



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

Appeal Number: IA/01179/2014

**THE IMMIGRATION ACTS**

**Heard at Bradford**

**On 1 July 2014**

**Determination**

**Promulgated**

**On 29<sup>th</sup> July 2014**

**Before**

**UPPER TRIBUNAL JUDGE CLIVE LANE**

**Between**

**MOHAMMAD ROFIQUL ISLAM**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Mr Bhuiyan, AK Solicitors

For the Respondent: Mr M Diwnycz, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant, Mohammad Rofiqul Islam, was born on 16 July 1984 and is a citizen of Bangladesh. The appellant entered the United Kingdom on 23 October 2012 as the spouse of Husna Begum with leave to enter until 26

December 2014. On 18 November 2013, Husna Begum informed the Secretary of State that her relationship with the appellant was no longer subsisting and that she did not intend to live with him as her spouse in the future. There are no children of the relationship and Ms Begum claimed that the appellant had been violent and abusive towards her. In consequence, on 9 December 2013, a decision was made to curtail the appellant's leave to remain in the United Kingdom. The appellant appealed against that decision to the First-tier Tribunal (Judge Devlin) which, in a determination promulgated on 18 March 2014, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. The appellant's appeal before the First-tier Tribunal had proceeded without a hearing ("on the papers"). The judge had before him the communications which the respondent had received from Ms Begum. At [35], the judge found that he was satisfied that Ms Begum had sent the documents including an email to the respondent which had, in turn, led to the respondent curtailing the appellant's leave. The appellant had claimed that he and Ms Begum were "in the process of reconciling their differences". He produced no evidence in support of that claim which was rejected by the judge. At [45], the judge found:

It follows that the factual basis upon which the appellant's leave to enter was granted has been radically undermined and I have little doubt that had the Entry Clearance Officer known that within one year of issuing the appellant's visa the parties would be living separately and Ms Begum would be demanding a divorce, he would [not] have issued it.

3. The judge found that grounds for curtailment had been proved in accordance with paragraph 323(ii) of HC 395.
4. Mr Bhuiyan, for the appellant, acknowledged that the appellant had sought a "paper" determination of his First-tier Tribunal appeal. However, the appellant had been let down by his previous representatives who had failed to inform the Tribunal and the Secretary of State that the appellant had been a victim of domestic violence at the hands of his wife. He submitted that the respondent should have made enquiries which would have discovered these facts and could have given the appellant a basis for remaining in the United Kingdom as the victim of domestic violence.
5. This appeal is entirely without merit. The appellant does not suggest that Judge Devlin had any knowledge whatever of the claim which he has now made of domestic violence. The appellant acknowledges that he was invited by the Tribunal to submit further evidence but chose not to do so. There is no evidence that he has made any complaint or claim against his previous solicitor. The judge determined the appeal on the basis of the evidence he had before him and, in doing so, I cannot see that he made any error in his approach to or analysis of that evidence. It was open to the judge to accept that the documents on the file had been written by Ms Begum and for him to conclude in consequence that the appellant's

marriage with Ms Begum was no longer subsisting. Indeed, the only submission made by the appellant in writing to the First-tier Tribunal was that he was attempting to reconcile with Ms Begum, a claim which does not sit easily with the account which he now advances that he has been the victim of domestic violence. I am satisfied that the judge has not erred in law either as asserted in the grounds of appeal or at all. I find that this is an appeal in which permission should never have been granted at all. The suggestion made by Judge P J M Hollingworth who granted permission that “enquiry appeared necessary in the effect of analysing the intentions of the parties and the context of the subsistence or otherwise of the marriage (*sic*)” was wholly unfounded.

## **DECISION**

6. This appeal is dismissed.

Signed

Date 20 July 2014

Upper Tribunal Judge Clive Lane