IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-005234

First-tier Tribunal No: DC/00038/2022

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 26th April 2024

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

RAMZI SOUFAN
(no anonymity order made)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: No Appearance
For the Respondent: Mr N Wain, Senior Home Office Presenting Officer

Heard at Field House on 18 April 2024

DECISION AND REASONS

1. This is the re-making of the decision in the appellant's appeal, following the setting aside, in a decision of 12 February 2024, of the decision of First-tier Tribunal Chinweze in which he allowed the appellant's appeal against the decision to deprive him of his British nationality under section 40(3) of the British Nationality Act 1981.

2. The appellant is currently a British citizen, having previously held British Overseas Citizenship and having claimed to have held no other citizenship or nationality. It is his case that he acquired British Overseas Citizenship through his father who was born in

Lagos, Nigeria on 10 October 1938 when Nigeria was still a British colony and who had been given an honorary Guinean passport. The appellant himself was born in Jwaya, Lebanon on 28 August 1967, but claims that because his father's birth was never registered in Lebanon on any Civil Status Record, his own birth was never properly registered other than as a mere formality on the basis of his Lebanese mother's status record. It is the appellant's case that Lebanese citizenship cannot be acquired unless the father's birth is duly registered and it cannot be acquired by virtue of having been born in Lebanon alone.

3. On 25 January 2009 the appellant completed Form B(OS) to register as a British citizen. His application, made by his solicitors on his behalf, was accompanied by a document from the Lebanese authorities confirming that he had no claim to Lebanese citizenship. In his application form he gave his details and those of his parents, namely his father who was born in Nigeria and had Guinean nationality and his mother whose nationality was Lebanese, and he declared that he had never held any other citizenship or nationality. He declared that he was married in Beirut on 24 December 1995 to a Lebanese national. In the letter from his representatives enclosing the application form, it was stated that the Nationality Department of the Home Office had recently approved a similar application for the appellant's brother, and gave the reference number for that application (which the respondent confirmed relates to a Mr Khodor Soufan).

4. The appellant's application for British citizenship was approved on 04 January 2010 and he became a British citizen on 3 February 2010 under section 4(B) of the British Nationality Act 1981 (BNA 1981), which allowed British Overseas Citizens, British Protected Persons and British subjects (under the BNA 1981) to register as British citizens if they held no other citizenship or nationality.

5. On 4 August 2020, the appellant applied for a replacement British passport. He provided HMPO with a letter from the Lebanese Directorate General of Civil Status dated 5 October 2020 which stated that neither he nor his father was registered in the personal status register or in records from outside the Lebanese territory. The letter also stated that on the date he acquired British nationality the appellant did not hold Lebanese nationality or have the right to it in the first place. The appellant also provided HMPO with a birth certificate issued by the Lebanese Directorate General of Civil Status showing that he was born in Jwaya, Lebanon on 28 August 1967 and his birth was registered on 2 September 1967.

6. Following the submission of his passport application, HMPO telephoned the appellant on 1 December 2020 to enquire if he had a brother, Khodor Soufan, or if he had applied for a UK visa in 1999. The appellant stated that he had no brothers. He stated that he had never held a Lebanese passport or ID card or any other ID and that he had never applied for a UK visa.

7. On 12 February 2021 the appellant's case was referred to the Status Review Unit (SRU) by HMPO alongside that of Khodor Soufan. HMPO believed that the appellant and Khodor Soufan were brothers as they had provided the same parental details on their Form B(OS) applications. HMPO provided copies of Khodor Soufan's Lebanese passports issued prior to his grant of British citizenship.

8. Based on the information received from HMPO and the fact that the appellant had provided the same parental details as another Lebanese individual on his Form B(OS), the SRU issued an investigation letter on 01 November 2021 informing the appellant that the Secretary of State was considering depriving him of his British citizenship on

the basis that he had obtained his status by means of fraud. The appellant was invited to provide a response to the allegation and to submit any further information he wished to be taken into consideration. The appellant did not respond within the given time-frame and a further letter was issued to him via email on 7 December 2021.

