



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
Extempore

Case No: UI-2022-002857
First-tier Tribunal No:
EA/16171/2021

THE IMMIGRATION ACTS

**Decision & Reasons Promulgated
On 3 March 2023**

Before

**UPPER TRIBUNAL JUDGE RINTOUL
DEPUTY UPPER TRIBUNAL JUDGE Z MALIK KC**

Between

**BAZILEU TOLENTINO DE NOVAES NETO
(ANONYMITY ORDER NOT MADE)**

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Ms S Cunha, Senior Home Office Presenting Officer

Heard at Field House on 31 October 2022

DECISION AND REASONS

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge Chohan promulgated on 6 April 2022 dismissing his appeal against an application under the EU Settlement Scheme to refuse to grant him pre-settlement status. That decision was on 17 November 2021. In short, the respondent was not satisfied by the evidence that the appellant had been resident in the United Kingdom before the transitional period

ended on 31 December 2020. The judge determined the appeal on the paper finding that he was not satisfied by the documents on file that the appellant was an Italian national at the time of his application which was a requirement, and nor was he satisfied that he had been resident in the United Kingdom at the relevant time given he found that the bank statements did not establish that.

2. The appellant sought permission to appeal against that which was granted. When the matter came before us Ms Cunha for the Secretary of State candidly accepted that the decision of the First-tier Tribunal did involve the making of an error of law. That was because the documentation on file showed that the appellant had, as we noted, held Italian citizenship *iure sanguinis*, in effect from birth. She accepted that as it was evident that the appellant was in fact an Italian national and had been at all the relevant times, and indeed had been resident in the United Kingdom as demonstrated by the documentary evidence, the appeal ought to be allowed. We concur having considered the documents ourselves.
3. Accordingly we are satisfied:
 - (1) the decision of the First-tier Tribunal involved the making of an error of law;
 - (2) that it should be set aside;
 - (3) that it should be re-made allowing the appeal under the EUSS.

Notice of decision

1. The decision of the decision of the First-tier Tribunal involved the making of an error of law and we set it aside.
2. We remake the appeal by allowing the appeal.

No anonymity direction is made.

Signed

Dated 02 March 2023

Jeremy K H Rintoul
Upper Tribunal Judge Rintoul