IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2024-002436
UI-2024-002437
First-tier Tribunal nos. PA/54849/2023
PA/54850/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:

24th January 2025

Before

UPPER TRIBUNAL JUDGE LANE

Between

JA
AA

(ANONYMITY ORDER MADE)

Appellants

and

Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Ms Young
For the Respondent: Ms McKensie, Senior Presenting Officer

Heard at Field House on 10 September 2024

DECISION AND REASONS

1. The appellants are citizens of the Philippines. They appeal against a decision of the First-tier Tribunal, which summarised their respective immigration histories as follows:

   The first appellant born on 27 July 1976 is a national of the Philippines. The respondent's narrative of her immigration history shows that on 9 December 2008 she made an application to visit her husband in the United Kingdom. That application was refused on 31 December 2008. On 13 April 2016 she submitted an application to visit family in the United Kingdom which was issued on 3 May

2016. On 16 November 2018 she submitted a further application to visit family in the UK which was issued on 26 November 2018. She entered this country on 20 December 2018. On 24 February 2022 she applied for asylum which was refused on 14 July 2023. She brought an appeal against the refusal which was listed before the tribunal for determination.

The second appellant born on 17 May 2005 is also of Philippines nationality. His application was made on 20 March 2019 and refused on 14 July 2023. At some stage both the appeals were joined to be heard together.

2. At [68] the judge recorded:

In paragraph 2 of her skeleton argument, the appellants' counsel indicated that her appeal was on Article 8 of the Human Rights Convention only. Whilst they maintained a subjective fear on return to the Philippines, they accepted that the fear was not objectively well founded because there is sufficient state protection in relation to the risk they face on return. The first appellant's appeal therefore was on the basis of significant obstacles to reintegration and alternatively the refusal will disproportionately interfere with the appellant's right to family/private life. The issue therefore before the tribunal were whether the appellant would face very significant obstacles to her integration in the Philippines and otherwise whether the decision is disproportionate to the appellant's right to family or private life.

The First-tier Tribunal Decision

3. The judge dismissed the appeal. He could 'make no sense' of the first appellant's claimed land dispute with her sister-in-law. He did not find that the appellant had borrowed money from loan sharks. He was sympathetic to the second appellant on account of his youth but found that 'he came here as a visitor and the expectation must be those who come here for temporary purposes, return to their home country. English is well used in the Philippines, there is no reason why this appellant cannot continue his education in the Philippines and further his ambitions there.' [77]

The Grounds of appeal

4. The appeal to the Upper Tribunal proceeded on two grounds, one granted in the First-tier Tribunal the second in the Upper Tribunal. First, the second appellant claims that that the judge failed adequately to consider his private life 'attaching adverse weight to the fact that he came to the United Kingdom as a visitor, when this was a decision taken on his behalf by a parent and in failing to consider or make findings on the evidence that the Second Appellant has reached an important stage of his education and has spent a large part of his formative years in the United Kingdom. Secondly, Upper Tribunal Judge Smith considered that it is' arguable that when considering whether to grant an adjournment, the Judge failed to take into account relevant evidence namely GP records

showing that the Appellant had sought treatment for her mental health in 2023. It is arguable that the refusal of an adjournment is impacted by this failure.'

Arguments

5. Ms Young, for the appellants, submitted that the judge had not recorded the first appellant's mental health which was referred to in her GP records. Moreover, all the appellants' family members were now living in the United Kingdom and the appellants would not enjoy a social network in the Philippines. The second appellant had been brought to the United Kingdom as a child and it was not his fault that his education would now suffer on his return to the Philippines.

6. Ms McKensie, for the Secretary of State, submitted that the judge had given two reasons for refusing the adjournment. She acknowledged that the judge may have erred in failing clearly to address the first appellant's mental health by failing to note the reference to this aspect of her health in the GP notes but had been plainly entitled to agree 'with the Home Office representative that the appellant has had sufficient time in which to obtain any evidence she desired [42].'

Discussion

7. As regards the application for an adjournment, the grounds of appeal are little help to the appellants. They note the second reason given by the judge for refusing to adjourn but say no more than that the appellants had been denied a fair hearing [5] and that the judge had made a 'fundamental error.' I agree with Ms McKensie. The judge gave two distinct, independent reasons for refusing to adjourn and I find that the second (noting that the appellants had had plenty of time to obtain a report, which has not been denied or challenged by the appellants) stands notwithstanding the judge's error if failing to note the references to mental health in the GP notes.

8. I also find that, albeit brief, the judge has considered all the relevant evidence (there was no requirement for him to itemise it) concerning the second appellant's private life. He has reached a finding as to that private life which was manifestly available to him; the second appellant may have reached an important stage in his education but there was nothing before the judge to show that that education could not be completed in the Philippines as the judge found. As the Court of Appeal stated in *EV (Philippines) [2014]* EWCA Civ 874 at [60]:

> In our case none of the family is a British citizen. None has the right to remain in this country. If the mother is removed, the father has no independent right to remain. If the parents are removed, then it is entirely reasonable to expect the

children to go with them. As the immigration judge found it is obviously in their best interests to remain with their parents. Although it is, of course a question of fact for the tribunal, I cannot see that the desirability of being educated at public expense in the UK can outweigh the benefit to the children of remaining with their parents. Just as we cannot provide medical treatment for the world, so we cannot educate the world.

In the light of *EV (Philippines),* not only was the outcome on the second appellant's private life available to the judge (and the reasons he gives for reaching that outcome brief but sufficient) it appears to have been the only reasonable and legally sound outcome on the facts.

9. The appeals are dismissed.

Notice of Decision

The appeals are dismissed.

C. N. Lane

Judge of the Upper Tribunal
Immigration and Asylum Chamber

Dated: 12 January 2024