



**IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM
CHAMBER**

Case No: UI-2024-000974

First-tier Tribunal No:
PA/51946/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

On 21st of June 2024

Before

DEPUTY UPPER TRIBUNAL JUDGE SYMES

Between

**GMP
(anonymity order made)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms L Hirst
For the Respondent: Mr E Banham

Heard at Field House on 26 April 2024

Pursuant to rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, the appellant is granted anonymity, given that this is an asylum appeal.

DECISION AND REASONS

1. This is the appeal of GMP, a citizen of the Philippines born 13 May 1972, against the decision of the First-tier Tribunal of 20 February 2024, dismissing her appeal on asylum grounds.

2. The NRM accepted that the Appellant was a victim of modern slavery between 2012 and 2017 in Saudi Arabia, Turkey, the United Arab Emirates and the United Kingdom. This was because she was accepted as having been recruited by her Saudi employer by deception, her documents withheld from her, and threatened with false accusations of theft if she left her role, as well as suffering other physical and psychological abuse. After a protracted period of consideration and reconsideration, she was granted Discretionary Leave to Remain from 12 May 2023 to 12 May 2024.
3. The essence of the Appellant's appeal was that she faced risks of re-trafficking because if returned to the Philippines she would feel it incumbent upon her to earn enough to support her two minor children and one adult daughter with a physical disability who lived with her sister.
4. The material facts of her asylum claim, taken from the First-tier Tribunal's careful summary which it would be difficult to improve upon, are that
 - a) The Appellant was born in a poor area of the Philippines and married her husband Edwin at a very young age. That marriage resulted in 7 children.
 - b) During the relationship with Edwin, the Appellant was a victim of extensive emotional, physical and psychological abuse including coercive and controlling behaviour.
 - c) In 2012, the Appellant's former husband stopped any financial support for her and the children. This meant that the Appellant could not support herself and her family through her own earnings - at this stage, the Appellant was working as a factory labourer in Quezon City (Metro Manila).
 - d) The Appellant therefore sought and accepted employment in Saudi Arabia - during that time she also suffered verbal and psychological abuse from her employers and their children. The medical opinion of Dr Heke is that the Appellant would have met the criteria for symptoms of major depressive disorder whilst working in the Middle East, and initially when she arrived in the UK.
 - e) After two years of working in the Middle East the Appellant was given a short period of leave and she returned to the Philippines. She did not seek another job or could not afford the fees being charged by the relevant agency and therefore returned to Saudi Arabia in 2014.
 - f) On 5 May 2014 the Appellant and her then employer obtained a private household visa for her (and the family) to travel to the UK. During the journey the Appellant's employer withheld her passport and she was not permitted to see the documents used during the

making of the application and she was also told to mislead staff at the British Embassy in respect of her pay and working conditions. The issued visa was valid until 12 November 2014. It appears that the Appellant arrived in the United Kingdom on 31 May 2014 and left on 20 June 2014.

- g) There was a second application for a private household visa made in May 2015 which was granted valid from 14 May 2015 until 14 November 2015.
 - h) The Appellant entered the United Kingdom on 24 July 2015 and returned on 20 August 2015.
 - i) There was a further application for a private household visa granted on 13 June 2016, valid until 30 December 2016; the Appellant entered the United Kingdom on 6 August 2016 and left on 25 August 2016.
 - j) The final application for a private household visa was made on 15 May 2017 and granted valid from 17 May 2017 until 17 November 2017; the Appellant entered the United Kingdom on 22 July 2017 with her employer.
 - k) It was during this period in the United Kingdom that the Appellant felt she could no longer endure the adverse treatment she was experiencing at the hands of her employer including not being provided with food and other forms of verbal and physical abuse.
 - l) She managed to leave the house under the pretence of needing to buy cream from a chemist's but instead travelled to Kilburn in order to meet a friend and another woman who had also escaped from her employer.
 - m) Another Filipina lady, whom the Appellant met in Kilburn, took her to a domestic worker charity and she was then taken to the organisation Kalayaan. This organisation then referred the Appellant to the National Referral Mechanism on 15 November 2017 and they also directed the Appellant on to Hestia in the same month.
 - n) A positive reasonable grounds decision from the Respondent followed on 21 November 2017; following a long delay, a lawful positive conclusive grounds decision eventuated on 14 February 2022.
5. Professor Sidel produced two reports on the Appellant's case in which he observed that:
- (a) The Philippines suffers from the highest rates of poverty, unemployment, social inequality and human insecurity among the industrialised countries of Southeast Asia.

