



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

**Appeal No: LP/00282/2020  
UI-2021-001451; PA/50224/2020**

THE IMMIGRATION ACTS

Heard at George House, Edinburgh  
on 11 May 2022

Decision & Reasons Promulgated  
on 5 July 2022

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

**A K CEESAY**

Appellant

and

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

For the Appellant: Mr S Winter, Advocate, instructed by Latta & Co, Solicitors  
For the Respondent: Mr A Mullen, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. This determination follows on from:
  - (i) The respondent's decision dated 7 May 2020.
  - (ii) The appellant's grounds of appeal to the First-tier Tribunal.
  - (iii) The decision of FtT Judge Komorowski dated 19 April 2021 .
  - (iv) The appellant's 4 grounds of appeal to the UT, stated in the application for permission to appeal dated 3 May 2021.

(v) The grant of permission by the FtT dated 20 January 2022.

2. The appellant made two claims, one based on an inheritance dispute, and the other on having a child out of wedlock.

3. Ground 1 is that the Judge:

... erred in finding that the focus of the appellant's claim was on the risk from having a child out of wedlock rather than the inheritance dispute, and that this likely reflected a judgement by her solicitors that this was a "less forensically challenging basis for the appeal" (paragraph 13). These were unwarranted assumptions and, in effect, pre-judged the learned judge's consideration of the inheritance limb of the appellant's claim.

4. As expanded upon in the grounds and submissions, the appellant says that both claims were fully and equally advanced, and that to the extent one was concentrated upon rather than the other, this was because the wedlock rather than the inheritance claim came within the scope of the Refugee Convention; and the Judge's incorrect distinction led him into considering each claim on a false premise, and prejudging the inheritance claim as ancillary or weaker.

5. Ground 2 is that the Judge:

... then appears to have decided that an examination of the appellant's credibility on the inheritance limb was "necessary for an evaluation of the appellant's general credibility" (paragraph 14). That approach fails to consider the two claims, the wedlock and inheritance claims, equally. In considering that one part of the claim, but not the other, should be used to assess the appellant's general credibility, it also fell into the error counselled against in *TF (Iran) v Secretary of State for the Home Department* 2019 SC 81, [2018] CSIH 58, and *MA (Somalia) v Secretary of State for the Home Department* [2011] 2 All ER 65, [2010] UKSC 49, that if an asylum-seeker is disbelieved on one part of her claim, she may still be found credible on another part, and that she should not be disbelieved on all parts of her claim simply because she is disbelieved on one part of it.

6. The expansion on this ground was that it follows from the first, and there was an error of allowing findings on one limb to influence findings on the other, precluding the possibility of believing one but not the other. Mr Winter sought to exemplify this by reference to [49], where under the heading of the wedlock claim, and immediately after a finding on the inheritance claim, the Judge began:

Given my assessment of the appellant's credibility, I am also not satisfied that any threats or other adverse comments have been made about the appellant having a child out of wedlock, or arising from the father not being a Muslim.

7. Ground 3 is that the Judge:

... began his assessment of the appellant's general credibility by finding that the appellant had been deceitful in the use of a false identity to obtain a work visa (so in effect applying section 8 considerations to the assessment of credibility). But by starting his assessment with this finding and observing that "it warranted particular caution in the assessment of her evidence", the learned judge has erred: such a general credibility finding should not be the starting point of the credibility assessment process (*SM* (section 8: Judge's process) Iran [2005] UKAIT 00116).