9. Following enquiries by the appellant's legal representative, Ms Longhurst-Woods, on 28 December 2021 about the nature of the information upon which the allegation was based, and following an extension of time given to the appellant to provide further information and evidence, it was explained to the appellant, in a letter from SRU on 6 January 2022, that a referral had been received from HMPO indicating that he may be a Lebanese citizen as his case was referred to the Home Office alongside a Lebanese citizen considered to be his brother. Khodor Soufan had, by that time, been issued with a notice of decision to deprive him of his British citizenship in December 2021, as a result of him obtaining his British citizenship fraudulently by withholding the fact that he was a Lebanese national prior to registering under section 4(B) of the BNA 1981.

10.On 21 February 2022, the appellant's legal representative requested copies of the 1999 UK visa application which had been mentioned by the respondent, stating that the appellant could not recall making any UK visa application in 1999. The appellant's representative provided various documents, including the appellant's BOC passport, his Lebanese birth certificate translated into English, his parent's marriage certificate, his father's death certificate and a document named 'Soufan Ramzi Arabic MC'. On 26 April 2022, the appellant submitted an email to SRU responding to further questions put to him in a letter of 4 April 2022, claiming that he had misunderstood the question about having a brother named Khodor Soufan and that he could have a brother, but that he had lived his life without getting to know a brother as he was raised by his grandfather in Nigeria and was estranged from the rest of his family and was never in contact with them.

11.On 4 August 2022 the respondent decided to deprive the appellant of his British nationality on the basis that the grant of British citizenship had been obtained as a result of fraud. The respondent did not accept that there was a satisfactory explanation to justify why the appellant knowingly gave false information to the Home Office in relation to his nationality, or why he purposefully withheld information about his relationship with his brother throughout his dealings with HMPO. The respondent considered that, since the appellant's legal representatives had stated when submitting his application form that the Home Office had recently approved an application for his brother and had provided his brother's case reference number, it was the case that the appellant was in contact with his brother and was aware of their relationship prior to submitting his Form B(OS), and that the explanation he had provided was an attempt to deflect blame and avoid the consequences of the serious fraud he had committed. The respondent considered that, since the appellant's brother held Lebanese nationality prior to naturalising as a British citizen, the appellant was also a Lebanese national and was aware of this prior to naturalising as a British citizen on 3 February 2010. The respondent also noted that the document provided by the appellant's legal representative entitled 'Soufan Ramzi Arabic MC' was a Lebanese birth certificate which showed that his birth was registered in Lebanon on 2 September 1967. The respondent considered that the appellant was in possession of the document when he completed his Form B(OS) and therefore was aware that his birth was registered in Lebanon when he applied to register as a British citizen under section 4(B) of the BNA 1981, and that he was fully aware at the time of application that he held Lebanese nationality and was not eligible for the grant of British citizenship.

12.The respondent also noted that when completing Form B(OS) the appellant stated that he was married in Beirut on 24 December 1995 to a Lebanese national. The respondent noted, however, that when asked by SRU to provide a copy of his marriage certificate and explain the steps that he had taken in order to be married in Lebanon, because Lebanese Marriage Law stated that all foreigners needed to apply for permission to marry, the appellant had responded by stating that his marriage had taken place in Nigeria and not in Lebanon and that he had been divorced a long time ago and did not have his marriage certificate, and that he had failed to provide any evidence that his marriage took place in Nigeria. The respondent also noted that the marriage certificate provided by the appellant for his parents showed that they were married in Nigeria. However, in line with Lebanese Law, if his father's nationality was Guinean, as he claimed, his parents would have been required to register their marriage in Lebanon in order for his birth to be legitimate. It was further considered that, in light of the fact that the appellant's birth was registered in Lebanon by the Directorate General of Civil Status, it was reasonable to conclude that his father was a Lebanese national and that he had inherited Lebanese nationality from him. The respondent noted that the appellant had failed to provide a copy of his father's birth certificate or evidence of his nationality, despite being asked. The respondent noted that the appellant had provided letters from the Lebanese authorities in support of his registration application which stated that he was not a Lebanese citizen but considered that, had the caseworker who had considered his registration application been aware that he held Lebanese nationality, he would not have met the requirements of registration and his application would likely have been refused. The respondent accordingly considered that, by concealing his Lebanese nationality, the appellant had withheld material facts and that he had knowingly and deliberately deceived the SSHD and that deprivation was both reasonable and proportionate.

