



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

Appeal Numbers: IA/23007/2014
IA/21313/2014

THE IMMIGRATION ACTS

**Heard at Birmingham Sheldon
Court
On 6 January 2015**

**Decision Promulgated
On 21 January 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE McCARTHY

Between

**LENA OPOKU
AYEYIE YEBOAH**

Appellants

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T Mahmood, instructed by Duncan Lewis & Co, Harrow
For the Respondent: Mr D Mills, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The first appellant is the mother of the second appellant. Both are citizens of Ghana. The first appellant was born on 21 January 1968 and the second on 16 October 2007.
2. The appellants appeal against the determination of First-tier Tribunal Judge A M Baker that was promulgated on 14 August 2014. The

appellants' had appealed to the First-tier Tribunal against the immigration decisions of 25 April 2014 to remove the appellants to Ghana after refusal of their human rights claims and it was those appeals that Judge Baker dismissed.

3. The appellants appeal to the Upper Tribunal on the grounds that the proceedings in the First-tier Tribunal were flawed. As recorded at paragraph 2 of the determination, Judge Baker was aware that the appellant's legal representative had fallen ill on the day of hearing and was unable to represent. Although the judge records that the first appellant was willing to proceed, it transpires that she thought there was no option. This is confirmed in her witness statement submitted with the application for permission to appeal.
4. Mr Mills informed me that the Secretary of State no longer opposed the appeals despite what had been submitted in the rule 24 notice of 3 October 2014. This change in position arose in light of the Upper Tribunal's reported case Nwaigwe (adjournment: fairness) [2014] UKUT 00418 (IAC). It was accepted that the appellants would not have been in a position to understand the options available to them in the absence of their legal representative.
5. Mr Mills invited me to allow the appeals, to set aside Judge Baker's determination and remit the appeals to be heard afresh by the First-tier Tribunal. Mr Mahmood agreed. As these suggestions are compatible with legal and procedural guidance, I concur and make the necessary decisions accordingly.

Decision and directions

The appellants' appeals to the Upper Tribunal are allowed because the determination of Judge Baker contains an error on a point of law.

The determination is set aside and nothing from it is preserved.

The appeals are remitted to the First-tier Tribunal to be heard afresh by any judge other than Judge A M Baker.

Further directions may be set by the First-tier Tribunal.

Signed

Date 19.01.2015

Deputy Judge of the Upper Tribunal