



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: EA/01982/2018

THE IMMIGRATION ACTS

Heard at the Royal Courts of Justice
On 23 July 2018

Decision & Reasons Promulgated
On 26 July 2018

Before

UPPER TRIBUNAL JUDGE KEKIĆ

Between

SAQIB KHIRSHIED
(ANONYMITY ORDER NOT MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr I Ahmed, Legal Representative, Sheraton Solicitors
For the Respondent: Mr T Melvin, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant challenges the determination of Resident Tribunal Judge Sutherland Williams promulgated on 16 April 2018 dismissing his appeal against the respondent's decision of 22 February 2018 to refuse to issue him with a residence card under the EEA Regulations. The appellant relied upon his marriage to a Romanian national (the sponsor) but the respondent was not satisfied that the marriage was genuine.

2. The appellant is a national of Pakistan, born on 1 April 1988. He arrived in the UK for studies in January 2015 with leave until 15 November 2016. Applications for further leave on compassionate grounds were refused on 20 June 2017 and 22 August 2017. The nature of those applications is not disclosed in the papers before the Tribunal. The appellant claims to have met the sponsor on line in June 2016. She was then living in Romania with her two children. a third child was born in July 2016. On 3 February 2017, the sponsor travelled to the K with her baby son and stayed with a cousin in Aylesbury. She then met the appellant for the first time. They signed a tenancy agreement for a property in Luton on the date of her arrival. She commenced working as a cleaner four days later and on 21 February 2017 she married the appellant in a religious ceremony at his home. He is a Muslim and she is a practising Orthodox Christian. Between 21 June 2017 and 10 August 2017, the sponsor was in Romania. In late September 2017 she commenced employment as a warehouse operative. On 18 December 2017 the appellant and sponsor married at a registry office and on 22 February 2018 a marriage interview took place at the Home Office which subsequently led to the refusal of the residence card.

3. The judge heard oral evidence from the appellant, the sponsor, the sponsor's brother and his wife. All gave evidence through a Romanian interpreter except for the appellant whose evidence was in English. The judge concluded that the marriage was one of convenience and dismissed the appeal. Permission to appeal was granted by First-tier Tribunal Judge Hollingworth on 31 May 2018 on the basis that the judge had arguably erred in the weight given to the evidence and in his lack of analysis of the interview records where there were many consistent answers to questions given by the appellant and sponsor.

4. **The Hearing**

5. At the hearing before me on 23 July 2018, I heard submissions from the parties. For the appellant, Mr Ahmed submitted that the judge had failed to take account of the 200 questions at interview that had been consistent. He submitted that there had also been other evidence that the judge failed to give weight to. In that context, his reliance on four inconsistencies was inadequate to support a negative decision. He submitted that although immigration officers had visited the matrimonial home, a report had not been adduced. He submitted that the appellant had been unable to travel to Romania to visit the sponsor's family because he had no leave and it was difficult for the families to come here. No weight had been given to the length of the relationship or to the supporting evidence. The interview record showed that there was largely consistency in the answers given.

6. Mr Melvin relied on the contents of the respondent's Rule 24 response. He submitted that the judge's decision was comprehensive and that the interview

had been considered. The tenancy agreement and bank statements were also considered. The judge highlighted the inconsistent evidence and gave reasons for why he concluded that the marriage was not genuine. He gave no weight to the visit to the house by immigration officers. His decision was not irrational or perverse. His decision should be upheld.

7. Mr Ahmed replied. He took me to the answers given by the appellant and the sponsor on what he described as the alleged inconsistencies and urged me to find that the evidence was not wholly inconsistent on matters of the expiry of the appellant's visa, the sponsor's presence in the UK, their religious activities, the visit by immigration officers, their first meeting, the discussion about marriage and what they had done the previous Sunday. He also submitted that the sponsor had answered questions after she had been effectively threatened by the interviewing officer and had to use an interpreter which may have accounted for difficulties. The appellant gave his answers in English but also had problems and many questions had to be repeated. The legal burden had not been discharged.
8. That completed the hearing. I reserved my determination which I now give with reasons.

