



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

Appeal Number: HU/04861/2019  
HU/04862/2019  
HU/04865/2019

**THE IMMIGRATION ACTS**

**Heard At Field House  
On 14<sup>th</sup> August 2019**

**Decision & Reasons Promulgated  
On 21<sup>st</sup> August 2019**

**Before**

**UPPER TRIBUNAL JUDGE PITT**

**Between**

**HUMAYUN [K]  
NURJAHAN [A]  
[U Z]**

**(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**DECISION AND REASONS**

1. This is an appeal against the decision dated 10 June 2019 of First-tier Tribunal Judge G Mitchell which refused the Article 8 ECHR appeals of the appellants.
2. The appellants are nationals of Bangladesh. They are a family, comprising father, mother and child.
3. The appeal before the First-tier Tribunal proceeded in the absence of the appellants. The appellants maintain that this amounted to a procedural irregularity where they had applied for an adjournment on medical grounds and had included medical documents showing that they were

unwell at the time of the First-tier Tribunal hearing. Where the adjournment application was not considered by the First-tier Tribunal, procedural error arose.

4. The respondent conceded that the appellants had provided materials that should have led the First-tier Tribunal to consider adjourning the appeal and which were sufficiently cogent to have allowed for an adjournment to be granted. The First-tier Tribunal did not address those matters and where that was so, a clear procedural error arose such that the decision should be set aside entirely to be re-made *de novo* in the First-Tier Tribunal. For what it is worth, the documents on the Tribunal file were wholly consistent with the appellants' submissions on having made an adjournment application which was not put to the First-tier Tribunal.
5. The Upper Tribunal finds that the decision of the First-Tier Tribunal discloses a material error on a point of law and sets it aside to be re-made *de novo* in the First-Tier Tribunal.

### **Notice of Decision**

The decision of the First-tier Tribunal discloses an error on a point of law and is set aside to be remade *de novo* in the First-tier Tribunal.

Signed:   
Upper Tribunal Judge Pitt

Date: 14 August 2019