



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

**Appeal Number: UI-2024-000027
First tier Tribunal No: PA/50300/2023
LP/02193/2023**

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On the 23 April 2024**

Before

DEPUTY UPPER TRIBUNAL JUDGE SHEPHERD

Between

**KK (NAMIBIA)
(ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Wood, Immigration Advice Service
For the Respondent: Mr Tan, Senior Home Office Presenting Officer

Heard at Manchester Civil Justice Centre on 11 April 2024

DECISION AND REASONS

1. The Appellant appeals with permission against the decision of First-tier Tribunal Alis promulgated on 18 November 2023.
3. At the outset of the hearing, it was confirmed that the Respondent had, in his rule 24 letter, conceded that the decision of the First-tier Tribunal involved the making of an error of law. That error is, as averred in the grounds, that the judge materially erred in failing to consider and record whether the Appellant was a vulnerable witness and treat her evidence accordingly.

4. I am satisfied that this is a sensible concession and I would have found that the judge did err in that manner. I find that the error is material because, had the Appellant been found to be vulnerable, this could have affected the way in which her evidence was treated/viewed which impacts on the decision as a whole. I therefore find that the decision of the First-tier Tribunal involved the making of an error of law and must be set aside for a fresh decision on all issues.
5. Having concluded that the First-tier Tribunal's decision must be set aside, I have considered whether it is appropriate for the decision to be re-made in the Upper Tribunal or remitted to the First-tier Tribunal for a fresh hearing. In the light of the Senior President's Practice Statement at paragraph 7.2 and the nature and extent of the fact-finding that is required, I am satisfied that the appropriate course is for the appeal to be remitted to the First-tier Tribunal for a de novo hearing, with no findings of fact preserved.

Notice of Decision

1. The decision of the First-tier Tribunal involved the making of an error on a point of law. Its decision is set aside and the appeal is remitted to the First-tier Tribunal for a de novo hearing, with no findings of fact preserved, before a judge other than Judge Alis.

L. Shepherd
Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber
11 April 2024