13. The appellant appealed against that decision under section 40A(1) of the British Nationality Act 1981. For the appeal he submitted a witness statement, his British and BOC passports, his Nigerian residence card and UAE residence card, a certificate from the Ministry of Interior & Municipalities in Beirut, his father's Guinean identity card, his birth certificate, his father's birth certificate, his father's death certificate, his mother's death certificate, his parents' marriage certificate, his tenancy agreement in Dubai, a cardiology report from Dubai, and some reports on Lebanese nationality law.

14. The appellant's appeal was initially considered and allowed on the papers, without an oral hearing, by First-tier Tribunal Judge Shiner. However that decision was set aside in the Upper Tribunal by Upper Tribunal Judge Rintoul on 19 July 2023 and remitted to the First-tier Tribunal.

15. The appeal was then heard by First-tier Tribunal Judge Chinweze on 24 October 2023, this time at an oral hearing. The appellant was living in Nigeria at the time and did not attend the hearing. He was, however, legally represented by Counsel, Ms Longhurst-Woods, through Direct Access, and submissions were made on his behalf. A copy of his Nigerian marriage certificate had been emailed to the Tribunal for the appeal. Judge Chinweze allowed the appellant's appeal in a decision promulgated on 14 November 2023.

16. Judge Chinweze found that the appellant had not told the truth about having a brother when questioned by the HMPO investigator and that his explanation that he was estranged from his brother was not credible. However he did not consider that the fact that he had lied was a reason to dismiss the appeal. Neither did he consider that the fact of the appellant's brother having Lebanese citizenship meant that he could

definitively conclude that the appellant also had Lebanese citizenship, particularly since the Secretary of State had not produced the appellant's brother's citizenship application or the Lebanese passports held by him. Judge Chinweze noted that the appellant's Lebanese birth certificate was registered against his mother's Civil Status record number, that the evidence produced for his father showed that his father had been born, married and died in Nigeria, that the documentary evidence was consistent with the appellant having being raised for the majority of his life in Nigeria, and that the letter from the Lebanese Ministry of the Interior confirmed that the appellant did not have Lebanese nationality. The judge gave no weight to the alleged UK visa application made by the appellant in 1999, noting that it had not been relied upon by the respondent in the deprivation decision, and he accepted that it would have been difficult for the appellant to obtain evidence of the registration of his marriage given the passage of time. The judge considered that the respondent had relied solely upon an inference that the appellant had Lebanese citizenship and noted that no challenge had been made to the authenticity of the documents the appellant had produced. He found that the documents relied upon by the appellant were consistent with his account. The judge was accordingly not satisfied that the respondent had demonstrated that the appellant had obtained British citizenship by fraud and he found that the condition precedent was not met.

17. Permission to appeal was sought by the respondent on two grounds. Firstly, that the judge had acted outside his jurisdiction and had re-made the s40(3) discretion for himself, undertaking a merits-based assessment rather than applying public law principles, contrary to the guidance in Chimi v The Secretary of State for the Home Department (deprivation appeals; scope and evidence) Cameroon [2023] UKUT 115 (IAC). Secondly, that the judge had erred in law by considering post-decision evidence in its merits-based assessment and had failed to identify any pleaded error of law permitting him to consider such evidence.

18. Permission was granted by the First-tier Tribunal on both grounds.

19. A rule 24 response was filed on behalf of the appellant asserting that the judge, following the principles in Chimi, had been entitled to find that the respondent had committed a public law error by acting in a way no reasonable decision-maker could have acted, or taking account of irrelevant considerations and disregarding evidence which should have been taken into account.

20. The matter was then listed for a hearing on 2 February 2024 in the Upper Tribunal. Mr Clarke appeared for the Secretary of State but there was no appearance for the appellant. The hearing proceeded in the appellant's absence, with submissions made by Mr Clarke, once it was established that the notice of hearing had been properly served on the appellant and he would therefore have been fully aware of the hearing. Following the hearing an email was received from the appellant, whereby he advised that he was residing in Nigeria and could not afford representation at the hearing but was submitting a skeleton argument drafted by direct access counsel Ms Longhurst-Woods. The skeleton argument was dated 24 January 2024 and was in identical terms as the rule 24 response which had been considered at the hearing. Accordingly the appeal had proceeded in line with the appellant's instructions.

