



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/04043/2020
(UI-2021-001603)

THE IMMIGRATION ACTS

**Heard at : Manchester Civil Justice
Centre
On : 22 July 2022**

**Decision & Reasons Promulgated
On : 8 September 2022**

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

RUTINA BUCI

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Gilbert, instructed by Lighthouse Solicitors

For the Respondent: Mr A McVeety, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals, with permission, against the decision of the First-tier Tribunal dismissing her appeal against the respondent's decision refusing her asylum and human rights claim.

2. The appellant is a citizen of Albania, born on 10 February 1995. She arrived in the UK clandestinely in 2018 and applied for asylum on 6 June 2019. Her claim was refused on 13 July 2020, and she appealed against that refusal decision.

3. The appellant's claim was made on the basis of a fear of persecution in Albania on four grounds, namely fear of her own family due to her marriage not being approved, a land dispute involving her husband's family, fear of loan sharks who were after her husband and fear of her husband's family for stealing money from them. She claimed to have commenced a relationship with her current husband, Agim Buci, when she was 14 years of age and left her family when she refused an arranged marriage to an older Serbian man. Her family believed that she had brought shame on them, and she had no further contact with them, although she saw her mother in 2017 when she was at hospital after giving birth to her son. She went to live in her (current) husband's family home with his parents and he left her there whilst he went to Greece for work purposes. Her in-laws treated her very badly. Her husband returned from Greece in August 2010 for a visit, and they were together for three months before he went back to Greece. He visited Albania again in April 2011 and was told by relatives of a work opportunity in Armall Lur in Diber. He started working there for a construction company, Euro-Lines SH.P.K, until October 2011. The construction company then commenced work on his family's land in Armall without their consent and they threatened to kill him and his family if he tried to stop them. His father reported the matter to the police. He left Albania and on return, in April 2012, was assaulted by an employee of the construction company and was hospitalised as a result. He reported the matter to the police, following which men from the construction company came to his house looking for him and making threats. In December 2012 he visited the appellant again and stayed until January 2013, but he then fled to Greece after men from the construction company came looking for him, and his brother fled to Italy for the same reason. On that occasion the appellant went with her husband to Greece. Her husband developed a gambling addiction whilst living in Greece and ran up debts. She suffered five miscarriages before falling pregnant in July 2016, at which time both she and her husband returned to Albania. After receiving more threats from the construction company if he failed to withdraw the complaint he had made to the police, her husband fled Albania in August 2016 without telling her and left her with his parents. She was pregnant at the time and gave birth to their son on 17 March 2017. In March 2018 threats were made against her by individuals claiming that her husband owed them a lot of money, threatening to take her son, and she then stole money from her father-in-law to enable her to leave the country and came to the UK with the assistance of an agent, arriving in April 2018. She became destitute in January 2019 and was accommodated by the Home Office. She made a human rights claim in May 2019 which was voided and she then made an asylum claim. Her husband found out that she was in the UK, and he arrived in August 2020 and joined her. He applied for asylum.

4. The respondent, in refusing the appellant's claim, did not accept her account of her husband's land dispute, did not accept her account of threats from people to whom her husband owed money, did not accept her account of having stolen money from her father-in-law and did not accept her claim to be risk of harm from her own father and brothers. The respondent concluded that the appellant did not have a subjective fear of returning to Albania and found, in any event, that there was a sufficiency of protection available to her from

the state and an option to internally relocate to another part of the country. The respondent found that the appellant's removal to Albania would not breach her human rights.

