

Upper Tribunal  
Immigration and Asylum Chamber

Appeal Number: VA/25799/2012

THE IMMIGRATION ACTS

Heard at Field House  
On 22 July 2013

Promulgated on:  
On 22 July 2013

Before

Upper Tribunal Judge Kekić

Between

Abdul Latif

Appellant

and

Entry Clearance Officer  
Dhaka

Respondent

Determination and Reasons

Representation

For the Appellant: Mr L Bhuiyan, Legal Representative

For the Respondent: Mr S Walker, Senior Home Office Presenting Officer

**Details of appellant and basis of claim**

1. This appeal comes before me following the grant of permission on 20 May 2013 by Upper Tribunal Judge Kebede in respect of the determination of First-tier Tribunal Judge Place who dismissed the appeal by way of a determination promulgated on 1 February 2013.
2. The appellant is a Bangladeshi national born on 15 June 1986. He seeks entry clearance as a family visitor for a period of two months. The application was refused on 26 June 2012 because the ECO was not satisfied that the appellant was genuinely seeking entry as a visitor for the period claimed or that he intended to leave the UK at the end of that period or that he would be adequately maintained or accommodated.

3. The judge heard oral evidence from the appellant's sponsor (and brother-in-law), Abu Hanif. He found the information was sketchy in respect of the appellant's circumstances. He noted that the appellant had made two previous visits to the UK in 2008 and 2009 and that though he had returned within the validity of his visa, he had stayed far longer than the limited period he had claimed he would stay for. Nevertheless he found that the appellant had ties in the form of family in Bangladesh and he concluded that the appellant did, on the balance of probabilities, intend a genuine visit. However, he dismissed the appeal on the basis that the appellant had failed to show evidence of adequate maintenance and accommodation. He also found that there was a good chance that the appellant's visit on this occasion would be longer than the two months he had sought entry clearance for. Accordingly, he dismissed the appeal.
4. Permission to appeal was granted on the basis that the judge was arguably wrong to have dismissed the appeal given the evidence of accommodation from the sponsor and of funds from the appellant's father.

### **Appeal hearing**

5. The appeal came before me on 22 July 2013. The sponsor attended the hearing.
6. I heard submissions from Mr Bhuyian who submitted that the sponsor and appellant had been found credible and that the judge should, therefore, have proceeded to allow the appeal. He submitted that the appellant had provide explanations as to why he had stayed longer than planned on his previous visits but pointed out that he had not breached the Immigration Rules. He submitted that the appellant was being given £1200 by his father and he had not given adequate reasons as to why, in the context of the Asian family system and culture, this was not sufficient. He accepted there had been no documentary evidence as to accommodation at the hearing but said that the appellant had stayed with the sponsor on the last two occasions and his evidence on that should be accepted.
7. In response, Mr Walker submitted that the judge had been entitled to find that there had been no satisfactory evidence as to maintenance and accommodation. The findings he made had been open to him. There was no material error of law.
8. Mr Bhuiyan replied. He stated that the appellant had been unrepresented at the last hearing and it had been open to the judge to have asked questions of the sponsor at the time had he had concerns over the adequacy of accommodation.

9. At the conclusion of the hearing I reserved my determination which I now give.

### **Conclusions**

10. The judge was satisfied that the appellant would return to Bangladesh but was not satisfied as to whether he would stay for the short period requested or would again stay for some five months as he had done previously. He was not satisfied, given the uncertainty as to the duration of the stay, as to the adequacy of funding or of accommodation.
11. Having considered the determination and the submissions made, I reach the following conclusions.
12. The concerns of the ECO as to the appellant's intentions, what he would do here during his visit and matters relating to maintenance and accommodation were all raised in the refusal. The appellant and sponsor were on notice that these issues had to be addressed yet no documentary evidence was adduced in this respect and, as the judge noted, the sponsor's evidence was sketchy on the appellant's circumstances and finances. Some questions were put to the sponsor by the judge but it was not for him to question the sponsor closely.
13. It is said that the appellant stayed with the sponsor on his last visits but that is not supported by the appellant's own evidence. A letter from an NHS hospital in Grimsby and two prescriptions from a GP with whom he registered here show the appellant's address as "Indian Flavour", a restaurant in Mablethorpe and not at 12 The Laurels which is the sponsor's address. There is no information as to the size of the sponsor's property, the occupancy or the situation as regards the mortgage or rent. Mr Bhuiyan acknowledged no documentary evidence of same had been provided for the assistance of the judge.
14. With regard to maintenance, the judge was entitled to express the concerns he did. The affidavits are not independent evidence of the availability of funds and the sponsor was unable to assist with details regarding the appellant's financial circumstances. I note that the sponsor brought along bank cards to show the judge but no bank statements were provided.
15. It was open to the judge to make some positive findings in respect of the sponsor and appellant yet to dismiss the appeal on the basis that he did not have adequate evidence as to the live issues. His approach shows no error and his findings and conclusions are sustainable.

### **Decision**

16. The First-tier Tribunal did not make an error of law. The determination dismissing the appeal stands.

**Signed:**

**Dr R Kekić  
Judge of the Upper Tribunal**

22 July 2013