21. In a decision promulgated on 12 February 2024 by the Upper Tribunal, First-tier Tribunal Judge Chinweze's decision was set aside on the following basis:

> "**Discussion**

23. It was Mr Clarke's submission that the judge had undertaken a merit-based assessment of the evidence before him rather than analysing how the Secretary of State had reached her decision on the evidence before her. We agree that that is the case. Although the judge set out the guidance in Chimi, it seems that he did not properly follow the approach set out in that guidance.

24. As Mr Clarke submitted, rather than asking himself the appropriate questions relevant to a challenge on public law grounds, the judge appeared to undertake his own assessment of the evidence before him, applying the Tanveer Ahmed principles at [38], and making findings in reliance upon that evidence, some of which had not been before the respondent. The evidence before the Secretary of State is referred to at [18] of the deprivation decision, namely the appellant's BOC passport, his Lebanese birth certificate, his parents' marriage certificate, his father's death certificate, and the letter from the Lebanese Ministry of the Interior. What the respondent did not have, despite requests being made to the appellant for such, were the appellant's marriage certificate and evidence of his marriage having taken place in Nigeria as he claimed, his father's birth certificate or his mother's death certificate, yet these were documents which the judge relied upon in his decision. At [39] and [49] the judge, making findings on the consistency of the evidence, referred to the appellant's mother's death certificate, yet that was not a document provided to the respondent. At [40] he relied partly upon the appellant's father's birth certificate as providing consistency to the appellant's claim about his father's nationality, yet the respondent had had to reach conclusions in that regard, at [25], in the absence of any evidence of his father's place of birth and nationality. At [41] and [44], the judge made findings on the consistency of the appellant's evidence of having being raised for the majority of his life in Nigeria, relying in part upon his marriage certificate, yet that was, again, a document requested by the respondent but not provided to her, as is evident from [24] of the deprivation decision.

25. It is also the case, as Mr Clarke submitted, that the language used by the judge, in particular at [49] to [52], is indicative of the judge undertaking his own assessment of the evidence rather than asking himself the correct question, as posed in the headnote to Chimi. We agree with Mr Clarke that the judge was effectively undertaking a re-determination of the issues for himself and reaching his own conclusions on the evidence before him rather than asking whether no reasonable Secretary of State could have reached the decision that she did or whether the Secretary of State had acted irrationally or unfairly on the evidence available to her at the time she made her decision.

26. We do not consider that there is an argument to be made that the judge would have reached the same decision had he adopted the correct approach. Accordingly we consider the error made by Judge Chinweze to be material to the outcome of the appeal. For all of these reasons we find that Judge Chinweze's decision contains material errors of law and cannot stand. We therefore set it aside. The SSHD's appeal is accordingly allowed.

Disposal

Given that the appellant's appeal has been allowed twice, albeit on an erroneous basis, and considering that there was no appearance at the hearing on behalf of the appellant to defend the judge's decision, we would be reluctant to go on and re-make the decision ourselves without the appellant having an opportunity to make further arguments with the benefit of legal representation at a further hearing. We do not, however, consider that a remittal to the First-tier Tribunal would be appropriate as the case is likely to proceed on the basis of submissions only and would more likely be properly considered in the Upper Tribunal.

The decision will therefore be re-made at a resumed hearing on a date to be notified to the parties. None of Judge Chinweze's findings are preserved."

22. The matter was then listed for a resumed hearing on 18 April 2024. Notice of the hearing was sent to the appellant on 26 March 2024 and directions were sent to him on 5 April 2024 for the filing and service of further evidence for the hearing. Given that he was a litigant in person it was clarified in a separate notice that this hearing was a re-making of the decision in his appeal following the setting aside of the previous decision of the First-tier Tribunal.

23. On 15 April 2024 the Tribunal received an adjournment request from the appellant as follows: "*Kindly be advised that my Barrister will not be able to attend on 18th April 2024, therefore I would like to request an adjournment for the tribunal on the mentioned date*."

24. The request was refused the same day on the following basis: "*The appellant is recorded as a litigant in person and there are no solicitors on record and therefore no counsel on record. The appellant's adjournment request, on the basis that his counsel cannot attend, is therefore without any proper explanation and is not a reason for the appeal to be adjourned. The appeal will therefore proceed as listed and the appellant is able to appear in person. If the appellant is unable to attend a face to face hearing, he is able to request a remote hearing, with an explanation for such a request. Any request for a remote hearing must, however, be made by the end of today, with relevant details provided so that a link can be sent out to join the hearing. Should an interpreter be required for the hearing a request must be made by the close of business today*."

