove the case. Although we are not suggesting that merely saying something is necessarily enough, it can be. The case has to be looked at as a whole and the judge has just not given reasons for rejecting what she was clearly told by the sponsor.
5. We have decided that this means that there has been no proper consideration of the appeal and we are sending it back to the First-tier Tribunal to be heard again. If this has the consequence that the appellant is able to get better evidence before the Tribunal, that might be something that works to the appellant's advantage but that is a matter for the appellant to sort out with the time that has become available.
6. We are satisfied that the First-tier Tribunal erred and we set aside its decision and direct that the case be heard again in the First-tier Tribunal.

**Notice of Decision**

7. First-tier Tribunal erred and we set aside its decision and direct that the case be heard again in the First-tier Tribunal.

Jonathan Perkins

Signed  
Jonathan Perkins  
Judge of the Upper Tribunal

Dated 27 July 2022