8. This ground was further advanced as an error, although the decision was not expressed in terms of section 8 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004, of taking account of behaviour within the terms of that section and “starting with a general credibility finding based on section 8 behaviour and carrying that through to the assessment of the evidence”.
9. This is ground 4:

The best interests of a child should be considered first (*ZH (Tanzania)*) and as an integral part of the Article 8 balancing exercise, not something apart from it (*MK (best interests of the child) (India)* [2011] UKUT 00475 (IAC)) at headnote 3. Here, the learned judge has considered the best interests of the child last and after he has conducted the Article 8 balancing exercise. He has thus erred in his assessment of those best interests and in his consideration of the Article 8 claim.
10. This is set out in more detail at [16 - 19] of the grounds. Mr Winter had nothing to add.
11. Mr Winter sought a remit to the FtT. In response to Mr Mullen, he accepted that the Judge had correctly directed himself on an appellant possibly being truthful in parts of her case although not on others, but maintained that the decision did not show that those directions had been applied.
12. Having heard the submissions of both parties, I reserved my decision.
13. It is useful to begin by looking at the decision as a whole, which the grounds do not do. It is clear, detailed, thorough and structured, set out in 75 paragraphs over 18 pages as follows (words in italics added):
  - [1] introductory
  - [2 - 4] procedural matters
  - [5 - 7] the documents
  - [8] the appellant’s vulnerability as a witness
  - [9 - 10] consideration of the appellant’s oral evidence
  - [11 - 14] summary of the appellant’s account and her claims
  - [15] the appellant’s credibility
  - [16 -21] the appellant’s false identity
  - [22 - 36] under several sub-headings, the appellant’s account of the house sale (*the inheritance*)
  - [37 - 44] under several sub-headings, the email of R S
  - [45] the psychologist’s evidence

[46] other points

*The decision from this point is headed:*

Implications for the appellant's claims

[47 - 48] the house sale

[49 52] son born out of wedlock

[53 - 62] the appellant's mental health, and article 3

[63 - 66] immigration rules, para. 276ADE (vi) (*integration*)

[67 - 70] article 8 outwith rules, the mother's rights

[71 - 75] article 8, child's best interests.

14. Put in context of the decision, it is immediately apparent that the grounds are abstract and highly selective, and that they do not reflect the decision, read fairly and as a whole.
15. The Judge begins by treating the appellant as a vulnerable witness, and places no significant weight on inconsistencies in her oral evidence. He states his overall adverse credibility finding early on, at [15], but it is obvious that this has been reached, as stated, only after a cumulative assessment of all the evidence.
16. The first matter explored, the false identity, ends with a self-reminder that deceit in one matter does not necessarily mean deceit on others. There is no reason to think that the Judge paid only lip service to that well-established principle. To say that the matter "warrants some particular caution in the assessment of her evidence" does not go beyond anything in the case law.
17. The Judge explained his general views on credibility first, and applied these to the particular claims next. He examined both aspects in careful detail. The sweeping assertions that in grounds 1 and 2 that one matter was pre-judged by the other take passages in the decision out of context, and are not accompanied by identifying any oversight or defect in the evaluation.
18. Ground 3 is artificial and convoluted. Section 8 was not invoked. Use of a false identity was an obviously pertinent matter, with or without citing section 8. *SM* held that a Judge should look at the evidence as a whole and was not required by section 8 to take behaviour defined in the section as "the starting point of the assessment of credibility". It is plain that the Judge here did look at the evidence as a whole. The finding on use of a false identity led him to treat other evidence with caution, as was justified, not into an assumption.

19. It might have been as well for the Judge to keep to himself his musings on the appellant's representatives perceiving greater strength in one part of the claim than in another. However, in seizing on this passing remark, the grounds do not show that it led the Judge into treating either claim less fully than it deserved, or into prejudging one because of the other.
20. Ground 4 grumbles, at [18] of the application, that "the best interests of the appellant's son have not been considered first and so have not formed part of the Article 8 proportionality assessment"; but as Mr Mullen said, while the interests of a child are a primary consideration, it is not an error of law not to deal with them in the first paragraph of every decision where they arise. It does not follow from the order in which the decision is set out that the child's interests have been ignored. The decision expressly says the opposite. This ground has no substance.
21. The grounds and submissions for the appellant do not show that the making of the decision of the FtT involved the making of any error on a point of law. That decision shall stand.
22. No anonymity direction has been requested or made.

H Macleman

12 May 2022  
UT Judge Macleman

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#### 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.