



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/20982/2016

THE IMMIGRATION ACTS

Heard at Glasgow
on 14 September 2018

Decision and Reasons Promulgated
On 26 September 2018

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

I A BUCHANSKI
(anonymity direction not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Appellant present, no legal representative
For the Respondent, Mr A Govan, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. This decision is to be read with:
 - (i) The respondent's decision dated 18 August 2016, refusing the appellant's application for leave to remain.
 - (ii) The appellant's grounds of appeal to the First-tier Tribunal.
 - (iii) The decision of FtT Judge Mill, promulgated on 26 September 2017.

- (iv) The appellant's grounds of appeal to the UT, stated in the application for permission to appeal dated 3 October 2017.
 - (v) The grant of permission by FtT Judge Ford, dated 22 March 2018.
2. It is unfortunate that the appellant's hopes may have been raised by the grant of permission in this case. It is understandable that he and his partner might prefer to see their future in the UK, but it is also obvious that there was nothing before the FtT by which it might rationally have been held, applying the law to the facts, that he could remain here either in compliance with the immigration rules, or, exceptionally, without complying with the rules.
 3. The matter is even more obvious once it is ascertained, as Mr Buchanski said at the hearing, that as well as having UK nationality his partner is, like him, a citizen of Australia.
 4. I advised the appellant that the appeal to the UT had to be dismissed. The FtT's decision did not involve the making of any error on a point of law.
 5. It appears that the appellant made his original application in all good faith, but on the naïve view that although he could not at the time meet all the terms of the immigration rules, he was close to doing so and would perfect his case in due course. The rules are detailed and demanding and do not allow that degree of flexibility.
 6. It may be that the appellant is now in a position, based on length of relationship and necessary income, to make a further application with good prospects of success. However, I made it clear that any such application should be made promptly and carefully, and would be answered by the respondent on its merits, according to the exacting requirements of the immigration rules, including the provision of all stipulated evidence.
 7. Any general observations made by the UT should not be taken as advice or as an indication of the outcome of a future application. Whether to take professional advice remains a matter for the appellant.
 8. The decision of the First-tier Tribunal shall stand.
 9. No anonymity direction has been requested or made.



Dated 25 September 2018
Upper Tribunal Judge Macleman