25. On 16 April 2024 the appellant replied as follows: "*Dear sir or madam, I am Ramzi Soufan now the respondent in this matter. I reside in Nigeria and I cannot afford self representation at the hearing on 18 April 2024 and my Direct Access Counsel has drafted the Skeleton Argument attached. I request that this is considered by the Tribunal in making their decision*." The skeleton argument produced was in fact the same document from Miss Lesley Longhurst Woods, Direct Access Counsel, dated 24 January 2024 which had been produced for the error of law hearing.

26. On 17 April 2024 the appellant emailed the Tribunal to advise that: "*I am representing myself at the appeal hearing listed for the 18th April 2024. I cannot be in the Uk at his time because I cannot leave Dubai for business reasons. I have instructed Mr Daniel Coleman - counsel by direct access*. " However the same evening he emailed the Tribunal to advise that Mr Coleman could not take his case and that he was seeking an adjournment.

27. At the hearing, having just received the appellant's email, I considered the appellant's adjournment request. Mr Wain objected to an adjournment on the grounds that the appellant had not attended the error of law hearing and had had ample opportunity to seek representation for this hearing.

28. I decided that it was not appropriate to adjourn the hearing. The appellant had not attended the previous hearing or instructed counsel to attend but was content for the Tribunal to proceed in his absence. At that hearing it would have been open to the Tribunal to proceed to a re-making at the time but it was decided, in the interests of fairness, to provide the appellant with a further opportunity to attend or provide representation at a further hearing. However the appellant had not engaged in the process since receiving the decision and notice of hearing and had not requested further time to appoint counsel at that time. He had not sought to instruct solicitors in the UK at any point and it was only three days before the hearing that he gave any indication of wishing to instruct counsel for the hearing through direct access. It was

clear that he was scrambling around to find counsel at the last minute but, quite understandably, given the complex nature of the case, his instructions had been declined given the short notice. It was clear that the appellant had no intention of attending the hearing or instructing solicitors in the UK and he did not take up the offer of attending himself remotely. Having considered the guidance in Nwaigwe (adjournment: fairness) [2014] UKUT 418, I did not consider that there was any unfairness in proceeding with the appeal. The Tribunal had the full skeleton arguments produced for the previous hearing and it was clear that there was no further evidence to be produced which directly related to the respondent's decision.

29. The appeal therefore proceeded and I had regard to the skeleton argument which had been produced for the two previous hearings before the First-tier Tribunal, as well as the skeleton argument produced for this hearing dated 24 January 2024. I heard submissions from Mr Wain who relied on the deprivation decision of 4 August 2022 and the guidance in Chimi. He submitted that the appellant had been given an opportunity by the Status Review Unit (SRU) to provide further evidence but he had failed to provide the two pieces of evidence which were repeatedly requested of him, namely his father's birth certificate and proof of the visas he used to travel between Nigeria, Lebanon and the UAE. Although he produced some of the evidence subsequently for his appeal he had not produced the documents to the Home Office, which was the relevant issue for the purposes of headnote paragraph 2 of Chimi. There remained the discrepancy in the appellant's evidence about his brother which the respondent was entitled to reply upon. If the appellant had told the truth, his application for British nationality would not have been successful. The respondent was therefore entitled to find that the condition precedent had been met and to exercise discretion against the appellant and deprive him of his British nationality. No Article 8 issue had been raised by the appellant. Mr Wain asked that the appeal should therefore be dismissed.

Analysis

30. The Tribunal's jurisdiction in deprivation cases has been clarified in Chimi v The Secretary of State for the Home Department (deprivation appeals; scope and evidence) Cameroon [2023] UKUT 115, which sets out the correct approach to the order in which the relevant questions need to be asked in determining an appeal against a decision taken by the respondent under s40(3) of the BNA 1981.

31. In accordance with that approach, the first two questions to be asked are whether the Secretary of State materially erred in law when he decided that the condition precedent in s40(3) was satisfied and whether the Secretary of State materially erred in law when he decided to exercise his discretion to deprive the appellant of British citizenship. Headnote (2) of Chimi makes it clear that, in considering those questions, the Tribunal must only consider evidence which was before the Secretary of State or which is otherwise relevant to establishing a pleaded error of law in the decision under challenge.

