



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: EA/10558/2016
EA/10563/2016
EA/10565/2016
EA/10568/2016

THE IMMIGRATION ACTS

Heard at Field House
On 29th May 2018

Decision & Reasons Promulgated
On 31st May 2018

Between

MARGARET OLUWATOYIN ISICHEI
OLUWABUKOLA ARESA
DAMILOLA MOHAMMED ATANDA ARESA &
OLAYINKA AHMED AYINLA ARESA
(ANONYMITY DIRECTION NOT MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

Introduction

1. The appellants are citizens of Nigeria whose dates of birth are recorded as 3 December 1968, 23 September 1992, 17 May 1996 and 7 September 2000 respectively. They made an application to the Secretary of State for an EEA residence card. The applications were refused in separate notices of decision dated 23 March 2016, for reasons that I need not set out herein.

Decision of the First-tier Tribunal

2. The appellants lodged an appeal before the First-tier Tribunal. These appeals came before FtT Judge Bart-Stewart, who concluded in a decision sent on 21 August 2017, that the First-tier Tribunal did not have jurisdiction to determine the appeals. No findings were made in relation to the substance of the appeals. The Judge's conclusion was informed by the guidance given by this Tribunal in Sala [2016] UKUT 00411.
3. The appellants appealed such decision to the Upper Tribunal and FtT Judge Saffer granted permission in a decision sent on 20 February 2018. Thus, the matter comes before me.

Discussion

4. The Court of Appeal has now given consideration to the very issue in play in these cases – see Khan v Secretary of State for the Home Department [2017] EWCA Civ 1755. The Court concluded that the Upper Tribunal had been wrong in its conclusion and rationale in Sala. It is not in dispute that the effect of the decision in Khan, if applied to this case, is that the First-tier Tribunal was wrong to conclude that it did not have jurisdiction in these appeals.
5. For this reason, I set aside the decision of the First-tier Tribunal and remit the appeals back to the First-tier Tribunal to be heard afresh.

Decision

The decision of the First-tier Tribunal is set aside.

The appeals are remitted to the First-tier Tribunal.

Signed:

Dated: 29 May 2018



Upper Tribunal Judge O'Connor