



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-004731
First-tier Tribunal No:
EA/01272/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 23 November 2023

Before

UPPER TRIBUNAL JUDGE PERKINS
DEPUTY UPPER TRIBUNAL JUDGE CHAPMAN

Between

Jacob Bonsuh
(NO ANONYMITY ORDER MADE)

Appellant

and

The Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: In person

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

Interpreter:

Mr B Mante, English and Twi

Heard at Field House on 9 November 2023

DECISION AND REASONS

(extempore)

1. This is the appeal by the Secretary of State against the decision of the First-tier Tribunal allowing the appeal of the respondent, hereinafter the claimant, against the decision of the Secretary of State refusing him pre-settlement status under the EU Settlement Scheme.
2. We have been greatly assisted today by Mr Mante, who has interpreted the Twi and English languages. We really would have been stuck without him. The claimant was not represented before us but had been represented below and clearly had taken advice before the hearing today because his solicitors had explained that he would representing himself, which he did with dignity and we appreciate that.
3. Although the First-tier Tribunal's decision was careful and considered it was not illuminated by the benefit of the decision of the Court of Appeal in **Celik [2023]**

EWCA Civ 921. The short point is that the claimant could not succeed because the marriage on which he relied was after the cut off date and whether or not this was a case where there had been a durable relationship, there was never any application based on cohabitation, so there was no basis for making a decision in the claimant's favour.

4. These points were explained with particular care by Ms Cunha and we are grateful to her for breaking things down in such a digestible way.
5. It seems to us that the claimant's case is quite hopeless. The law is against him and we have to follow the decision of the Court of Appeal.
6. It follows therefore that we find that the First-tier Tribunal erred and we set aside its decision and we substitute a decision dismissing the claimant's appeal against the Secretary of State's decision.
7. It is important however that the claimant understands that this not a decision that he has to leave the United Kingdom and it is not a decision that he is not properly married. It is simply a decision that the route he chose to permit him to remain is not a good route for being allowed to remain and we do strongly urge him to take advice. He *may* be entitled to remain on human rights grounds, as Ms Cunha indicated. It *may* be more expedient to return to Ghana and make an application under Appendix FM, which *could* be expected to succeed, but these are matters on which he needs to take advice and we strongly urge him to do that. We do not know that these routes will succeed, we emphasise they are open to him and he should consider them. But for the reasons given, we have to set aside the decision of the First-tier Tribunal and we have to substitute a decision dismissing the appeal against the Secretary of State's decision.

Notice of Decision

8. The First-tier Tribunal erred. We set aside its decision and we substitute a decision dismissing the claimant's appeal against the Secretary of State's decision.

Jonathan Perkins

Judge of the Upper Tribunal
Immigration and Asylum Chamber

17 November 2023