32. It is relevant, therefore, to consider the evidence that was before the Secretary of State when the deprivation decision was made.

33. Of particular significance was the information from HMPO that the appellant had a brother, Khodor Soufan, who had been issued with Lebanese passports prior to being granted British citizenship and who was therefore a Lebanese national, but who had failed to disclose that in his B(OS) application and had also been issued with a notice of deprivation on the basis of having obtained his British fraudulently. The Secretary of

State had before him (Annex P of the Home Office bundle) a witness statement from a counter fraud investigator at HMPO explaining that a telephone enquiry had been made of the appellant on 1 December 2020 in regard to two matters: firstly, that there was a UK visa application from 1999 in his name with a different date of birth which was suspected to be his application; and secondly that he had a brother Khodor Soufan who held Lebanese nationality at the time of naturalisation as a British citizen. The statement stated that the appellant had denied holding a Lebanese passport, had denied having applied for a UK visa and had denied having a brother.

34. The Secretary of State was subsequently supplied with further documentary evidence consisting of the appellant's BOC passport, his Lebanese birth certificate, his parents' marriage certificate, his father's death certificate (described as his father's birth certificate, but was in fact his death certificate) and the letter from the Lebanese Ministry of the Interior. Following a request in a further letter of 4 April 2022, for an explanation as to why he had told HMPO that he did not have a brother, and for evidence of the visas used for his travels between Nigeria, Lebanon and the UAE which he had mentioned in his B(OS) application form at 2.9, as well as his father's birth certificate, his marriage certificate and evidence of his father's Guinean nationality, the appellant replied in an email of 26 April 2022 that he had misunderstood the question about having a brother named Khodor Soufan, that he did not have his old passports showing his entry stamps for his travels between those countries, that he did not have his marriage certificate and that he was unable to provide a document relating to his father's Guinean nationality. He made no mention of his father's birth certificate.

35. It was on the basis of that evidence that the respondent then went on to make his decision. The respondent made no further mention of the UK visa application referred to in the HMPO witness statement, but considered that the evidence otherwise presented, and the failure to provide the further requested evidence, led to the reasonable conclusion that the appellant was, in fact, a Lebanese national, and that he had deliberately lied about holding that nationality.

36. The respondent's reasons for reaching that conclusion are set out at [20] to [32]. At [21] the respondent relied upon the fact of the appellant's brother holding Lebanese nationality prior to naturalising as a British citizen. At [20] the respondent referred to the appellant's lie when questioned by the HMPO's counter fraud investigator about not having a brother and the claim in his email of 26 April 2022 that he never had contact with his brother, which was contradicted by the fact that he had specifically mentioned his brother in the letter from his legal representative dated 29 January 2009 (Annex G), when referring to his brother's B(OS) application. At [22] the respondent referred to the appellant's birth certificate showing the registration of his birth in Lebanon which suggested that he had Lebanese nationality and which he had not disclosed when submitting his B(OS) application. At [23] the respondent referred to the fact that, despite stating in his application form, when asked in which countries he had lived for five years or more, that he travelled between Nigeria, Lebanon and the USA, the appellant had failed to provide any evidence of the visa applications and the visas issued. At [24] the respondent noted the appellant's failure to provide documentary evidence of where his marriage took place, which was relevant to the requirement in Lebanese Marriage Law for foreigners to apply for permission to marry, and did not accept his unsupported statement that his marriage took place in Nigeria. At [25] the respondent noted that the appellant's Lebanese birth certificate stated that his parents' place of residence was Jwaya in Lebanon and, having regard to the fact that the appellant had not provided his father's birth certificate despite repeated requests, and that his own birth was registered in Lebanon, considered it reasonable

to conclude that his father was a Lebanese national and that he had inherited Lebanese nationality from him.

37. The appellant challenges those reasons. His case is that the respondent made findings of fact which were not supported by the evidence and which were based upon a view of the evidence which could not reasonably have been held. He claims that because his father's birth was never registered in Lebanon on any Civil Status Record, his own birth was never registered and he could not, therefore, acquire Lebanese citizenship. He claims that his birth was registered against his mother's Civil Status record and that he could not acquire Lebanese nationality through his mother. He claims that he could not have acquired Lebanese citizenship simply by virtue of being born in Lebanon. He relies upon the letter from the Lebanese Ministry of Interior and Municipalities to that effect. However, all of those matters had been considered by the respondent and addressed with cogent reasoning, as discussed above.

