



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

Appeal Number: IA/25858/2014

THE IMMIGRATION ACTS

Heard at Field House

Decision and Reasons

On 25 September 2015

Promulgated

On 28 September 2015

Before

DEPUTY JUDGE OF THE UPPER TRIBUNAL KAMARA

Between

**MR VINODKUMAR DUVA
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Mr I Jarvis

DETERMINATION AND REASONS

1. This is an appeal against a decision promulgated on 25 February 2015, of First-tier Tribunal Judge Majid (hereinafter referred to as the FTTJ).
2. Permission to appeal was granted on 24 June 2015.

Background

3. The appellant initially entered the United Kingdom as a Tier 4 migrant on 3 October 2010. He extended his leave to remain as a Tier 1(post study) migrant until 18 April 2014. On 17 April 2014, the appellant sought leave to remain under Tier 1 (Entrepreneur). That application was refused on the basis that the appellant was not a genuine entrepreneur.
4. The FTTJ, in his decision and reasons, appeared to accept the submissions on behalf of the respondent that the appellant had not advertised his business; that there was no business plan; the appellant lacked the relevant experience and had not established his own website.
5. The grounds of appeal made no reference to the FTTJ's findings but asserted that the record of the appellant's interview with the respondent had not been produced. Permission to appeal was granted on the basis that the decision was "*inadequate to the point where it is a clear error of law,*" the FTTJ's reasoning was also described as "*inadequate*" and "*non-independent*" and it was said that the transcript of the appellant's interview should have been available.
6. In the Secretary of State's response of 9 July 2015, the appeal was opposed and it was submitted that the FTTJ directed himself appropriately. The point was made that the grounds did not dispute any of the submissions of the presenting officer at the First-tier. It was argued that the appellant had done "*virtually*" nothing to show that the business was genuine or viable.

The hearing

7. The appellant did not attend the hearing and nor was he represented. Late on 24 September 2015, Legend Solicitors wrote to the Upper Tribunal in order to indicate that the firm was withdrawing representation. As this letter had not reached the file by the time of the hearing before me, my clerk telephoned Legend Solicitors in order to make enquiries. My clerk was informed that the firm had been unable to contact the appellant and had no instructions from him. A further letter was sent on 25 September 2015, which confirmed the aforementioned state of affairs and the appellant's last-known contact address.
8. The case file shows that the notice of hearing was sent, on 28 August 2015, by first class post to the appellant at the address provided on the application for permission to appeal as well as to Legend Solicitors. The address concerned is the same as that mentioned in Legend Solicitor's letter of 25 September 2015. That notice was not returned by the post office. Given the correspondence from Legend Solicitors as well as their indication to my clerk that their efforts to contact the appellant had failed, I was satisfied that the appellant had received adequate notice of the hearing date.

9. I decided to proceed to hear the appeal in his absence, given that the notice of hearing advised the parties that failure to attend may result in the Tribunal determining the appeal in their absence.
10. After hearing briefly from Mr Jarvis, I decided to uphold the decision of the FTTJ for the following reasons.
11. The application for permission to appeal was made by the appellant's former legal representative. However, the grounds of appeal were identical to those, which accompanied the appellant's notice of appeal to the First-tier Tribunal. Those grounds included an allegation that the respondent had not supplied a transcript of the appellant's interview with the respondent.
12. A cursory glance at the respondent's bundle of evidence, which was before the FTTJ, reveals that a 14-page interview record sheet was enclosed, marked annexe 'D.' That interview record shows that the appellant's comments were accurately reproduced in the reasons for refusal letter.
13. The FTTJ granting permission considered that FTTJ Majid's reasons for finding that the appellant was not a genuine entrepreneur were inadequate. However, at paragraph 10, the FTTJ remarks that his perusal of all the documents left him "*in no doubt that the Appellant cannot easily surmount the Respondent's objections.*" He also sets out a list of deficiencies with the appellant's Tier 1 application, which were highlighted in the submissions of the presenting officer at the hearing. That list appears under the section of the decision devoted to his reasons and deliberations.
14. The FTTJ's attention was drawn to the appellant's failure to advertise his business, the absence of a business plan, that the appellant lacked any relevant experience of computer technology despite wishing to set up an IT consultancy and he had not established his own website. The appellant admitted these facts during his interview with the respondent. There has been no attempt by the appellant or Legend Solicitors to engage with what appear to be real concerns as to the appellant's business, either in the grounds of appeal, at the hearing before the FTTJ, in the application for permission to appeal or at the hearing before me.
15. At [9] and [10] the FTTJ confirms that he has considered all the evidence before him and is confining his reasons to "*dispositive aspects*" of the case. While the FTTJ's reasons were brief, they were adequate in this instance and the parties were left in no doubt as to the reasons for his decision.
16. I find that the FTTJ did not err in preferring the arguments of the respondent; which were fully supported by the interview transcript; over those of the appellant.

17. In these circumstances I am satisfied that there are no errors of law, such that the decision ought to be set aside.

Conclusions

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

The decision of FTTJ Majid is upheld.

Signed

Date: 26 September 2015

Deputy Upper Tribunal Judge Kamara

