



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/02005/2014

THE IMMIGRATION ACTS

Heard at Manchester
On 24th July 2015

Decision & Reasons Promulgated
On 14th August 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE LEVER

Between

MRS CHIQUITITA BAGABIRWA
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No representation
For the Respondent: Mr McVeety

DECISION AND REASONS

Introduction

1. The Appellant born on 16th February 1990 is a citizen of Rwanda. The Appellant was not present and was unrepresented. The Respondent was represented by Mr McVeety, a Presenting Officer.

Substantive Issues under Appeal

2. The Appellant had made an application for asylum. The Respondent had refused that application on 15th March 2014. The Appellant had appealed that decision and her appeal was heard by First-tier Tribunal Judge Cruthers sitting at Manchester on 28th May 2014. The judge had noted at paragraphs 3 to 5 that the Appellant's case was put on appeal, on the basis of Article 8 of the ECHR alone. The judge had dismissed the appeal.
3. Application for permission to appeal was issued containing grounds. Permission to appeal was granted First-tier Tribunal Judge Keane on 24th July 2014. The judge noted that broadly the grounds amounted to no more than a disagreement with the findings of the judge. However he said it was arguable in that the judge had made an error of law in according weight to the Appellant's financial capabilities and abilities in making a decision under Article 8. The Respondent opposed that application on 8th August 2014.
4. The matter comes before me firstly to decide whether an error of law had been made or not.

Submissions

5. The Appellant was not present. She was unrepresented the firm South Manchester Law Centre having gone out of practice. I have looked at the Grounds of Appeal as forming the basis of the submissions to the Upper Tribunal and the permission to appeal granted on 24th July 2014.
6. Mr McVeety on behalf of the Respondent kept his submissions brief merely pointing out the importance of financial considerations in terms of the public interest.
7. I now provide my decision with reasons.

Decision and Reasons

8. As indicated above the judge in this case was simply dealing with the question of Article 8 of the ECHR outside of the Rules it having been conceded by the Appellant's legal representative that she did not face a risk of persecution on return to Rwanda nor could she succeed under the Immigration Rules themselves.
9. In consideration of Article 8 the judge had clearly looked in detail at the relevant evidence and had noted a number of cases of some relevance. The judge had noted the case of AAO [2011] EWCA Civ 840 which made reference to adequate maintenance although potentially in the context of refusal of leave to enter. He had also looked at the case of ZH (Tanzania) and Zoumbas. The judge was involved in a proportionality exercise. Although his decision was made before Section 117B of the 2002 Act was incorporated by the Immigration Act 2014 nevertheless that amendment to the 2002 Act merely gave a list of factors that must be taken into account in all Article 8 cases. In reality they were factors that almost invariably should or would be taken into account by judges. It is clear from Section 117B(2) and

(3) that the financial cost potentially to the country is an important and integral part of an Article 8 consideration. It has always been the case. The judge was entitled as part of the proportionality exercise to place weight upon such features.

10. The permission granting appeal noted, correctly, that in essence the Grounds of Appeal amounted to no more than a disagreement with the judge's conclusions. I agree with that observation. The judge was entitled on the evidence before him to conclude that it would not be disproportionate to remove the Appellant and two dependent children. It was a decision open to the judge on the facts as presented and found by him and it cannot be said that such conclusion was in any way unreasonable.

Notice of Decision

11. I find that no material error of law was made by the judge and uphold the decision of the First-tier Tribunal.
12. No anonymity direction is made.

Signed

Date

Deputy Upper Tribunal Judge Lever

TO THE RESPONDENT
FEE AWARD

I have dismissed the appeal and therefore there can be no fee award.

Signed

Date

Deputy Upper Tribunal Judge Lever