- (b) There is a persistently large amount of surplus labour, with high unemployment and low wages. It is this context of prevalent and persistent poverty and social hardship across a broad segment of the population that facilitates the high levels of trafficking of Philippine nationals to overseas work.
- (c) There are around 12 million people in extensive poverty in the Philippines.
- (d) In 2010 an estimated 10 million people from the Philippines were working overseas with 53% of all such nationals as migrant workers in the Middle East.
- (e) The act of trafficking was also facilitated by recruitment agencies in the Philippines who routinely deceive potential workers in respect of the conditions of their future employment.
- (f) The working conditions for Filipina domestic servants in the Gulf states are notoriously poor.
- (g) The Appellant would struggle to compete with the younger generation of people looking for work in an environment where there is surplus labour in the Philippines and much competition even for insecure jobs in services industries, therefore it would not be easy for her to find a stable/secure job.
- (h) The Appellant would be at a high risk of re-trafficking because she is the main breadwinner for her family in the Philippines; equally the Appellant would have to borrow money or enter into an agreement with an agency in order to secure work in the Middle East which would exacerbate her vulnerability.
- (i) In the addendum report of December 2023, produced in response to the Respondent's review, the Professor acknowledged that there were some deficiencies in his original report and therefore also sought to deal with the specific family circumstances of the Appellant as well as her own history having lived in Metro Manila from 2000 until 2014 before she then travelled to work in the Middle East. He noted that it seemed that she had relied on the income from other family members over any period when her husband had not been remitting funds to her, and it was unlikely that her own earnings as a factory worker represented a significant part of the household income.
- (j) Professor Sidel added that whilst it was right to say that in comparison to 2014, five of the Appellant's children were now adults, nonetheless the Appellant was over 50 years old and would therefore struggle to find stable/secure employment; the brother who had previously helped her to establish herself in Metro Manila was now 68.

- (k) The Professor also surmised that the needs and expectations of the Appellant's direct and extended family in the Philippines meant it was very likely that the Appellant would seek to resume work in the Middle East.
6. A report from Dr Heke set out that she did not show present symptoms of PTSD or depression but would have met the criteria during the periods of exploitation she had suffered; her mental health had improved now she felt safe and secure in her current supportive employment, additionally supported by her solicitor and the NGOs Hestia and Kalayaan; if returned to the Philippines she would not become delusional or experience psychosis, and was at low risk of suicide given protective factors such as her family, but there was a risk of a trauma reaction or depression if she faced further abuse or trauma; she might well feel she had no option other than to seek work in the Middle East as she tended to prioritise her children over herself, due to an overwhelming sense of obligation towards them; she would be highly vulnerable if forced to face further exploitation; she would need to work abroad as her foreseeable earnings would not be enough to support her sister, her sister's husband and her children.
7. The First-tier Tribunal treated the Appellant as a vulnerable witness given the abuse she had suffered in the past, from her ex-partner and as recognised by the NRM decision. It made findings that
- (a) The Appellant and her ex-partner had finally separated in 2014, by which time he had withdrawn financial support from the family, and she experienced no problems from him and his family on her visits to the Philippines in 2015 and 2016, albeit that he drunkenly threatened to kill her if he encountered again via a threat to her niece in 2014 and had asked her children on the telephone about any plans she might have to return to the Philippines; he had subsequently lived in another province whilst the Appellant's siblings and her children resided in Metro Manila.
 - (b) Her ex-partner had not sought to obtain her phone number and she had blocked a friend request from him on Facebook, nor had his brother in Manila tried to approach her siblings or children.
 - (c) Overall there was no real risk that her ex-partner would seek to find her, nor that his cousin in the police force would seek to, or have the influence to, track her down or harm her.
 - (d) Noting that five of the Appellant's seven children were now aged over 18, the youngest ones lived with the Appellant's sister's family in Manila as did one of the older daughters in a household with monthly expenses of around 41,000 pesos plus other medical and dental expenses, another daughter worked intermittently in a call centre (her earning capacity diminished by a disability she suffers), a son worked as a delivery driver on a non-permanent basis, and

