



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

Appeal Number: PA/11418/2018 (V)

THE IMMIGRATION ACTS

**Heard at Manchester CJC via Decision & Reasons Promulgated
Skype On 23 November 2020 On 27 November 2020**

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

**NM
ANONYMITY DIRECTION MADE**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr Kumar, Consultant Solicitor instructed by Optimus Law
For the respondent: Ms Everett, Senior Home Office Presenting Officer

DECISION AND REASONS (V)

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI2008/269) an Anonymity Order is made. Unless the Upper Tribunal or Court orders otherwise, no report of any proceedings or any form of publication thereof shall directly or indirectly identify the original Appellants. This prohibition applies to, amongst others, all parties.

1. I have anonymised the appellant's name because this decision refers to her asylum claim.
2. The appellant has appealed against a decision of the First-tier Tribunal ('FTT') Judge Young-Harry sent on 18 March 2020 dismissing her appeal on international protection and human rights grounds.
3. In her decision letter dated 19 September 2018 the respondent accepted the appellant's claims that she was forced to marry a man named Barzan in an Islamic ceremony because he threatened to disclose compromising 'doctored' photographs of her in a compromising position if she failed to do so and also accepted the appellant's claim that she has been threatened by Barzan, who she now regards to be her ex-husband. These are important matters of significant relevance to the appellant's claim that she remains at risk in Iran from her own family members, for reasons relating to this marriage. The FTT did not accept this aspect of the appellant's claim.
4. When granting permission to appeal in a decision dated 8 July 2020, Upper Tribunal ('UT') Judge Sheridan considered it arguable that the FTT's adverse factual finding on this aspect of the claim overlooked important evidence. In particular, in rejecting the appellant's account that she felt unable to tell her family members about Barzan's threatening behaviour, the FTT arguably failed to consider the appellant's explanation at the asylum interview that Barzan had explicit photographs she did not want her family to know about and the country background evidence to the effect that the appellant had a strong incentive to conceal this from her family members.
5. Ms Everett conceded that the FTT decision contains an error of law for the reasons identified by Judge Sheridan when granting permission to appeal, such that it must be set aside and remade by another FTT other than Judge Young-Harry. Ms Everett was correct to make this concession. The country background evidence demonstrates a prima facie reasonable degree of likelihood that male family members in the Kurdish areas of Iraq may reject such an explanation and view the photographs as bringing dishonour upon the family, such that they would not support the appellant. Indeed, I note the respondent accepted the appellant's claim to be generally externally consistent with the background information on Iraq - see [52] of the respondent's decision letter. In that context, the FTT was obliged to carefully scrutinise the explanation given by the appellant. In concluding at [14] that (my emphasis) "*the appellant has failed to explain why she did not simply inform her brothers, cousins and uncle that this man was threatening her and forcing her into marriage*" the FTT has failed to engage with or give reasons for rejecting the explanation the appellant has consistently provided since her asylum interview.

6. This error of law renders the FTT's credibility findings on the issues that are disputed by the respondent unsafe. In all the circumstances I consider it appropriate to make my decision by consent and pursuant to rule 39 of the Tribunal Procedure (Upper Tribunal) Rules 2008.
7. Both parties consented to the appeal being allowed and the FTT's decision being set aside. They also agreed that the appeal should be remitted to be remade by the FTT de novo. I have had regard to para 7.2 of the relevant *Senior President's Practice Statement* and the nature and extent of the factual findings required in remaking the decision, and I have decided that this is an appropriate case to remit to the FTT to make fresh findings of fact on the matters that are in dispute. None of the FTT's findings of fact are preserved.

Decision

8. The decision of the FTT involved the making of a material error of law. Its decision cannot stand and is set aside.
9. The appeal shall be remade by the FTT (a judge other than Judge Young-Harry) de novo, albeit in the light of the matters accepted by the respondent in the decision letter.

Signed: Ms M. Plimmer
Judge of the Upper Tribunal

Dated: 23 November 2020