



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-000163
First-tier Tribunal No: EA/02167/2021

THE IMMIGRATION ACTS

Decision & Reasons Promulgated
On 27 February 2023

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

Hamdala Immuran Suleman
(no anonymity order made)

Appellant

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr F Ahmed, the appellant's cousin
For the Respondent: Ms A Ahmed, Senior Home Office Presenting Officer

Heard at Field House on 19 May 2022

DECISION AND REASONS
(extempore)

1. I regret the administrative error that delayed the promulgation of this extempore judgment.
2. This is an appeal by a citizen of Ghana against the decision of the First-tier Tribunal dismissing, on the papers, an appeal against the decision of the Entry Clearance Officer refusing to recognise the appellant's claim to join her husband in the United Kingdom. Her husband is an EEA national exercising treaty rights and the application was brought under the EU Settlement Scheme.
3. Before me Mr F Ahmed, who identified himself as a cousin of the appellant, represented the appellant. If I may say so, Mr Ahmed presented as an intelligent

and sensible man doing his very best to help and who made some useful observations, but he is not a lawyer and possibly struggled a little with the importance of establishing a legal error in the decision or proceedings. It was not my role to consider new evidence.

4. A fundamental difficulty in this case is that the Reasons for Refusal provided by the Entry Clearance Officer are profoundly unsatisfactory. I am very aware of the enormous pressure on Entry Clearance Officers and I have a great deal of sympathy but on this occasion the reasons are not good enough. I set out below the important part of the reasoning. The Entry Clearance Officer said:

“However, there were a number of inconsistencies with this evidence. It is noted that the signatures on your marriage certificate do match the signatures on your biometric passports. There is no evidence from the competent authorities that has been provided to state that this part of the marriage act has been disregarded. This leads me to cast doubt on the legitimacy of this document. On this basis, the department cannot be sufficiently satisfied that the marriage has been registered in accordance with the requirements of the Ghanaian authorities.”

5. I can make no sense whatsoever of the observation that the signatures on the marriage certificate *do* match the signatures on the biometric passports. That does not seem to be any reason at all to doubt or refuse the application, but it is relied upon to justify such a decision. The reference to there being “no evidence from the competent authorities that has been provided to state that this part of the marriage act has been disregarded” is, I find, entirely nonsensical; I just do not know what is meant by the “marriage act”. I do not know if it is a reference to a Ghanaian statute or something to do with the marriage ceremony, or what.

6. Faced with this background of confusion and the absence of representation because this was a “papers” appeal, it is, perhaps, understandable that the Judge struggled.

7. The Judge said at paragraph 2 of the Decision and Reasons:

“The application was refused because the entry clearance office was not satisfied that the signatures on the marriage certificate for the customary marriage of the appellant and the EEA national, were the signatures of the appellant and the sponsor. That was because the signatures did not seem to match the signatures on the passport of the appellant and the sponsor.”

8. This may be what the Entry Clearance Officer meant but it is not what the Entry Clearance Officer said.

9. The judge has given eloquent reasons which, as far as they go, are cogent but they do not reflect the decision that was made by the Entry Clearance Officer. The Judge’s Decision and Reasons reads as if the judge thought that the Entry Clearance Officer had said that the signatures did not match but the Judge did not agree with the observation and dismissed the appeal for different reasons.

10. I appreciate the difficulty the judge had with the way that the issues in the appeal were identified but I am not satisfied that the appellant knew or ought to have known the case that she was asked to answer. The points taken by the judge were not obvious and so the appellant should not have been expected to address them.

11. I make no findings on its value but during the hearing I was shown evidence in the form of four photographs tending to suggest that the appellant's husband was in Ghana at the time he was said to have married the appellant.
12. There is also evidence tending to suggest that the appellant had obligations to her university and then to the State of Ghana to perform national service, which could go some way to explaining the timing of the application, although if this is the case it ought to be supported by clear witness statements. There are some witness statements before me, but I am not going to describe them in detail because I have decided that the appeal needs to be redetermined and I do not want to influence the judge who will conduct that hearing.
13. I am quite satisfied that the decision has to be set aside for error of law. The First-tier Tribunal Judge misunderstood the evidence and decided the appeal for reasons that the appellant had no reason to anticipate and therefore should not have been expected to have addressed.
14. It may be that the appellant will want to serve further evidence. It is important that any directions by the First-tier Tribunal are heeded.

Notice of Decision

15. My decision is to set aside the decision of the First-tier Tribunal and order the appeal to be determined in the First-tier Tribunal.

Jonathan Perkins

Judge of the Upper Tribunal
Immigration and Asylum Chamber

24 February 2023