the Appellant sent back funds from her own earnings in the UK of a few hundred pounds monthly, albeit that errors in the Respondent's decision making had prevented her from so doing when she was unable to work for extended periods here.

8. Identifying the key issues to be determined as the reality of the Appellant's foreseeable living conditions in Manila and whether she would be compelled to work because of her family's overall circumstances, the First-tier Tribunal concluded that the evidence did not suggest that the situation of her family abroad was unduly straitened. Professor Sidel had not addressed the present circumstances having concentrated on the period 2000-2014. The Appellant did not suffer from any mental or cognitive impairment that would materially impact her decision making, prevent her from recognising danger or make her more vulnerable to exploitation, and any renewed depression would not be of a degree to prevent her from looking after her children. Notwithstanding that she had previously returned to exploitation in the Middle East after a short break in the Philippines in 2014, the Appellant's own evidence indicated that she would not now seek work abroad via an agency, given that when she had previously done so she had not reached breaking point under cumulative abuse, she had then had greater economic pressures on her because she then had five minor children, and that whilst living costs in Manila had increased since 2012, the broader family were making ends meet even when the Appellant was not remitting funds to them, indicating that she would not face destitution. Her support network in the UK had brought home to her the grave risks to migrant workers and whilst she was a loving mother, it was not reasonably likely that she would again seek work overseas. She had shown resilience and any foreseeable depression would not put her at risk of making reckless decisions, and there was the additional protective factor that her family would not want her to run any risk of future exploitation.
9. Grounds of appeal contended that
 - (a) It was unfair to put in issue the perceived financial adequacy of the Appellant's family's situation in the Philippines without giving an opportunity for this to be addressed at the hearing, given it had not been raised in the refusal letter or Respondent's review.
 - (b) In any event the evidence was her family had suffered extreme hardship over that period, her sister incurring debt in supporting them, and in fact the Appellant believed that her sister had downplayed the true extent of their hardship. Meanwhile over this period the Appellant had been destitute in the UK and forced to rely on friends for accommodation and food. Furthermore the family already struggled to support themselves financially and there was no evidence that the Appellant would be able to earn sufficient in the Philippines to match the remittances she presently made from the UK.

- (c) Professor Sidel had in fact addressed circumstances on the Appellant's return, stating that her prospects for securing a decent livelihood in the Philippines would be very limited, due to her limited education and work experience and her family's poor background, and the ongoing unfavourable labour market conditions; poverty was widespread, things had not changed since 2014, and around a quarter of the population lived in poverty.
 - (d) As to the Appellant's fear of domestic violence, the evidence was that her ex-partner had repeatedly asked her children about her whereabouts and that he had threatened to kill her if he encountered her again. Violence against women was common in the Philippines and his being related to a police officer was relevant to the availability to seek protection from the authorities. The real issue was less the efforts he had made to contact her abroad than the likelihood that he would become aware of her return to the Philippines to live with her family.
10. The First-tier Tribunal granted permission to appeal on 11 March 2024, expressly mentioning the fairness point but not limiting the grounds that might be argued.
 11. For the Appellant Ms Hirst submitted that Professor Sidel had provided evidence of grinding poverty in the Philippines generally this was not disputed by the Respondent, and this represented a generic risk that was unavoidable. The First-tier Tribunal had misunderstood one facet of her case, in stating that her ex-partner had stopped supporting her in 2012 - in fact it was in 2002, as per her witness statement; she was only able to earn some 210 pesos a day at that time. Even if she doubled her earnings on return it would not put her close to her previous net earnings combined with those of her husband so she would inevitably be impoverished. The family's situation in 2019-2020 had not been put in issue by the Respondent hence Professor Sidel had not addressed it. The costs of the children going to school represented only 10% of the family's living costs.
 12. For the Respondent Mr Banham submitted that the appeal represented a mere disagreement with findings of fact in relation to a limited area of the findings. Reasonable findings were made as to the positive evidence of the Appellant's resilience and to the absence of risk on return. The findings that were made essentially flowed from the Appellant's own evidence and did not involve an unreasonable approach to the expert evidence.