9. Findings and Conclusions

10. Essentially the criticism of the judge's determination is that he relied too heavily on discrepancies in answers given at interview and did not apportion sufficient weight to the documentary evidence and to the consistent answers which outnumbered those that were inconsistent. In considering whether that is the case and, if it is, whether it was a material error, I have taken account of the submissions, the determination of the judge, the interview records of the appellant and the sponsor and all the other supporting documentary evidence submitted by both sides.
11. I would state at the outset that the judge made it plain that in the absence of a report from the officers who visited the matrimonial home, he did not place weight on the visit (at paragraph 48). Mr Ahmed's submission on this matter is, therefore, irrelevant.
12. I am not impressed with the submission that there may have been interpretation difficulties at the interview. The sponsor did not indicate that she had any problems with the interpreter and this was not raised as an issue by the appellant's representatives at any subsequent stage thereafter. Nor was there any complaint that the sponsor felt threatened at the interview. The submission was made that the appellant may have had difficulties with English but he came here as a student and having allegedly completed a degree course at a university, I

reject the claim that he would have struggled with the simple questions put to him. His evasive replies could well have been because he did not know all the answers.

13. I have read both interviews with care. It is difficult to understand how the representatives are able to maintain that there were 201 consistent answers and 4 inconsistent ones as it is plain from the transcripts that most questions had to be repeated to both parties several times before a direct answer was obtained and it would be impossible therefore to provide a total number of consistent replies. Indeed, far from there being just four inconsistencies, the interview discloses many more; even more than those identified in the decision letter. The discrepancies relate to major issues such as whether marriage was proposed in a Costa coffee shop or at home in bed, whether or not the appellant gave her flowers when he proposed, whether he had raised the subject before she left Romania or when she was in the UK, whether the appellant bought the sponsor the second ring she wore or whether she purchased it for herself, whether she worked four days a week or two, whether they were alone together on New Year's Eve or with others and whether they were out or at home, when the sponsor was told of the expiry of the appellant's leave, whether or not the sponsor had travelled back to Romania since her arrival and whether it was the appellant who had approached the sponsor on a dating website or the other way around. There were also inconsistencies over how the couple had spent the last Sunday, how often the sponsor went to church and whether the appellant had last been to the mosque on the Sunday or a Friday. The judge took full account of the inconsistencies. He set some of the main problems out at paragraphs 55-57 and acknowledged the representative's submission about the many consistent answers. He also took account of other supporting evidence such as the bank statements (which it has to be said are barely legible), photographs (of appalling quality), a tenancy agreement signed with the appellant on the day of the sponsor's arrival in the UK and at a time when she claimed her plan was only to visit, the witness statements and the oral evidence of the sponsor's brother and his wife. Having had regard to the totality of the evidence (at 68), he proceeded to make his findings and reach his conclusions.
14. There is no obligation on a judge to make findings on every item of evidence before him. It is sufficient that he makes it plain why he has acted the way he has done and there is no lack of clarity as to why he reached the conclusion that the marriage was one of convenience. He was also entitled to take account of the general implausibility of the scenario of a woman who had just come out of an abusive relationship travelling to the UK just after giving birth, signing a tenancy agreement upon arrival with a man she had just met in person for the first time and marrying him in a fortnight having left two young children behind in Romania. These circumstances were properly weighed in the balance with all the other evidence. The judge then reached sustainable conclusions.

15. Finally, I would observe that it is unclear on what basis the appellant registered with the NHS in February 2017 as he was without leave at that time or how he thought he was entitled to vote in UK elections.

16. **Decision**

17. The First-tier Tribunal did not make any errors of law and the decision to dismiss the appeal is upheld.

18. **Anonymity**

19. I was not asked to make an anonymity order and there is no reason to make one.

Signed

A handwritten signature in black ink, appearing to read "R. Keir-E" with a small dot at the end.

Upper Tribunal Judge

Date: 23 July 2018