



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

Appeal Numbers: IA/10681/2014  
IA/10728/2014

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 12<sup>th</sup> March 2015  
Extempore Judgment**

**Decision & Reasons  
Promulgated  
On 26<sup>th</sup> March 2015**

**Before**

**UPPER TRIBUNAL JUDGE MARTIN**

**Between**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Appellant

**and**

**SHABEER UGUNGAL  
SHAHEEN THONIKKADAVAN  
(ANONYMITY DIRECTION NOT MADE)**

Respondents

**Representation:**

For the Appellant: Miss K Pal (Senior Home Office Presenting Officer)  
For the Respondent: Mr J Benson (instructed by Paul John & Co Solicitors)

**DECISION AND REASONS**

1. This is an appeal to the Upper Tribunal by the Secretary of State in relation to the Decision and Reasons of First-tier Tribunal Judge Callow promulgated on 24<sup>th</sup> November 2014 following a hearing on 10<sup>th</sup> October

at Taylor House. Both sides were represented on that occasion but by different representatives.

2. There are two Appellants in this case, and they are partners in a business who had sought leave to remain as a Tier 1 Entrepreneurs. Their applications were refused by the Secretary of State principally for three reasons. She doubted the genuineness of the proposed business; she doubted the prospects of the business and the ability of the Appellants to conduct the business and she doubted that the funds were genuinely available.
3. The appeal came before Judge Callow and in his decision promulgated six weeks after the hearing; he set out at great length the Respondent's case by quoting the Refusal Letter. That took up several pages of the decision. He then noted on page 8 the grounds of appeal. He sets out two paragraphs dealing with the hearing and then set out the law and findings of fact from paragraph 12. That involved a complete recitation of paragraph 245DD at paragraph 14. His findings in this ten page decision take up three paragraphs, 15, 16 and 17. He simply says that in giving their evidence the Appellants were plausible. He accepts that they have established the business, that the business has commenced, that they have the money and the appeals were allowed.
4. However he does not engage at all with the reasons why the Secretary of State refused the applications. He does not engage at all with the evidence. It is impossible to see from the decision, particularly paragraphs 10 and 11 what actual evidence was given. He does not even say that the Appellants adopted their witness statements as their evidence. He simply says

“The Appellants gave evidence. The Appellants explained in detail the sources of the funds held in a NatWest Bank account in the name of the first Appellant. The detailed business plans were traversed during the course of the evidence as was the contract with Rajan and Sons Ltd.”

5. That tells us absolutely nothing about what the evidence was that the Judge found plausible. He gives no reasons for finding the Appellants' evidence plausible or credible and as was said by the Judge who granted permission, the determination is entirely devoid of recitation of facts or conclusions drawn therefrom. It failed to recite or refer to any evidence or statutory provisions which were to be met by the Appellants. There was no documentary evidence to support the claimed funds, their source or holding. The Judge failed to consider the evidence, mention how he reached the conclusions in the decision, did not attribute any weight or significance to the evidence and showed nothing to support his cursory findings.
6. It follows from the above that the decision cannot possibly stand and I set it aside in its entirety. It cannot be said in these circumstances that the

case has been properly dealt with before the First-tier Tribunal and for that reason it would be unfair on the Appellants, particularly as they won below, that that should now have to reargue the appeal in the Upper Tribunal and for that reason I am remitting it to the First-tier Tribunal for a full hearing on all issues by a Judge other than Judge Callow.

7. To the limited extent mentioned above the appeal to the Upper Tribunal is allowed.

Signed

Date 25<sup>th</sup> March 2015

Upper Tribunal Judge Martin