Decision and reasons

13. This appeal ultimately comes down to two simple points. Firstly whether the Appellant would be driven by force of circumstances to work abroad in the Middle East to contribute towards the support of her remaining two minor children and one adult disabled child. The parties agreed that

if the Appellant were to seek work overseas, there was a reasonable likelihood of modern slavery/re-trafficking. Secondly as to whether her husband retains the animus and means to visit domestic abuse upon her as he has done in the past. It does not appear from the evidence that the family abroad are presently living in penury, albeit that their circumstances may from time to time be difficult. The Appellant's best point on this score is that her return to the Philippines would deprive the family of the remittances from her present earnings which amount to several hundred pounds monthly.

14. When reviewing the decision below, I should have regard to the appellate principles most recently summarised by Green LJ in Ullah [2024] EWCA Civ 201 §26 (minus the supporting precedents cited therein):

“(i) the FTT is a specialist fact-finding tribunal. The UT should not rush to find an error of law simply because it might have reached a different conclusion on the facts or expressed themselves differently ...

(ii) where a relevant point was not expressly mentioned by the FTT, the UT should be slow to infer that it had not been taken into account ...

(iii) when it comes to the reasons given by the FTT, the UT should exercise judicial restraint and not assume that the FTT misdirected itself just because not every step in its reasoning was fully set out ...

(iv) the issues for decision and the basis upon which the FTT reaches its decision on those issues may be set out directly or by inference ...

(vi) it is of the nature of assessment that different tribunals, without illegality or irrationality, may reach different conclusions on the same case. The mere fact that one tribunal has reached what might appear to be an unusually generous view of the facts does not mean that it has made an error of law”.

15. Given that fairness has been put in issue by the first ground of appeal, Abdi [2023] EWCA Civ 1455 is also relevant: as Popplewell LJ put it §23, “it will be unfair, ordinarily at least, for it to base its decision upon its view of the issue without giving the parties an opportunity to address it upon the matter ... the tribunal is entitled to reject evidence notwithstanding that the evidence has not been challenged before it. Fairness may, however, require it to disclose its concerns about the evidence so as to afford the parties an opportunity to address them.”
16. Addressing the first ground, I do not accept there was procedural unfairness in the proceedings below. The Respondent’s review of 19 October 2023 did not accept that Professor Sidel’s report presented real risks of exposure to re-trafficking, because of (in the Respondent’s view) the Appellant’s ability to find work in Manila and to support herself and her children, assisted by her supportive family; it appeared

to have been her wish to put her children through college that really impelled her to work overseas. The question of whether her economic circumstances would drive her to work abroad was therefore front and centre of the contest between the parties. Whilst immigration appeals are increasingly moving towards issue-based decision making and modern directions encourage reasonable attempts to be made to agree the relevant issues in dispute, they have not reached the stage of civil pleadings where every material facet of a claim is the subject of express acceptance or denial. The Appellant's evidence was that her sister lived in extreme hardship over the period when her own inability to work in the UK after she escaped from her employer, exacerbated by the Respondent's delays in resolving her claims, precluded her from remitting funds. The Tribunal was plainly cognisant of the case she wished to put on this point. I do not accept that there was anything unfair in the Tribunal making the findings to which it came. It was unsurprising that it would wish to review the history of the support actually remitted in the broader context of the Appellant's circumstances in the UK and her family abroad at all material times. Applying the thinking in Abdi, the Tribunal was entitled to reject the case put to it because the parties had had sufficient opportunity to address the matters already, given the issues in dispute between them.

