



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

HU/23085/2016

THE IMMIGRATION ACTS

Heard at Glasgow
on 18 January 2019

Decision & Reasons Promulgated
on **13 February 2019**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

ALI RAZA

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Mr J Bryce, Advocate, instructed by RH & Co, Solicitors

For the Respondent: Mrs M O'Brien, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant has permission to appeal against a decision by FtT Judge Doyle, promulgated on 17 January 2018.
2. The grounds before the UT are as stated by way of an amendment dated 4 August 2018. Their gist is that the question for the FtT was not whether this was a marriage of convenience. The relevant provision, mentioned in the respondent's refusal letter but not in the FtT's decision, was paragraph 287 of the rules, which required a decision on whether the marriage was subsisting and each of the parties intended to live permanently with the

other as a spouse. The grounds develop the point by reference to case law, which should not be overlooked in the remaking of the decision.

3. The respondent conceded error of law. The further outcome was agreed, as follows.
4. The decision of the FtT is set aside. It stands only as a record of what was said at the hearing. The nature of the case is such that it is appropriate under section 12 of the 2007 Act, and under Practice Statement 7.2, to remit to the FtT for an entirely fresh hearing. The member(s) of the FtT chosen to consider the case are not to include Judge Doyle.
5. The respondent is directed by 22 February 2018 to provide the appellant's representatives and the FtT with full transcripts of the interviews of the appellant and the sponsor. (This is as suggested by paragraph 10 of the grounds.)
6. The appellant's representatives have arranged for a suitable independent female solicitor to take a statement from the sponsor, which is expected to form her evidence-in-chief before the FtT. That statement is to be provided to the respondent and the FtT not less than 14 days before the hearing. (It is hoped that this will cover the point that the sponsor is a vulnerable person, mentioned at paragraph 11 of the grounds.)
7. No anonymity direction has been requested or made.



21 January 2019
UT Judge Macleman