



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

Appeal Number: IA/13775/2014

THE IMMIGRATION ACTS

Heard at Field House

On 15 April 2015

**Decision &
Promulgated
On 20 April 2015**

Reasons

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVID TAYLOR

Between

**USMAN PETER THOMPSON
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr K A Williams, Legal Representative, William Hortor Law and Mediation

For the Respondent: Mr L Tarlow, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a 44 year old citizen of Nigeria who has appealed, with permission, against the decision of First-tier Tribunal Judge R J N B Morris, who, in a decision promulgated on 22 December 2014, dismissed his appeal against the appellant's application for further leave to remain as a

partner, as a parent, and by virtue of Article 8 of the ECHR. The First-tier Tribunal Judge, at [23] and [24] of her decision, found that the appellant did not share a relationship with his wife and children in the UK and she gave brief reasons for that finding. She dismissed the appeal on all grounds.

2. The ground seeking permission to appeal complained, essentially, that the judge had failed to engage in any way or otherwise consider the documentary and other evidence that the appellant has been playing and continues to play the role of father to his two daughters (now aged 13 and 9) and has always lived at the same address with them. Permission to appeal was granted by First-tier Tribunal Judge A D Baker on 9 February 2015 and the matter thus came before me.
3. At the commencement of the hearing Mr Tarlow, for the respondent, conceded that he could not argue against the grounds seeking permission to appeal. It was clear that there had been substantial evidence before the First-tier Tribunal that the relationship between the appellant and his wife was continuing and that they were living at the same address. He conceded that the First-tier Tribunal decision must be set aside.
4. I therefore directed that the First-tier Tribunal decision be set aside and that no part of it be preserved.
5. There then followed submissions as to whether I should hear further evidence with a view to remaking the decision (as argued by the appellant) or whether the appeal should be remitted to the First-tier Tribunal for a full rehearing. I noted, however, that the appellant's wife had not given any evidence nor made any witness statement in the First-tier Tribunal. It seems to me that her oral evidence, and an appropriate assessment of it, will doubtless assist the Tribunal in its decision as to whether this appeal should ultimately be allowed or dismissed. I therefore decided to remit the appeal for a full rehearing in the First-tier Tribunal at Hatton Cross (before any judge other than Mrs R J N B Morris).

Notice of Decision

6. It having been agreed by both parties that the decision by the First-tier Tribunal contained an error of law, I set aside that decision in its entirety. The appeal is to be remitted to the First-tier Tribunal for rehearing before any judge (other than Mrs R J N B Morris).

Designated Judge David Taylor
Deputy Upper Tribunal Judge
17 April 2015