



**Upper Tribunal  
(Immigration and Asylum Chamber)  
Numbers: IA/22451/2015**

**Appeal**

**IA/01705/2016**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 4 October 2017**

**Decision & Reason  
Promulgated  
On 18 October 2017**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MANUELL**

**Between**

**(1) Mr MOHD ABUL HOSSAIN CHOWDHURY  
(2) Mrs SADIA AHMED  
(ANONYMITY DIRECTION NOT MADE)**

Appellants

**and**

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

Respondent

**Representation:**

For the Appellant: Ms D Revill, Counsel (instructed by D J Webb and Co)

For the Respondent: Mr L Tarlow, Home Office Presenting Officer

**DETERMINATION AND REASONS**

*Introduction*

1. The Appellant appealed with permission granted by First-tier Tribunal Judge Cruthers on 25 July 2017 against the determination of First-tier Tribunal Judge O'Garro who had dismissed the appeal of the Appellants seeking settlement pursuant to paragraph 276B of the Immigration Rules, i.e., 10 years' continuous lawful residence and on Article 8 ECHR grounds. The decision and reasons was promulgated on 11 January 2017.
2. The Appellants are nationals of Bangladesh, husband and dependant wife. The First Appellant had entered the United Kingdom lawfully as a student in 2004, which leave had been extended in stages. One of the reasons given for refusal of the long residence claim made in 2014 was that the First Appellant had used deception by submitting false documents in a previous application, for which he had been cautioned by the Metropolitan Police. The Appellants did not deny that but had contended that there were significant obstacles to their reintegration into Bangladesh where they would be unable to enjoy full family life. The United Kingdom had become their home. The judge found against the Appellants on the significant obstacles issue, found that their family life could continue in Bangladesh and dismissed the appeal on that basis.
3. Permission to appeal was granted with reservations and only because it was considered arguable that the judge had misunderstood whether or not the First Appellant had accepted that paragraph 322(2) of the Immigration Rules had been correctly applied by the Respondent.
4. Standard directions were made by the tribunal. A rule 24 notice opposing the appeal was filed by the Respondent.

### *Submissions*

5. Ms Revill for the Appellant relied on the grounds of onwards appeal and grant. In summary counsel argued that the judge had not understood that refusal under paragraph 322(2) was discretionary. Counsel also pointed out that because the First Appellant had accepted a police caution within 24 months of his application, in any event he had to be refused under paragraph 322(1C)(iv) of the Immigration Rules. to appeal. Agyarko [2017] UKSC 11 and MM (Lebanon) [2017] UKSC 10 had not been applied

correctly in that the scales had not been correctly prepared. The facts had not been considered with sufficient attention. The determination should be set aside and remade.

6. Mr Tarlow for the Respondent relied on the rule 24 notice and submitted that there was plainly no material error of law. The onwards appeal should be dismissed.

*No material error of law finding*

7. In the tribunal's view the grant of permission to appeal was generous. Even then it had been said in terms in the grant that the claim under paragraph 276ADE of the Immigration Rules looked weak in the extreme, which it was. As Ms Revill had noted, the First Appellant's long residence claim failed for mandatory refusal under the Immigration Rules before any discretionary issues arose, as the judge had correctly noted at [28] of her decision. Any misunderstanding of the First Appellant's stance over the refusal under paragraph 322(2) was thus immaterial as it could take the appeals no further. But the tribunal finds that there was no misunderstanding on the experienced judge's part. As the judge pointed out at [29] of her decision, the First Appellant stated in terms that he did not dispute the Home Office decision under the Immigration Rules: see [1.b] of his witness statement dated 12 December 2016.
8. The judge examined the evidence with commendable care and compassion (the death of an infant was one of the facts). At [34] onwards, having given an accurate self-direction, the judge reached secure findings demonstrating that there were no significant obstacles to the enjoyment of family life in Bangladesh nor to reintegration in Bangladesh. The evidence, which included claims as to the Second Appellant's health, fell well short of sustaining any other conclusion. The judge referred to a number of relevant authorities which need not be recited again here.
9. Ms Revill's submissions, like the onwards grounds, amount to no more than disagreement with the judge's decision.

10. The tribunal finds that the onwards appeal has no substance and that there was no material error of law in the decision challenged.

**DECISION**

The appeal is dismissed

The making of the previous decision did not involve the making of a material error on a point of law. The decision stands unchanged.

**Signed**

**Dated** 9 October 2017

**Deputy Upper Tribunal Judge Manuell**