



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

Appeal Number: IA/43874/2013

THE IMMIGRATION ACTS

Heard at Field House

On 5 June 2014

Determination

Promulgated

On 6th June 2014

Before

UPPER TRIBUNAL JUDGE ESHUN

Between

MS VILMA TAMULA TORRES

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr C Dias

For the Respondent: Ms A Holmes, HOPO

DECISION ON ERROR OF LAW

1. The respondent has been granted permission to appeal the determination of First-tier Tribunal Judge Maxwell in which he allowed the appellant's appeal against the respondent's decision made on 8 October 2013 to

refuse her application for leave to remain as an Overseas Domestic Worker under paragraph 159D of the Immigration Rules, as amended. The appellant was granted limited leave to enter the UK on 26 August 2012 until 26 February 2013.

2. The judge's determination is flawed because he failed to tell us what the substance of his decision was. Effectively, all he said was that both parties agreed that the matter need to be reconsidered by the Secretary of State and he was sending it back to the Secretary of State. The determination does not inform the reader what the issues were and what was agreed between the parties. Time and again the Higher Courts have held that the losing party to the appeal needs to know why they have lost. I appreciate that in this case the HOPO below was party to the agreement. However, Ms Holmes who appeared before me did not know what her colleague below had agreed to. I did not know either. Counsel said that the agreement reached by the parties was on the basis of what was set out in his skeleton argument. He relied on the case of *Kalidas (agreed facts - best practice) [2012] UKUT 00327 (IAC)* which said that judges should not look behind factual concessions unless in exceptional circumstances. However, in this case, the determination did not tell us what the "factual" concessions were.
3. I find that the judge erred in law in failing to set out his reasons for supporting the agreement reached by the parties. His decision cannot stand. His decision is set aside.
4. The appellant's appeal is remitted to Hatton Cross for rehearing on **13 November 2014** by a First-tier Judge other than FtTJ Maxwell.

Signed
Upper Tribunal Judge Eshun

Date