38. In so far as the appellant now seeks to rely upon further evidence that was not before the Secretary of State, namely his mother's death certificate (which is said to be consistent with the numerical entry in her civil status record and his own birth certificate), his father's birth certificate showing his birth in Nigeria and his marriage certificate confirming his marriage in Nigeria, those were all documents requested by the respondent but only provided to the Tribunal for the appeal. It was on the basis of Judge Chinweze's reliance upon those documents that he was found to have erred in law in his decision, as being contrary to the guidance in Chimi.

39. In so far as the appellant's skeleton argument asserts that the documents were relevant to the pleaded error of law (as per headnote (2) of Chimi), the grounds fail to explain how they were relevant in the sense discussed in Chimi at [61] to [67]. They clearly were not. As for the assertion in the skeleton argument that the respondent has by now had plenty of opportunity to review that further evidence and could have made a fresh decision, that is a matter for the appellant to pursue with the respondent by way of further representations but is not a matter for this Tribunal. The appellant has provided no explanation why the documents were not produced to the respondent when requested and it is still open to him to produce the relevant documentary evidence to the respondent in further representations or a fresh B(OS) application. In any event, there is nothing to suggest that the documents in themselves are determinative in establishing that the appellant was not a Lebanese national.

40. It is suggested in the skeleton arguments that the matters relating to the appellant's brother and the fact that he may have lied about whether he had a brother were not material to the relevant issue of whether the appellant was in fact a Lebanese national himself, and that the fact that the appellant's brother may have Lebanese nationality did not necessarily mean that the appellant had the same nationality. Indeed both Judge Shiner and Judge Chinweze decided to place little weight on the appellant's lies and on the respondent's case in that respect. However it was not simply the fact that the appellant lied that was relevant, nor the fact that he had a brother who held Lebanese nationality. What was relevant was the fact that the appellant, having previously relied upon his brother's B(OS) application being approved and provided the relevant reference number, then sought to deny that he had a brother and deliberately sought to distance himself from his brother when confronted with the information about his brother. What was also relevant was the impact of that behaviour on the reliability of the rest of his evidence.

41. It seems to me that, in light of the evidence relating to the appellant's brother's Lebanese nationality and the appellant's attempt to distance himself from his brother,

and given the appellant's consistent failure to provide relevant requested documentary evidence, the respondent was fully and properly entitled to accord the limited weight that he did to the evidence that had been provided and to the appellant's bare assertion that he was not entitled to Lebanese nationality. It was entirely reasonable and rational for the respondent to conclude that, like his brother, the appellant was in fact a Lebanese national and had deliberately failed to disclose that matter in his B(OS) application. Clearly, had the caseworker known that the appellant held Lebanese citizenship, his B(OS) application would not have been approved as he would not have been able to meet the relevant requirements for registration as a British citizenship. The deception/ misrepresentation was therefore material to the acquisition of the British citizenship. Accordingly I reject the claim that the respondent materially erred in law when deciding that the condition precedent in section 40(3) was met.

42. The focus of the challenge to the respondent's decision was the lawfulness and reasonableness of the respondent's decision that the appellant was a Lebanese national and the decision that he had deliberately lied about his nationality. The appellant has not offered any reason as to why, if the fraud and deception was established, the respondent ought not to deprive him of his British citizenship and why discretion ought to have been exercised in his favour. I can see no reason why the respondent was not lawfully or reasonably entitled to exercise discretion against the appellant and deprive him of his British citizenship in the circumstances that he did and on the basis of the evidence he had before him.

43. The appellant does not pursue a claim under Article 8. He has not produced evidence of any family or private life established in the UK to indicate that Article 8 is engaged and in any event there is no suggestion that there are any reasonably foreseeable consequences of being deprived of his British citizenship such that the deprivation decision ought to be considered as disproportionate. The appeal must therefore be dismissed.

Notice of Decision

44. The decision of the First-tier Tribunal having been set aside, the decision is re-made by dismissing the appellant's appeal.

Signed: S Kebede
Upper Tribunal Judge Kebede

Judge of the Upper Tribunal
Immigration and Asylum Chamber

22 April 2024