



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

Appeal Number: HU/15296/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 21st June 2019**

**Decision & Reasons Promulgated
On 11th July 2019**

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

**MRS JESMIN BEGUM
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Hasan

For the Respondent: Mr T Lindsay, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal to the Upper Tribunal by the Appellant in relation to a decision and reasons of Judge Carroll promulgated on 21st February 2019 following a hearing at Taylor House on 5th February 2019.
2. The Appellant is a national of Bangladesh and the wife of her British citizen Sponsor. She had sought and been refused entry clearance as a spouse under Appendix FM. The refusal was on two bases. The first was that there were discrepancies in the personal identification number on the Applicant's birth certificate and her passport. The Entry Clearance Officer said that checks had been made and there was a document verification

report held by him which indicated that the birth certificate was a false document. The second basis for refusal was that the Entry Clearance Officer was not satisfied that the relationship was genuine and subsisting.

3. The judge dismissed the appeal on both counts finding that the documents were false. In doing so the judge seems not to have taken into account an original document with a translation from the chairman of the relevant district in Bangladesh indicating that the error, by misprinting one number, was indeed an error by the authorities.
4. The judge was perhaps encouraged to make a finding of dishonesty because in a previous appeal hearing a judge had found that documents submitted were indeed false. However, on the basis of the original documents that I have seen there appears to be no reason to doubt them.
5. On behalf of the Secretary of State Mr Lindsay makes the point that that there has been no opportunity to verify those documents. With regard to that I would say that the Entry Clearance Officer had apparently obtained a document verification report in relation to the original birth certificate but did not provide that to the court. I also note that the Entry Clearance Officer was represented before the First-tier Tribunal and made no application for an adjournment in relation to those documents in order that they be verified.
6. Given the strength of evidence necessary to find a document is false and an Appellant dishonest, I find that the judge in that respect has made an error and I substitute my own finding that, on the basis of the evidence before the Tribunal, the Entry Clearance Officer has not satisfied the burden to show that the document was false.
7. However, the second part of the refusal was on the basis that the marriage is not subsisting. The judge noted that the couple married in 2004 and the bundle of evidence that he had been provided with did not persuade him that the marriage or the relationship was subsisting. The bundle included a number of money transfer receipts, fourteen in total, but only three predated the date of Decision under appeal. Whilst it is of course open to the judge to look at all the evidence up to and including the date of hearing, he is entitled to make an adverse finding on the basis that the money transfers only arrived after the couple knew they had lost the application. Given the length of this marriage was fifteen years, one would have been entitled to expect a great many more money transfer receipts prior to the date of Decision. The judge also noted that in the fifteen years the couple had been married the Sponsor had only visited his wife three times.
8. On the basis of the evidence that the judge had it is unsurprising that he found the relationship not to be subsisting and therefore even though I found in the Appellant's favour in relation to the documents, the Appellant cannot win because the marriage was not genuine and subsisting and for those reasons the appeal to the Upper Tribunal is dismissed.

Notice of Decision

The appeal is dismissed

No anonymity direction is made.

A handwritten signature in black ink, appearing to read 'Martin', written in a cursive style.

Signed

Date 30th June 2019

Upper Tribunal Judge Martin