



**Upper Tribunal
(Immigration and Asylum Chamber)**

VA/31628/2012

Appeal Number

THE IMMIGRATION ACTS

Heard at Field House
On 3rd July 2013
Prepared 3rd July 2013

Determination Promulgated
On 4th July 2013

Before

UPPER TRIBUNAL JUDGE FREEMAN

and

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

Md ABDUL HANNAN
(ANONYMITY DIRECTION NOT MADE)

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr Z Khan (Solicitor, Universal Solicitors)
For the Respondent: Mr I Jarvis (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellant applied for a visit visa to the UK. The application was refused for the reasons given in the Refusal Notice of the 30th of July 2012. The Appellant's appeal was heard on the 8th of April 2013 and dismissed in a determination promulgated on the 16th of April 2013.
2. The Appellant sought permission to appeal asserting that the Judge had erred in his assessment of the evidence relating to the Appellant's shop, the Appellant had explained why his plans for his visit had changed and this had not been taken into account. It was also submitted that the Judge had disregarded evidence relating to the Sponsor's circumstances and had not assessed the Sponsor's ability to maintain and accommodate the Appellant in the UK.

3. At the start of the hearing it was indicated to Mr Khan that we intended to consider the appeal with regard to the Appellant's intention and the genuineness of the visit first and then to consider the circumstances of the Sponsor if still relevant.
4. Mr Khan adopted the arguments in the grounds and argued that the name that the Appellant chose to call his shop was irrelevant, that the Judge had not considered the documentary evidence and what the Sponsor had said about the credits into the account in his oral evidence. The deposits represented the gross income, not the Appellant's net income and much of the Appellant's business was in cash. The Judge did not find against the Sponsor's credibility and did not appear to mention it. For the Secretary of State it was argued that the Judge had recorded the evidence and had read the bundles the decision was both sound and lawful.
5. The determination is not as thorough as it might have been and it would have been better if the Judge had dealt with the deposits into the account more explicitly in his decision section. That said the determination does contain a summary of the reasons for refusal in paragraphs 14 and 15 and the evidence of the Sponsor in paragraph 17 including his explanation for the deposits, to the effect that they represented customer debts he had called in.
6. The evidence was analysed in paragraph 22. The Judge noted the difference between the name of the store and the reality of it; not a department store, but a small neighbourhood grocer's shop, which evidence to which Mr Khan referred us shows ordered its supplies a few boxes at a time. He clearly did not accept that it was the kind of business which could have called in debts so as to produce the very large deposits recorded. His analysis of the Appellant's change of plans did not involve a rejection of the Appellant's explanation rather his concerns centred on the lack of knowledge of the Sponsor about the Appellant's change of plans and their failure to discuss it. The Judge took the view that this was contrary to the claimed regular contact between them and, by implication, that they were not in such close contact as claimed. This undermined the evidence of the Sponsor.
7. The Judge did consider the Sponsor's evidence in paragraph 23. He found that the Sponsor knew little of the Appellant's plans and he went on to find that he could not be satisfied with the evidence of the Sponsor. That would have included the Sponsor's evidence of the Appellant's circumstances.
8. The finding in paragraph 24 of the determination, that the Appellant was not a genuine visitor and that he did not intend to leave the UK at the end of his visit was one that the Judge was entitled to make. The reliability of the Sponsor's evidence had not been accepted and the Judge clearly had in mind the limitations of the evidence relating to the Appellant's circumstances in Bangladesh. The Judge had to assess the Appellant's intentions and the burden was on him to show on a balance of probabilities that he met the requirements of the Immigration Rules. The actions of other family members in visiting the UK could not be determinative of the Appellant's intentions, especially if the supporting evidence he had provided was insufficient to discharge the burden of proof.
9. In summary the Judge clearly had regard to all of the evidence that was presented and gave sufficient reasons for not accepting that the Appellant had shown that he was a genuine visitor or that he intended to leave the UK. This is not a reflection of the position of the Sponsor and there are criticisms of the manner in which the Sponsor's circumstances were considered, particularly with regard to the consideration of post-decision evidence. However, in view of the findings that we have made these could have no bearing on the outcome of this appeal and we do not consider them.

CONCLUSIONS

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

We do not set aside the decision.

Anonymity

The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and we make no order or direction.

Fee Award

We make no fee award.

Reasons: Appeal dismissed.

Signed:

Deputy Judge of the Upper Tribunal (IAC)

Dated: 3rd July 2013