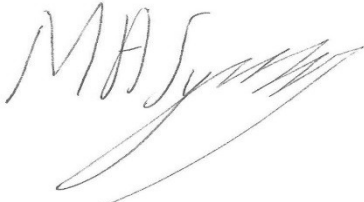
17. As to the second ground, the First-tier Tribunal thoroughly reviewed the relevant evidence before it. It noted that the financial pressures on the family were now significantly less given that several children were of working age, and were indeed working. There was no indication that any of them had contemplated working abroad notwithstanding the period over which the Appellant's remittances to them stopped. The Appellant's own evidence was that her family suffered "extreme hardship" and that she suspected their circumstances were more acute than they admitted; but that is simply her own understanding of their circumstances, and the Tribunal had to form its conclusions based on all the evidence, not simply her subjective impression. The Appellant's grounds criticise the Tribunal for praising the Appellant's remarkable resilience when in reality she had been living in relatively desperate straits for a time, but the underlying point being made was that she had resumed work notwithstanding those difficulties, thus demonstrating some degree of fortitude. I note that the Appellant's witness statement posits monthly expenses for her family living with her sister as in the region of £600 monthly, in the context of the Appellant remitting £300-£500 monthly (occasionally more), and that her disabled daughter earns £255.15 monthly; but the earnings of other family members do not appear to have been particularised. This makes it very difficult to assess the extent to which the Appellant's remittances were vital to their survival as opposed to improving their quality of life above the level of mere subsistence. Professor Sidel's original report had in fact stated that one fifth of the local population lived in poverty, and so the Tribunal's conclusion that the circumstances of the Appellant's family, with multiple working members and where even a disabled young adult

was able to earn an income, were likely to place them outside of that unfortunate cohort, cannot be categorised as irrational.

18. As to the third ground, Professor Sidel's report undoubtedly made a powerful case for the Appellant's own difficulties in navigating in the local labour market. I do not believe that the First-tier Tribunal addressed the question of whether or not the family unit could fund her own support as well as their own in terms, but that is the necessary implication of its conclusion that she would not be driven by economic necessity to find work abroad. That was a reasonable inference to draw from the available evidence.
19. That leaves the fourth ground. The First-tier Tribunal's approach was to note that the Appellant's former husband had not taken active steps to pursue her in recent years; he had sought to contact her on Facebook on one occasion, and issued a drunken threat to her life by telephone around 2014. There was no evidence that he had made any sustained effort to pursue her relatives in Manila to determine her whereabouts or future plans, with or without the help of his brother in the police force, other than to ask after her on the telephone and to suggest that he suspected she had a partner in the UK. To conclude that the evidence did not show any real risk of her husband holding a present animus backed by the capacity to track her down and do her harm was not unreasonable given the scope of the evidence.
20. Domestic abuse concerns aside, the ultimate conclusion of the Judge below was that the Appellant did not face re-trafficking risks because her increased understanding of the dangers she might face, combined with protective factors such as her supportive adult children in the Philippines, and the aggregate earning potential of the family, would prevent her from seeking the kind of work in the future that would render her liable to exploitation.
21. I have little doubt that the First-tier Tribunal would have been entitled to come to a different conclusion that placed more weight on the evidence of the Appellant's vulnerability and less upon her perceived resilience, or which made different inferences as to the family's economic circumstances following her return. But the instant decision is within the range of lawful responses to the evidence with which it was presented. That evidence was prepared and presented extremely well by a legal team that are to be congratulated for the diligence they have shown in advancing their client's best interests. But the reality is that the Appellant's grounds of appeal all amount to disguised irrationality challenges against a decision which took account of the full scope of the evidence before it. The inferences drawn were not illogical. Having regard to the appropriate degree of appellate restraint counselled by Ullah, I do not accept that there is any material error of law in the First-tier Tribunal's conclusions.

Decision:

The decision of the First-tier Tribunal contained no material error of law and the appeal must be dismissed.

A handwritten signature in black ink, appearing to read 'M.A. Symes', with a long, sweeping underline that extends to the left and then curves back under the signature.

Deputy Upper Tribunal Judge Symes
Immigration and Asylum Chamber

15 June 2024