5. The appellant appealed against that decision and her appeal was heard by First-tier Tribunal Jones on 21 May 2021. The appellant and her husband gave oral evidence before the Tribunal. The appellant referred in her evidence to her marriage to her husband in August 2016, after they returned to Tirana and after she had discovered that she was pregnant. They had returned to Albania because they could not afford the health-care in Greece. It was in September 2016 that her husband disappeared without telling her where he was going. His evidence was that he left Albania because he had received a serious threat. Judge Jones did not accept the appellant's account and did not accept that she was at risk on return to Albania. He did not accept that she was at risk from her father and brothers as she had remained living in Albania for six years after leaving her family home and had never been threatened or harmed by them despite living near them in her in-laws' home and despite her mother having been able to locate her when she came to visit her in hospital in 2017. The judge did not accept that the appellant and Mr Buci were in fact in a genuine and subsisting relationship, noting the lack of evidence of their marriage, the limited contact they had between 2009 and 2018 and the fact that Mr Buci abandoned her and their child in 2016 and did not re-establish contact until four years later. The judge did not believe that the appellant would agree to leave her country of birth in 2013 with no real understanding of why she was moving to Greece and found the decision to move back to Albania in 2016 difficult to reconcile with the claim that they were at risk in Albania. He did not find the account of the appellant's husband abandoning her to be credible and he found the account of loan sharks agreeing to defer payment after going to the effort of locating her to lack credibility. He did not accept any of the account of the threats from the construction company or the loan sharks and he disbelieved the appellant's account of having stolen money from her in-laws, noting that the appellant's father-in-law was the owner of the land which was the subject of the dispute, yet he had not been threatened himself. The judge concluded that the appellant was not at any risk in Albania and that her removal from the UK would not breach her human rights. He accordingly dismissed the appeal on all grounds.

6. The appellant sought, and was granted, permission to appeal to the Upper Tribunal on three grounds, namely that there was procedural unfairness in the judge finding that the appellant and her husband were not in a genuine and subsisting relationship, when that had not been a part of the respondent's case and there had been no prior notice given to the appellant at the hearing; that the judge had erred by rejecting the appellant's account on the basis of his own world-view and on the basis of mere disbelief; and that the judge had failed to consider the evidence in the round and had fallen into the 'Mibanga' error.

7. At the hearing, both parties made submissions. With regard to the first ground, Mr Gilbert submitted that the judge's error, in his finding that the appellant's relationship was not genuine and subsisting, was a material one because it infected his findings on all four bases of the risk faced by the

appellant in Albania. As for the second ground, the judge's mode of reasoning was flawed as he based his findings on his own beliefs and, further, failed to consider relevant matters in so doing. With regard to the third ground, the judge failed to consider the evidence in the round but based each adverse credibility findings upon a previous negative finding. Mr McVeety submitted that there had been no procedural unfairness on the part of the judge in his finding that the appellant's relationship was not a genuine and subsisting one, as it was clear that he did not believe any of the evidence and his reasons for not accepting the relationship to be genuine were the same reasons why he did not believe the various aspects of the appellant's claim to be credible. His findings were based on the evidence and were open to him. As for the second ground, the judge was simply making plausibility findings, and findings as to how human beings would operate, which was entirely open to him to do. Finally, the judge made his findings in the round and did not make 'Mibanga' type errors. Mr Gilbert responded, reiterating the points previously made.

Discussion

8. I find myself entirely in agreement with Mr McVeety, that the appellant's first argument based upon procedural unfairness is on its face an attractive argument, but when considered more closely is not one which identifies an error of law on the judge's part. Although the judge's finding as to the genuineness and subsistence of the appellant's relationship with her husband is relevant to each of the four areas of risk claimed, it was not simply the adverse findings about the relationship which gave rise to the rejection of each area of risk but rather the lack of credibility, for reasons independent of the concerns about the relationship, of each of those four areas in themselves, and the overall lack of credibility of the claim as a whole.

9. The judge did not believe the first area of claimed risk, namely from the appellant's own family, for the reason given at [106] to [108], namely the fact that she had remained living in Albania for six years without any threats or harm from her own family despite living in close proximity to them and despite the fact that her mother was able to locate her with ease when she visited her in hospital in 2017, and the fact that it was now 12 years since she had rejected the arranged marriage and entered into a relationship with her husband instead. The judge did not believe the appellant's account of the threats in relation to a land dispute involving her husband for the reasons set out at [116] to [119], including the fact that they decided to move from a country where they were safe to the country where they were at risk of being harmed and that they gave inconsistent reasons for leaving Greece, and on the basis of the appellant's husband's actions in not withdrawing the complaint he had made to the police but chose instead to abandon his family and leave them in a place where they risked harm rather than taking them with him to safety. The judge gave additional reasons at [123] to [125], including discrepancies noted in the supporting documentary evidence, the passage of time since the complaint was made and the fact that the appellant's husband's father, the owner of the land in dispute, had never been threatened or harmed despite remaining in Albania. The appellant's account of being at risk from loan sharks was disbelieved by the judge for the reasons given at [120] and, as the

judge made clear at [121], her claim to have stolen money from her in-laws to leave Albania was connected to her account of the threats from the construction company and the loan sharks, neither of which he considered to be credible.

