



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

Appeal Number: PA/05302/2018

THE IMMIGRATION ACTS

Heard at Field House

Decision and Reasons

On 24 April 2019

Promulgated

On 29 April 2019

Before

UPPER TRIBUNAL JUDGE KOPIECZEK

Between

PY

(ANONYMITY DIRECTION MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr B. Bundock, Counsel

For the Respondent: Mr N. Bramble, Senior Home Office Presenting Officer

**DECISION PURSUANT TO RULE 40(3)(a) OF THE TRIBUNAL PROCEDURE
(UPPER TRIBUNAL) RULES 2008**

1. The appellant, a citizen of Uganda, appealed to the First-tier Tribunal ("FtT") against a decision to refuse a protection claim. The FtT dismissed the appellant's appeal on asylum, humanitarian protection and (by implication) Article 3 grounds but allowed the appeal on Article 8, private life grounds.

2. Permission to appeal against the FtT's decision having been granted, the appeal came before me on 24 April 2019.
3. At the hearing before me it was agreed between the parties that the FtT had erred in law in its assessment of how the appellant was reasonably likely to behave on return to Uganda in terms of whether she would want to live openly as a lesbian but would fear persecution if she were to do so. That error of law arises against the background of the positive credibility findings made by the FtT, the appellant's witness statement dated 10 April 2018 and having regard to the decision in *HJ (Iran) v Secretary of State for the Home Department* 2011] 1 AC596.
4. It was further agreed between the parties that in those circumstances the appropriate outcome is for the decision of the FtT to be set aside in relation to asylum and Article 3 and for the decision to be re-made allowing the appeal on asylum and human rights grounds, with reference to Article 3 of the ECHR.
5. I agree that that is the appropriate course and I decide this appeal in the terms set out in paragraph 4 above.
6. Pursuant to rule 40(3)(a) of the Tribunal Procedure (Upper Tribunal) Rules 2008, no reasons (or further reasons) are required, the decision being made with the consent of the parties.

Upper Tribunal Judge Kopieczek

dated 24/4/19

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her or any member of her family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.