



**Upper Tribunal  
(Immigration and Asylum Chamber)      Appeal Numbers: IA/11533/2014  
and IA/11534/2014**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 24 April 2015**

**Determination Promulgated  
On 29 April 2015**

**Before**

**Deputy Upper Tribunal Judge MANUELL**

**Between**

**(1) Mrs TOJU OLABIYI  
(2) Mr OLUWASEUN OLATUNBOSUN OLABIYI  
(ANONYMITY DIRECTION NOT MADE)**

Appellants

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr O Ononeme, Solicitor (Moorhouse Solicitors)

For the Respondent: Mr S Kandola, Home Office Presenting Officer

**DETERMINATION AND REASONS**

*Introduction*

1. The Appellant appealed with permission granted by Upper Tribunal Judge Jordan on 10 February 2015 against the determination of First-tier Tribunal Judge Powell who had dismissed the Appellants' linked appeals as a Tier 1 (Entrepreneur) and her dependant. The determination was promulgated on 9 September 2014.
2. The Appellants are nationals of Nigeria, wife and husband, born respectively on 25 February 1982 and 11 September 1986. Judge Powell found that the Appellant had failed to show that they had submitted the specified documents with their applications and so had failed to satisfy the Immigration Rules. Their appeal to the First-tier Tribunal thus failed.
3. Permission to appeal was granted by Upper Tribunal Judge Jordan because he considered that it was arguable that the judge had erred in his assessment of the evidence, although it had to be accepted that it was for the Appellants to establish *prima facie* that the specified documents had been sent.
4. Standard directions were made by the tribunal. A rule 24 notice dated 25 February 2015 opposing the appeal had been filed on the Respondent's behalf.

*Submissions - error of law*

5. Mr Ononeme for the Appellant relied on the grounds of onwards of appeal and the grant of permission to appeal. He submitted that the judge had reached erroneous findings. He had not considered the firm which was acting for the Appellants' good reputation. The judge had not considered all of the testimony. Section 85A of the Nationality, Immigration and Asylum Act 2002 had not been relevant.
6. Mr Kandola for the Respondent relied on the rule 24 notice. He submitted that the judge's decision had been open to him. There had been no misdirection in law.
7. There was nothing Mr Ononeme wished to add by way of reply
8. The tribunal indicated at the conclusion of submissions that it found no error of law and that its determination was reserved.

*No material error of law finding*

9. In the tribunal's view the grant of permission to appeal by the Upper Tribunal was not easy to follow and was at best generous. It was for the Appellants to show that Judge Powell had erred in law in his findings of fact and in the tribunal's judgment the Appellants manifestly failed to do so. The permission to appeal application was simply an expression of disagreement with the

judge's findings and Mr Ononeme's submissions were to the same effect.

10. It is plain from Judge Powell's meticulous and balanced determination that he carefully weighed the evidence placed before him. The burden of proof was on the Appellants. Judge Powell explained why (with regret) he had to find that the Appellants had not discharged the burden and so had not complied with the Immigration Rules. The judge mentioned all of the factors which it was permissible for him to take into account. His findings were all open to him and were clearly explained.
11. The tribunal finds that there was no error of law in the determination and there is no basis for interfering with the judge's decision.

### **DECISION**

The making of the previous decision did not involve the making of an error on a point of law and stands unchanged

**Signed**

**Dated 24 April 2015**

**Deputy Upper Tribunal Judge Manuell**