



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

Appeal Number: EA/02990/2016

THE IMMIGRATION ACTS

**Heard at Field House
On: 9 February 2018**

**Decision and reasons
Promulgated
On: 6 March 2018**

Before

DEPUTY JUDGE OF THE UPPER TRIBUNAL CHANA

Between

**MISS EVA MARIA NOLASCO BEJARAN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Ms J White, Legal Representative

For the respondent: Mr T Melvin, Senior Office Presenting Officer

DECISION AND REASONS

1. The appellant, a citizen of the Dominican Republic, born on 10 November 1972 appealed against the decision of the respondent dated 2 March 2016, refusing to issue him with a EEA family residence permit pursuant to the Immigration (European Economic Area) Regulations 2006 (hereinafter "the 2006 regulations").
2. First-tier Tribunal Judge Mr R. G. Walters dismissed the appellant's appeal in a decision dated 2 June 2017 stating that in line with the decision of

Sala (EFM's: right of appeal) [2016] UKUT 00411 (IAC), that he has no jurisdiction to hear the appeal which the appellant seeks to pursue.

3. Permission to appeal was granted by First-tier Tribunal Judge Lever who stated that the First-tier Tribunal Judge erred when he found that he had no jurisdiction to hear the appeal following the decision in Sala and this case is no longer the position in law and that it is arguable that the appeal should have been considered by the First-tier Tribunal on its merits.
4. At the hearing it was agreed by both parties that there has been a material error of law when the Judge found that he did not have jurisdiction to hear the appeal when in fact he did. It was agreed that since the First-tier Tribunal had made no findings of fact, the appeal should be remitted to the First-tier Tribunal to be heard de novo and findings of fact made.
5. In the circumstances, I direct that the appeal be placed before any First-tier Tribunal Judge apart from First-tier Tribunal Judge R. G. Walters for hearing of the appeal de novo.

This 28th day of February 2018

Signed by

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A Deputy Judge of the Upper Tribunal
Mrs S Chana