Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: IA/34961/2013
IA/34975/2013
IA/37455/2013
IA/37821/2013
IA/37828/2013

THE IMMIGRATION ACTS

Heard at Sheldon Court
On 7th October 2014
Prepared 8th October 2014

Determination Promulgated
On 10th October 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

MOHAMMED ALMIN JAMMEH

First Appellant

And

FATOUMATTA JAMMEH

Second Appellant

And

RAMATULIE JAMMEH

Third Appellant

And

SALLY JAMMEH

Fourth Appellant

And

MOHMMED LAMIN JAMMEH
(Anonymity directions not made)

Fifth Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation

For the Appellant: Mr M Sharif (Solicitor, SH&Co, Solicitors)
For the Respondent: M (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellants applied to vary their leave to remain in the UK and sought to remain relying on article 8. The applications were refused under the Immigration Rules including Appendix FM and article 8. The appeals were heard by Judge Kirvan on the 28th of May 2014 at Sheldon Court and dismissed in a determination promulgated on the 9th of June 2014.

2. Having set out the background to the Appellants' case the Judge found that the children were integrated into the UK and analysed the educational position and the positive aspects of the case. Having found that they did not qualify under the Immigration Rules the issue was whether it was reasonable to expect the family to return to Gambia given that the children had been in the UK for over 7 years. Having set out the case of Razgar [2004] UKHL 27 the Judge found that the Appellant could be returned to Gambia.

3. The Appellant's sought permission to appeal on the basis that the Immigration Judge had not mentioned section 55 of the Borders, Citizenship and Immigration Act 2009 and that the decision would not be sound if section 55 had not been considered. It was also asserted that the Judge had not sought to ascertain the wishes of the children and had not applied relevant case law including Zoumbas [2013] UKSC 74 and the effect of removal on the children.

4. Permission was granted by Judge Levin on the 27th of June 2014. He did so on the basis that it was arguable that the Judge had failed to carry out a proper assessment of the children's best interests under section 55 of the 2009 Act but refused permission on the article 8 point raised. At the hearing Mr Sharif sought to raise article 8 which was allowed as consideration of points under section 55 are integral to an article 8 submission and in my view it is unrealistic to separate them.

5. Following submissions at the hearing I indicated that in my view the determination did not contain any errors of law and the appeal to the Upper Tribunal would be dismissed with reasons given in writing later. I now set out the reasons for that decision.

6. The Judge did not mention section 55 by name but stated at paragraph 46 that she had to take into account their best interests, that was a more than sufficient reference to the obligations that applied. In any case the important issue is whether the children's welfare was considered by the Judge in making the decision and whether sufficient reasons were given. There is abundant authority from the Court of Appeal that it is not an error of law not to quote a statute or case name but it is an error not to apply the appropriate principles in a case.

7. The evidence was summarised in the determination at paragraphs 21 to 34. Starting with the First Appellant the Judge summarised the position of each Appellant in turn. It is clear that the Judge had in mind the circumstances of each Appellant, their time in the UK and the state of their education or employment, their language skills and degree of integration in the UK. Positive factors in the Appellants cases were referred to, in the course of submissions while it was suggested that the Judge had not given appropriate weight to the children's length of residence there was no part of the determination highlighted to show where factors had been overlooked or ignored.

8. The question of the children's removal to Gambia was considered from paragraph 50 onwards and she referred to the interests of the family being weighed against the interests of the authorities in the UK. In the following paragraphs the Judge considered the circumstances of the

family, that the youngest child had not been to Gambia and the differences in the educational opportunities that would be available.

9. It is not necessary for a Judge to give each and every factor that influences the decision made, if sufficient reasons are given and they are justified by the evidence presented and accepted or rejected then that discharges the Judge's obligations. In all cases the determination has to be read as a whole and it is inappropriate to take sections out of context. Later findings and assessments are to be read in the light of earlier findings and the evidence provided.

10. In this determination it is clear that Judge Kirvan had regard to all of the relevant evidence, case law and statutes and applied the relevant principles to the facts of the Appellants' case. It cannot be said that she did not consider irrelevant matters or failed to consider relevant factors. Read overall the determination shows a fair and balanced approached to the case and does not reveal any errors of law.

CONCLUSIONS

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision.

Anonymity

The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and I make no order.

Fee Award

In dismissing the appeal I make no fee award.

Signed:

Deputy Judge of the Upper Tribunal (IAC)

Dated: 9th October 2014