10. Accordingly, it is apparent that all four areas of claimed risk by the appellant were comprehensively rejected by the judge for reasons independent of any concerns about her relationship with her husband. Furthermore, I agree with Mr McVeety that, having heard and assessed all the evidence in the round, it was entirely open to the judge in any event to have concerns as to whether there was truth in anything the appellant was claiming, including her relationship with a man with whom she had had limited contact over a period of many years, and that there was no requirement for the judge to put those concerns and invite a response from the appellant after completing his assessment of the evidence. I therefore find no merit in the assertion that the judge's findings on the appellant's relationship gave rise to procedural unfairness.

11. Neither do I find there to be any merit in the second ground where it is asserted that the judge's mode of reasoning was flawed and that there was a failure to consider relevant matters. It seems to me that this ground is essentially a disagreement with the judge's adverse credibility findings. The judge is criticised for his finding at [116], that he found it difficult to believe that the appellant had agreed to leave her country of birth in 2013 with no real understanding of why she was moving to Greece, and it is submitted by Mr Gilbert that that ignored the appellant's evidence in her statement at [43]. However, the judge's finding was made on the basis of the appellant's oral evidence before him in relation to her move to Greece and I find nothing in the appellant's statement to undermine the adverse conclusions which he drew from her evidence in that regard. The judge was also perfectly entitled to draw adverse conclusions at [119] from the appellant's account of being abandoned by her husband rather than being taken with him to a place of safety and, likewise, at [120] from her account of the loan sharks' behaviour in deferring payment of the loan. I find no merit in the assertion in the grounds that the judge was imposing his own speculative views of the world in making these findings and I agree with Mr McVeety that he was simply drawing adverse conclusions and making adverse credibility findings on the evidence, for reasons clearly given, as he was perfectly entitled to do. Neither do I find that the judge's findings were made without consideration of the appellant's evidence in her statement and interview, as it is clear that all aspects of the evidence were taken into account by the judge when making his overall assessment. He was not required to refer to each and every part of the evidence and the suggestion that his findings were made without proper regard to parts of the evidence is, in my view, without any merit.

12. The third ground was considered, in the grant of permission, to be a "make weight". Mr Gilbert submitted that it was not, and that the judge had erred by creating a "domino effect" of disbelieving one aspect of the appellant's claim and using it to disbelieve another, thus falling within the Mibanga error. However, it is clear that that was not the case and that the

judge considered the evidence in the round. At [105] to [107] the judge directed himself appropriately in that regard and at [122] he made it clear that his conclusions had been reached on the basis of a rounded assessment. He applied the guidance in Tanveer Ahmed when assessing the documentary evidence in the round with the overall evidence, referring at [123] to discrepancies in the documentary evidence which undermined its reliability, but then going on to give other reasons for not finding that evidence to be credible in the context of his overall assessment. There was nothing erroneous in the judge's approach to the documentary evidence or to the other aspects of the evidence and the grounds are simply a disagreement with the judge's adverse conclusions.

13. For all these reasons I conclude that the judge made no errors of law in his decision. His decision was made on the basis of a full and rounded assessment of the evidence and his findings and conclusions were supported by cogent reasoning. He was fully and properly entitled to make the adverse findings that he did and there was no unfairness in his approach. The grounds do not disclose any errors of law in his decision. The decision is therefore upheld.

DECISION

14. The making of the decision of the First-tier Tribunal did not involve an error on a point of law requiring it to be set aside. The decision to dismiss the appeal stands.

Signed: S Kebede
Upper Tribunal Judge Kebede

Dated: 26 July 2022