



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

Appeal Numbers: IA/29873/2013
IA/29865/2013

THE IMMIGRATION ACTS

Heard at Field House

On 23 June 2014

Determination

Promulgated

On 29 July 2014

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MASUMA AKHTER (FIRST APPELLANT)
MD SALAH UDDIN (SECOND APPELLANT)**

Respondents

Representation:

For the Appellant: Mr S Kandola, a Senior Home Office Presenting Officer

For the Respondents: Not present or represented

DETERMINATION AND REASONS

1. The respondents, Masuma Akhter and MD Salah Uddin, are citizens of Bangladesh. I shall refer hereafter to the respondent as the appellants and to the Secretary of State as the respondent (as they were respectively before the First-tier Tribunal).

2. The appellants had appealed against decisions of the respondent dated 17 June 2013 refusing their applications for leave to remain in the United Kingdom. The first appellant is the wife of the second appellant who had applied for leave to remain as her dependant. Their child, NS, is a dependant in the appeals. The appellants had appealed to the First-tier Tribunal (Judge R A Jones) which, in a determination promulgated on 31 March 2014, dismissed the appeals under the Immigration Rules and Article 8 of the ECHR but allowed the appeals against the decisions to remove them under Section 47 of the Immigration, Asylum and Nationality Act 2006.
3. The appellants have not appealed the judge's determination the Secretary of State has been granted permission in respect of the appellants' removal.
4. The appellants did not attend the Upper Tribunal hearing at Field House on 23 June 2014. Their solicitor (Judith Maurice) remains on the court record as acting for them and both she and the appellants had been served by first class mail with notice of the hearing on 21 May 2014. In the absence of any explanation for the absence of the appellants or their legal representative, I decided to proceed with the hearing in any event.
5. I find that the Secretary of State's appeal in respect of the removal decision should be allowed. The judge's reasoning for allowing the Section 47 removal decisions was erroneous because it was based upon law prior to 8 May 2013, the day upon which Section 51 of the Crime and Courts Act 2013 came into law. The previous difficulties identified by the judge at [15] and also in *Admally and Jaferi (Section 47 Removal Decisions: Tribunal Procedures)* [2012] UKUT 00414 (IAC) had been removed by the coming into force of Section 51 of the 2013 Act. There was, therefore, no illegality in the "joint" decision by the respondent refusing the appellants' substantive applications to vary leave providing for their removal under Section 47 of the 2006 Act. The immigration decisions in the instant appeal were made on 17 June 2013, that is after the date upon which Section 51 came into force. I have therefore set aside the determination and have re-made the decision. The appeals in respect of the Immigration Rules are dismissed. The appeals are dismissed on human rights grounds.

DECISION

6. The determination of the First-tier Tribunal as promulgated on 31 March 2014 is set aside. I have re-made the decision.
7. The appeals in respect of the Immigration Rules are dismissed.
8. The appeals are dismissed on human rights grounds.

Signed

Date 20 July 2014

Upper Tribunal Judge Clive Lane