



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

Appeal Number: IA/38723/2013

THE IMMIGRATION ACTS

Heard at Field House

On 13th June 2014

Determination

Promulgated

On 27th June 2014

Before

UPPER TRIBUNAL JUDGE KING TD

Between

MR NANA BAYIN EKOW MAANI

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr S Bhanji of Counsel, instructed by Nasim & Co Solicitors
For the Respondent: Mr P Deller, Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant is a citizen of Ghana born on 16th April 1984.
2. He seeks to appeal against a decision by the respondent, refusing to issue a permanent residence card pursuant to the Immigration (European Economic Area) Regulations 2006. It is the claim of the appellant that he

is the spouse or extended family member of an EEA national namely Frederica Pierannunzio, who is herself an Italian citizen.

3. The appeal came before First-tier Tribunal Judge Hillis on 8th January 2014 to be determined upon the papers. The Judge did not find that the marriage was conducted in the proper form or that the documents as submitted supported the validity of the marriage. Little evidence was provided as to any durable relationship. Accordingly the appeal was dismissed.
4. Grounds of appeal were lodged against that decision and permission to appeal was granted. Thus the matter came before me on 14th March 2014.
5. The marriage was a customary marriage by proxy. A number of documents were submitted in support of it having taken place including a statutory declaration and the certificate of marriage. The statutory declaration was signed before a notary of the public Alexander Kofi Baah on 10th April 2012. He confirmed that with the expressed consent of approval of both families the appellant was customarily married on the 5th day of April 2012 in Accra in accordance with Ghanaian customary laws and usages. The statutory declaration was the necessary document to lead to the registration of marriage. There was a statement or certificate from the second deputy judicial secretary recognising the signature of Alexander Baah. A third document was the extract from the register of customary marriage duly signed by the registrar of the Metropolitan Assembly.
6. As highlighted in the grant of permission to appeal, the approach taken by the Judge in relation to the documents was somewhat complicated and difficult to follow. The Judge concluded that the marriage was not valid but it is difficult to understand from the determination how that conclusion had been come to in all the circumstances. The Judge was of the opinion that both parents had to be present. Little weight was given to the statutory declaration because that it did not state that fact.
7. Given the lack of clarity as to the reasoning behind the decision to reject the appeal I found that to be an error of law such as to set aside the decision to be remade.
8. I gave various directions as to the nature of the evidence which should be presented.
9. The leading authority in the area of proxy marriage is that of the Tribunal in **Kareem (Proxy marriages - EU law) [2014] UKUT 0024**.
10. That decision stressed that in determining whether or not a marriage was valid by customary law, it was necessary not only to look at the documentation but also the circumstances as set out in any further evidence.

11. **Kareem** also stressed that not only was the marriage to be recognised by the laws of the country in which the marriage was celebrated, but also, in order to reflect the rights of free movement, it was to be recognised by the country of nationality of the EEA citizen seeking to exercise EEA rights.
12. The matter finally came before me for hearing. A number of further documents had been submitted in accordance with the directions. One such document was the statement of Marcio Daniella who was a witness to the marriage in Ghana. He was cousin to the sponsor Frederica and represented her family at the ceremony. He has provided a detailed statement as to what transpired at that meeting and what was said and what was exchanged. He works for World Vision Organisation in the Ghana western region and has produced a letter to confirm that fact. It is a detailed statement and for my part it has the ring of truth about it. Both the appellant and the sponsor have provided further statements as to their situation and circumstances.
13. Mr Deller, who represents the respondent, most fairly indicated that having had the opportunity of examining the documentation in detail and in particular placing that within the context of the evidence as provided by the sponsor, appellant and witness, he had no issue as to the truthfulness of what was said and of the accuracy of the documents that were presented. He therefore was happy to concede that the marriage by proxy was indeed one that had taken place and was duly recognised by the laws of Ghana as shown by the extract from the register. In those circumstances it is unnecessary for me to deal with those documents in any detail. I indicate that I have considered the documents and have come to the same view as to their authenticity and reliability as has Mr Deller.
14. In support of the contention that the marriage in Ghana was one that is recognised in by the Italian authorities, there was produced a certificate from the province in Rome from the civil state authorities confirming that the marriage as conducted between the appellant and the sponsor has been recognised by the appropriate Italian authorities. The document bears a stamp as well as a hologram and Mr Deller most fairly concedes that he has no doubt as to its authenticity and is readily happy to accept that the marriage as conducted by proxy is one that is recognised by the Italian authorities.
15. That being so it is clear that the ingredients as set out in the case of **Kareem** have been met in this case. Not only is the marriage valid according to the laws of Ghana but also recognised according to the country of nationality of the EEA national namely Italy. Mr Deller indicates therefore that from his perspective there is no impediment to the issuing of the residence card as sought.

16. In those circumstances it is unnecessary to consider the alternative matter of disposal namely a durable relationship. For my part, however, having read the statements of the appellant and the sponsor and having regard to the totality of the evidence I would have allowed the appeal on the alternative basis had it been necessary so to do.
17. In all the circumstances therefore I find that the appellant and the sponsor are legally married according to the customary law in Ghana. I find that that marriage is recognised both in Ghana and by the civil authorities in Italy.
18. I find therefore that there is no reason at all why a permanent residence card should not be issued to the appellant as he seeks.
19. In the circumstances therefore the appeal under the Immigration (EEA) Regulations 2006 is allowed.

Signed

Date

Upper Tribunal Judge King TD