



IAC-FH-NL-V1

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

Appeal Numbers: OA/06523/2014
OA/06522/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 14th September 2015**

**Decision & Reasons Promulgated
On 18th September 2015**

Before

UPPER TRIBUNAL JUDGE FRANCES

Between

**MS MARIAMA SANNEH
MASTER LAMIN JAMMEH
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Ms S Iqbal of Counsel

For the Respondent: Mr K Norton, Home Office Presenting Officer

DECISION AND DIRECTIONS

1. The Appellants are citizens of Gambia born on 17th January 1976 and 27th November 1997 respectively. First-tier Tribunal Judge Davidson dismissed their appeals against the refusal of entry clearance on 18th February 2015.
2. Permission to appeal was granted by First-tier Tribunal Judge Nicholson on 5th May 2015 on the following grounds:

- (i) The judge erred in proceeding under paragraph 281 of the Immigration Rules;
 - (ii) The judge erred in finding that the marriage was not valid when the Respondent did not raise this issue;
 - (iii) The judge failed to take into account relevant evidence; and
 - (iv) The judge erred in rejecting paternity given that there was an explanation for the late registration of the Second Appellant.
3. At the hearing it was agreed by all parties that, given the issues involved and the lack of clarity in the documentary evidence which was on the court file, the application should be remitted to the Tribunal for a re-hearing.
4. I find that the judge was apparently unaware of the Entry Clearance Manager's concession that the Appellants met the financial requirements and he made findings on a matter not raised in the notice of refusal.
5. I am of the view that the judge erred in law in failing to consider relevant evidence in relation to his finding that the relationship between the First Appellant and the Sponsor was not subsisting and the parties had failed to show they intended to live together permanently.
6. I have decided in accordance with paragraph 7.2 of the Practice Statements of 25th September 2012 that the decision dated 18th February 2015 should be set aside and the appeal remitted to the First-tier Tribunal.

DIRECTIONS

- (i) The Tribunal is directed pursuant to section 12(3) of the Tribunals, Courts and Enforcement Act 2007 to reconsider the appeal at a hearing before a First-tier Tribunal Judge other than First-tier Tribunal Judge Davidson.
- (ii) I direct that the Appellants serve on the Respondent and the Tribunal not less than 7 days before the hearing a fully paginated and indexed bundle of documents on which they intend to rely.
- (iii) No interpreter is required. Time estimate two hours.

Signed

Date 17th September 2015

Upper Tribunal Judge Frances