



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/13656/2014

THE IMMIGRATION ACTS

Heard at Bradford
On 30 September 2014

Determination Promulgated
On 12 January 2015

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

CHIDLEBELE KENNETH ORJI

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms A Solomon
For the Respondent: Mr Diwncyz

DETERMINATION AND REASONS

1. The appellant, Chidlebele Kenneth Orji, was born on 28 May 1984 and is a male citizen of Nigeria. Having entered the United Kingdom as a student, he had applied for further leave to remain on the basis that he was a Tier 1 (Entrepreneur) Migrant. His application was refused by the respondent in a decision dated 5 March 2014. The appellant appealed to the First-tier Tribunal (Judge Robson) which, in a

determination promulgated on 22 July 2014 dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. Judge Robson made a number of findings in the appellant's favour which have not been challenged by the Secretary of State. In essence, there is one issue remaining in this appeal. In order to satisfy the Immigration Rules, the appellant had to indicate that he had access to £50,000. The judge found [32] that he had access to only £49,250.04. The judge did accept that the appellant could take into account in the calculation an account in Nigeria and held in his father's name but was for the appellant's benefit. At [31] the judge stated:

The skeleton argument [of the appellant] however has argued that the First Bank, Nigeria held funds of £49,009.50 [13,050,224.68 naira] on 27 January [2014] a figure with which I cannot agree. Even a cursory check of a conversion rate at the time of the preparation of this determination shows that the figure is in fact the equivalent as stated above namely £46,700 or thereabouts.

The question in the appeal (identified by Judge Osborne when granting permission) was whether the judge was entitled to consider the transfer value of the funds as at the date of the hearing before him rather than as at the date of application. I find that the judge erred in law by considering the conversion rate at the date that he prepared his determination; the correct date for carrying out the conversion calculation was the date upon which the appellant made his application for further leave to remain. In consequence, and given that the judge accepted the other calculations and the appellant's ability to meet the relevant Immigration Rule, he should have allowed the appellant's appeal because the appellant had access to more than £50,000 as at the relevant date.

DECISION

3. The determination of the First-tier Tribunal which was promulgated on 22 July 2014 is set aside. I have remade the decision. This appeal is allowed in respect of the Immigration Rules.

Signed

Date 19 November 2014

Upper Tribunal Judge Clive Lane