



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/11051/2013

**THE IMMIGRATION ACTS**

Heard at Field House  
On 7 March 2014

Determination Promulgated  
On 12 March 2014

Before

UPPER TRIBUNAL JUDGE ESHUN

Between

MS AKUA GYENFUAH

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Ms S Kansal, Counsel  
For the Respondent: Mr. I Jarvis, HOPO

**DECISION ON ERROR OF LAW**

1. The appellant is a citizen of Ghana, born on 7 March 1982. She was granted permission to appeal the determination of the First-tier Tribunal Judge Molloy dismissing her appeal under the 2006 EEA Regulations and Article 8 of the ECHR.

2. The judge said that he had insufficient material before him to enable him to make a fully informed and competent decision on the issue before him.
3. The appellant had originally requested a paper hearing. On 4 July 2013, FtTJ Thornton issued directions to the parties stating inter alia that he was not satisfied that this appeal could be justly determined without a hearing given the complexity of the issue of Ghanaian Customary Marriage by proxy. As a consequence of those directions the appellant's appeal was listed for hearing on 8 January 2014. The appellant was directed in the Notice of Hearing to submit documents she intended to rely on at the hearing no later than 5 days before the hearing.
4. On 16 December 2013 the appellant's solicitors wrote to the Tribunal stating that the appellant had not made arrangements for an oral hearing and would be obliged if they could submit the bundle for a paper hearing. They duly submitted a bundle of documents on 2 January 2014, which was received in Taylor House on 3 January 2014.
5. On 23 December 2013 the Tribunal wrote to the parties informing them that the hearing on 8 January 2014 had been de-listed at the request of the appellant and that the appeal would be determined on the papers as soon as possible.
6. On 23 December 2013 FtTJ Molloy determined the appeal on the papers. He did not have before him the appellant's bundle of documents as it was sent on 2 January 2014. Hence his finding that he had insufficient material before him to enable him to make a fully informed and competent decision on the issue before him.
7. In the absence of consideration of the documents submitted on behalf of the appellant, the judge's decision dismissing the appellant's appeal cannot stand. The appellant's appeal is remitted for re-determination by a different First-tier Judge.

Signed  
Upper Tribunal Judge Eshun

Date

### **DIRECTIONS**

**The appellant has again opted for a determination on the papers. Any further documents the appellant intends to rely on should reach the First-tier Tribunal within 7 working days of receipt of this decision.**