



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: HU/23289/2018**

THE IMMIGRATION ACTS

**Decision Under Rule 34 Without a
hearing
On 29th September 2020**

**Decision & Reasons
Promulgated
On 05th October 2020**

Before

UT JUDGE MACLEMAN

Between

MANDHOJ RANA

and

ENTRY CLERARNCE OFFICER

Appellant

Respondent

DETERMINATION AND REASONS

1. This determination is to be read with:
 - (i) The respondent's decision dated 5 October 2018.
 - (ii) The appellant's grounds of appeal to the First-tier Tribunal.
 - (iii) The decision of FtT Judge Verghis, promulgated on 28 October 2019.
 - (iv) The appellant's grounds of appeal to the UT, stated in the application for permission to appeal filed on 30 March 2020.
 - (v) The grant of permission by the UT, dated 4 May 2020.

(vi) The UT's directions, issued on 27 July 2020, with a view to deciding without a hearing (a) whether the FtT erred in law and (b) if so, whether its decision should be set aside.

(vii) The response for the ECO, dated and received on 30 July 2020.

2. There is no response on file from the appellant.
3. Based on all the above, the UT may now proceed fairly and justly, in terms of rules 2 and 34, to decide questions (a) and (b) without a hearing.
4. Ground 1 is that the FtT erred "in failing to adopt the correct lawful approach in assessing whether there existed family life".
5. The ground refers to *Rai* [2017] EWCA Civ 320. The FtT directed itself extensively in respect of that case at [36]. The FtT also noted *Pun* [2017] EWCA Civ 2016, at [37], and other case law.
6. Ground 1 has no substance. It specifies no error of legal approach. The FtT plainly directed itself correctly.
7. Ground 2 is unclear, but the gist appears to be that the FtT went wrong at [19], where it records that the sponsor said that he stays with the appellant in Nepal as he has an extra room; failed to refer to the sponsor's statement; and did not "correctly assess all the evidence".
8. This ground fails to specify any inaccuracy in the FtT's record of the evidence taken at [19], or anything said by the sponsor elsewhere which might have made any difference.
9. It should not be left to the UT to burrow into materials to see if a ground has any substance, but I have referred to the sponsor's statement. At [17] he says, "We always stayed with our son when we visited him in Nepal".
10. I note that at [27] the FtT found the evidence of the sponsor and his wife credible on spending more time with the appellant than with their daughter or their other son while visiting Nepal.
11. I cannot identify any legal error on the basis of ground 2.
12. Ground 3 is that the FtT "erred in the assessment of telephone contact [and] failed to consider the evidence properly. It is correct to identify the records from Nepal as a record of the appellant calling the sponsor, but [there were also] phone cards which demonstrate in part the calls made by the sponsor to the applicant ... the FtT failed to consider ... evidence of contact. Therefore, the assessment of emotional support is flawed."
13. The respondent accepts that the FtT did not refer to the phone cards, but submits that they add nothing material.

14. It is not shown that the evidence of calls from the sponsor to the appellant added anything of such consequence as to require separate mention.
15. The decision of the FtT is balanced and careful. It took a favourable view of the evidence from the appellant's parents, but found family life for article 8 purposes between the appellant, as a mature adult, and his parents, not to be established. That crucial assessment was firmly grounded in the evidence as a whole. The grounds do not show that it involved the making of any error on a point of law.
16. The decision of the First-tier Tribunal shall stand.
17. No anonymity direction has been requested or made.



29 September 2020
UT Judge Macleman

NOTIFICATION OF APPEAL RIGHTS

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email.