



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

Appeal Numbers: IA 24042 2015
IA 24043 2015

THE IMMIGRATION ACTS

**Heard at Field House
On 27 June 2017**

**Decision & Reasons
Promulgated
On 12 July 2017**

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

**MD IQBAL KABIR
MOHAMMAD SAYED**
(anonymity direction not made)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Khan, Counsel instructed by Universal Solicitors
For the Respondent: Mr S Kotas, Home Office Presenting Officer

DECISION AND REASONS

1. I see no need for and do not make any order restricting reporting about this case.
2. These linked appeals are brought by two nationals of Bangladesh against the respondent's decision on 5 June 2015 refusing their combined application for leave to remain as Tier 1 (Entrepreneur) Migrants under the points-based system. The main reason for refusing the application was that the application was supported by a false document. The appellants denied that they had relied on false documents and there was an appeal hearing. The hearing was first listed for 27 June 2016 but on that occasion it was adjourned at the request of both parties because the appellants had changed solicitors and had

recently received original bank documents that the respondent wanted to verify.

3. The appeal came before the First-tier Tribunal again on 27 October 2016 and there was a difficulty with a document verification report dated 27 July 2016 on which the Secretary of State wished to rely. The document verification report was very damaging to the appellants' cases. Precisely what happened next is not entirely clear. The report had been served by e-mail on the appellants' representatives. In my judgement service by e-mail is something that is to be encouraged, if for no other reason than the fact that it usually provides a very accurate record about when it was sent and when it arrived and there is no argument that the necessary documents were sent and received by the appellants' solicitors. For some reason it seems that no further action was taken. It is a matter of fact that the covering e-mail to which the document verification reports were attached did not give the solicitor's reference number but it identified the clients clearly by name and clearly came from the Presenting Officers Unit. If it really is the case that the appellants' solicitors were unable to identify their clients from their names, something which I find hard to believe but I suppose is possible, the difficulty could have been resolved by the simple step of contacting the Presenting Officers Unit and asking for further details. I am confident that that information would have been given gladly. It appears that none of this was done. The difficulty is we do not know the reasons for this omission. It may be that the appellants' then solicitors were particularly dozy; it may be that they did not think it helpful to their clients to make further enquiries; it may be something that cannot be explained to us because of reasons of professional privilege. There is no direct evidence that the appellants themselves knew that the document verification reports had been received by their solicitors.
4. Nevertheless, the First-tier Tribunal Judge, mindful of the previous adjournment said at paragraph 6:

"I took the view that the appellants had been given six weeks notice of the verification report which to provide adequate time to obtain additional evidence if they wanted to. I decided that it would not be fair or reasonable or in the interests of justice to adjourn the hearing a second time."
5. Clearly, it was the judge's view that the appellants had had an opportunity and had not done anything with it.
6. The judge was impressed by the respondent's evidence. It consisted of a report from two members of the High Commission staff who visited a bank in Dhaka. Curiously, they had not visited the bank from which the disputed reference came but a different branch of the same bank. I am told, I do not know if this is right, that the two branches are about ten minutes apart. Why the Secretary of State's officer went there rather than the bank that was supposed to have issued the document is, to me, a mystery. Nevertheless, the evidence is that they were well-received; that the staff at the branch they did visit explained that the documents that they were asked to verify did not look right and gave reasons. These concerned, for example, items not being given in the footer of the document that could have been expected to be there, and most, significantly, the purported author of the letter was not known either to the bank officials that the Secretary of State saw or, according to the evidence,

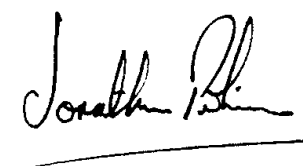
the branch that issued the letter, allegedly, because enquiries were made and the record is that no-one who could be contacted at that branch recognised the name. The judge said "It is relevant that the enquiry was made [a] less than three months after the date of the May 2016 letter."

7. The point is that the judge considered the evidence and was impressed by the fact that a bank official making direct enquiries of the relevant bank could not trace the purported manager and could not find any reference at that branch to somebody who was supposed to have been a manager less than three months before. I can see no basis for criticising the judge's analysis of the evidence before him. Neither can I see any basis for criticising the decision not to adjourn. It is trite law that judges have a great deal of discretion about whether to adjourn cases. The judge took a view on the quality of the evidence, took a view on the opportunity of obtaining further evidence, and, I find, entirely rationally and properly decided that it was in the interests of justice to go on with the evidence that was before that Tribunal. That decision led, perhaps inevitably, to the decision to dismiss the appeals.
8. The present solicitors have gone to the trouble of producing further evidence, although, curiously, they did not serve this by way of a proper notice of intention to call further evidence. It was simply appended to the grounds. It is another letter from the Natun Bazar branch, it is said, insisting that the original documents were genuine and that the phone call made from the Gulshan Bank did not happen.
9. Admitting this evidence could lead to the hearing descending into a non-fathomable realm of allegation and rebuttal. The fact is that the Secretary of State, by officers of the High Commission, tried to examine the evidence, took a view, disclosed it to the appellants and the appellants did not take advantage of the opportunity to get their evidence together before the First-tier Tribunal.
10. In all the circumstances I cannot say that the First-tier Tribunal erred in law in refusing to adjourn and, having refused to adjourn, the decision was entirely sound.
11. It follows therefore that although Mr Khan has patiently done all that could have been expected of him this morning, I dismiss the appeals that are before me.

Notice of Decision

These appeals are dismissed.

Signed
Jonathan Perkins
Judge of the Upper Tribunal



Dated 12 July 2017