



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case Nos: UI-2023-003358
UI-2023-003365
UI-2023-003363
First-tier Tribunal Nos: HU/52970/2022
HU/52972/2022
HU/52971/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 30 October 2023

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

BIBI LALA MAROOF KHIL
ZABIULLAH MAROOF KHIL
ZAIN ULLAH MAROOF KHIL
(no anonymity order made)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr D Bazzini, Counsel instructed by Times Immigration
For the Respondent: Ms S Cunha, Senior Home Office Presenting Officer

Heard at Field House on 24 October 2023

DECISION AND REASONS
(extempore)

1. There are three appellants in this case. They are closely related and they appeal a decision of the First-tier Tribunal dismissing their appeals against a decision of the Secretary of State that they are not entitled to settlement under the family reunion scheme. The appeals in the First-tier Tribunal were heard by a First-tier Tribunal Judge when the appellants were represented by Mr E Nicholson of Counsel and the Secretary of State was not represented.
2. There are three substantial grounds of appeal on which permission has been granted but the matter was listed before me for Case Management Review because one of the grounds suggested that the judge had taken far too active a part in the proceedings and this contention, at least possibly, necessitated careful consideration of the electronic recording of

the proceedings and that could take considerable time. The recording has been found and can be made available if necessary. I have had the opportunity of listening to it although I do not claim to have listened to every word, I have not.

3. However, all of this rather overlooks the fact that the first ground of appeal is not in any way dependent on the judge taking over proceedings or otherwise acting improperly. It is suggested the judge has simply made a mistake and has asserted as a fact something which is not a fact. The problem is that the judge said in terms that there was no marriage certificate when there plainly was and Ms Cunha recognises this and recognises that this of itself totally undermines the First-tier Tribunal's decision and Ms Cunha agrees, entirely properly and professionally, that the First-tier Tribunal erred in law materially and that that reason alone is sufficient reason to set aside the decision and direct that the case be heard again in the First-tier Tribunal, which I do. I make no findings on the other grounds because it is not necessary.

Notice of Decision

4. The First-tier Tribunal erred in law. I set aside its decision and I direct the case be heard again in the First-tier Tribunal.

Jonathan Perkins

Judge of the Upper Tribunal
Immigration and Asylum Chamber

27 October 2023