



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

**Appeal Number: IA/26856/2014  
IA/26853/2014**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On May 6, 2015**

**Determination Promulgated  
On May 8, 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE ALIS**

**Between**

**MR ABU MANSUR SHOHAG  
MRS PAPIA MAHMUDA (AKA PIPIA MAHMUDA)  
(NO ANONYMITY DIRECTION MADE)**

Appellants

**and**

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

Respondent

**Representation:**

For the Appellant: Ms Praisoody, Counsel, instructed by Your Right Solicitors

For the Respondent: Mr Walker (Home Office Presenting Officer)

**DETERMINATION AND REASONS**

1. The appellants, born January 1, 1984 and September 4, 1985 respectively, are citizens of Bangladesh. The first-named appellant was granted a Tier 1 (Post study) visa on February 25, 2012 valid until January 31, 2014. On January 21, 2014 he made an application for leave to remain as a Tier 1 (Entrepreneur) Migrant and his wife made an application to remain as his dependant. At all times the second-named appellant was in the United Kingdom as his dependant. The respondent refused the applications on

June 16, 2014 and issued directions under section 47 of the Immigration, Asylum and Nationality Act 2006. The substantive application was refused because the respondent was satisfied the United bank letter dated January 21, 2014 was false.

2. The appellant appealed to the First-tier Tribunal under Section 82(1) of the Nationality, Immigration and Asylum Act 2002 on June 26, 2014.
3. On September 19, 2014 Judge of the First Tier Tribunal Birrell (hereinafter referred to as the "FtTJ") was asked to deal with the appeal on the papers and in determination promulgated on October 2, 2014 she refused their appeals on the basis false documents had been produced. At paragraph [10] she stated-

"On the file I had the material before the Home office during the making of the decision. I had a copy of the reason for refusal letter. The appellant put in an appeal on June 26. 2014 and he did not set out the grounds of appeal but indicated that they would follow. On 20 August an application was received by the Tribunal for an extension of time to file the grounds as the appellant denied that the letter was false but needed more time to get a response from the bank and this application was granted. The time allowed was extended until 7 September 2014 and I note that nothing has subsequently been provided by the appellant."
4. The appellants lodged grounds of appeal on October 7, 2014 and on November 14, 2014 Judge of the First-tier Tribunal Deans gave permission to appeal finding there were arguable grounds that the FtTJ may have erred through a procedural irregularity namely there was evidence that a bundle of documents had been sent but had not been placed before the FtTJ.
5. The matter came before me on December 23, 2014 and at that hearing Mr Walker accepted an email that had been sent but had not made the FtTJ's file and was not before the FtTJ. He accepted there had been a procedural error and he invited me to adjourn the hearing to have the document adduced verified. He further confirmed that the only live issue in this appeal was the genuineness of the original document. I found there was an error although I made it clear no fault attached to the FtTJ who dealt with the file as it was presented to her.
6. I initially adjourned the appeal until February 26, 2015 but on that date the respondent indicated she had not received the documents and I agreed to adjourn the case further. I gave directions and on March 19, 2015 the respondent wrote to the tribunal and the appellants' representatives attaching a copy of additional evidence.
7. A notice of today's hearing was sent out on March 25, 2015. Both appellants were in attendance and the parties were represented as set out above.

8. The First-tier Tribunal did not make an anonymity direction and pursuant to Rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008 and I see no reason to alter that order.

### **PRELIMINARY ISSUE**

9. Ms Praisoody asked for an adjournment. She explained the first-named appellant had spoken to the bank and they had assured him they knew nothing of any emails sent. She further argued that the fact the email addresses were redacted meant a proper enquiry could not be made. She asked for an adjournment to investigate the matter further.
10. Mr Walker objected and argued that this was a never-ending cycle. The respondent had submitted evidence that demonstrated the original letter was fraudulent and now further evidence had been provided confirming other documents were fraudulent. If another letter was produced this would have to be checked and it would be never ending. No steps had been taken to produce anything to suggest the documents submitted by the respondent could not be relied on.
11. Having considered the respective submissions and having regard to my powers under Rule 5(h) of the Tribunal Procedure (upper Tribunal) Rules 2008 I refused the adjournment. The evidence had been sent out on March 19, 2015 and there was no suggestion the document had not been received. The notice of hearing for today was sent out on March 25, 2015 and there had been no contact from the appellants or their representatives except on May 1, 2015 a notification of change of solicitor. In light of the allegation it was incumbent on the appellants to obtain the appropriate evidence to counter the claim made and there had been no attempt to do this. I directed the hearing would proceed.

### **SUBMISSIONS**

12. Mr Walker invited me to accept the evidence placed before the FtTJ and me that demonstrated fraudulent documents had been submitted. The case was now even stronger than when it appeared before the FtTJ because there were now more fraudulent letters than before. There was evidence of the emails sent and the responses that could be relied on. He invited me to dismiss the appeal under paragraph 322(1A) HC 395.
13. Ms Praisoody had no submissions to make in light of the recent evidence and my refusal to adjourn to the case.

### **FINDINGS**

14. The appellant produced three letters from the United Bank Limited dated January 21, 2014 (two letters) and August 27, 2014. On June 5, 2014 the Operations Manager for the bank confirmed they had not issued the first two letters and therefore they were not genuine. On March 9, 2015 the bank confirmed in email that the latest letter was "fake" and the bank had not issued the letter.

15. The first letters had been issued confirming Mawish Imran had an account at the bank and it contained a fixed amount of money on certain days. The bank found these documents to be fake and to address that information the appellants provided another letter dated August 27, 2014 in which the authenticity of the original letters were upheld.
16. I am satisfied to the higher standard of proof that the letters were fraudulent. The respondent has produced sufficient evidence to satisfy the burden she bears.
17. The appellants have produced no reliable evidence to counter the recent emails despite having had ample opportunity to do so. I place no weight on any purported conversation between the bank and the first-named appellant.
18. I dismiss the appeal under paragraph 322(1A) and 245DD HC 395. I dismiss it under paragraph 322(1A) HC 395 because I am satisfied fraudulent documents have been used and I dismiss it under 245DD HC 395 because the appellants have failed to satisfy the requirement within the Rules that they have the specified funds available.

### **DECISION**

19. There was a material error. I have remade the decision and dismiss the appeal under the Immigration Rules.

Signed:

Dated: **May 6, 2015**

Deputy Upper Tribunal Judge Alis

### **TO THE RESPONDENT FEE AWARD**

The substantive appeal under the Immigration Rules failed and I therefore make no fee award.

Signed:

Dated: **May 6, 2015**

Deputy Upper Tribunal Judge Alis