Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: OA/05407/2013

THE IMMIGRATION ACTS

Heard at Field House	**Decision and Reasons Promulgated**
On 17 August 2015	**On 20 August 2015**

Before

UPPER TRIBUNAL JUDGE CANAVAN

Between

ENTRY CLEARANCE OFFICER (LAGOS)

Appellant

and

OLUWADAMILARE JOSEPH PETER
(ANONYMITY DIRECTION NOT MADE)

Respondent

Representation:
For the Appellant: Mr E. Tufan, Home Office Presenting Officer
For the Respondent: Mr E. Yerokun of A & A Solicitors

DECISION AND REASONS

Background

1. For the sake of continuity I will refer to the parties as they were before the First-tier Tribunal although technically the Entry Clearance Officer (represented by the Secretary of State) is the appellant in this appeal before the Upper Tribunal.

2. The matter can be dealt with briefly. The appellant applied for entry clearance as the dependent child of a person who is present and settled in

the UK. His application was refused in a notice of decision dated 11 January 2013.

3. The Entry Clearance Officer was not satisfied that the appellant was related as claimed to the sponsor in the UK or that she had sole responsibility for his welfare and upbringing. The second reason for refusal was that the Entry Clearance Officer was not satisfied that adequate accommodation would be available on his arrival to the UK. The third reason for refusing the application was that the Entry Clearance Officer was not satisfied that there was sufficient evidence to show that the appellant would be adequately maintained in the UK without recourse to public funds. Accordingly the Entry Clearance Officer found that the appellant did not meet the requirements of paragraph 297 of the Immigration Rules.

4. The appellant appealed against the decision and the appeal was heard by First-tier Tribunal Judge Majid on 25 March 2015. The decision was promulgated on 29 March 2015. The First-tier Tribunal Judge allowed the appeal but respondent argues that he failed to give adequate reasons for doing so.

5. At the start of the hearing Mr Yerokun conceded that the decision did not give adequate reasons and that it involved the making of an error of law. I consider that this concession was properly made. The decision was expressed in very general terms. The judge did not make any specific findings in relation to the reasons for refusal and allowed the appeal in a rather vague and confused manner. At paragraph 12 of the decision he said:

> "I am persuaded by the available evidence that the appeal should be allowed and the appellant should be given the benefit of Article 8, believing that the DNA test has confirmed the relationship between the appellant and the sponsoring mother."

6. Reading the decision as a whole, it seems quite clear that the judge simply failed to engage with the reasons for refusal and that his final conclusions were rather vague and confused in terms of the proper application of the law. No reference was made to the relevant immigration rule and it was not clear whether he allowed the appeal under the rules or under Article 8 outside the rules. It is incumbent on a First-tier Tribunal Judge to provide adequate reasons for his decision but in this case the judge manifestly failed to do so. As such I find that the decision involved the making of an error on a point of law and I set aside the decision.

7. At the hearing it was agreed that the best course of action would be for the case to be heard afresh. I have taken into account paragraph 7.2 of the Upper Tribunal Practice Direction and consider that the appropriate course of action is to remit the case to the First-tier Tribunal for a fresh hearing. The appeal will be relisted in due course and a hearing notice will be sent out to the parties.

DECISION

The First-tier Tribunal decision involved the making of an error on a point of law

I set aside the decision and remit the case for a fresh hearing before the First-tier Tribunal

Signed  Date 18 August 2015

Upper Tribunal Judge Canavan