



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

Appeal Numbers: IA/17480/2014  
IA/17488/2014

**THE IMMIGRATION ACTS**

**Heard at Glasgow  
on 25<sup>th</sup> March 2015**

**Determination  
promulgated  
on 26<sup>th</sup> March 2015**

**Before**

**UPPER TRIBUNAL JUDGE MACLEMAN**

**Between**

**E D OMORARO  
A O ABARA**

Appellants

**and**

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

Respondent

For the Appellants: Mr R Molyneux of Global Immigration Solutions, London  
For the Respondent: Mr A Mullen, Senior Presenting Officer

**DETERMINATION AND REASONS**

1. This appeal is against a determination by First-tier Tribunal Judge Sangha, promulgated on 23<sup>rd</sup> July 2014, dismissing the first appellant's appeal against refusal of a Tier 1 (Entrepreneur) Migrant application and the second appellant's as a dependant.
2. The central point raised by the grounds is that the refusal of the first appellant's application was based largely on an interview which took place on 14<sup>th</sup> March 2014, but no copy transcript of that record was provided, contrary to directions and to the rules of procedure.

3. This is not an afterthought by the appellants. The matter is raised in the papers they put before the First-tier Tribunal. The judge overlooked it.
4. It emerged during the hearing in the Upper Tribunal that although the respondent served a bundle as required in the case of the second appellant, there was an omission to do so in the case of the first.
5. Mr Mullen helpfully supplied from his file a copy of the front page of the bundle which had been part-prepared but not issued. The list of documents to be annexed includes item D, "copy of the interview transcript". Mr Mullen also supplied the Tribunal and the appellants' representative with a copy of that transcript.
6. (There was also on the file what appeared to be a copy bundle provided on behalf of the appellants to the First-tier Tribunal. Mr Molyneux was not their representative at that stage. Both parties were permitted access to that bundle to make copies. It was then returned to the Tribunal file.)
7. There have been lapses on the part of the respondent and on the part of the First-tier Tribunal such that the appellants have not yet had a fair hearing of their appeals. That amounts to material error of law. The determination is **set aside**. No findings are to stand. Under Section 12(2) (b)(i) of the 2007 Act and practice statement 7.2 the nature and extent of judicial fact-finding necessary for the decision to be remade is such that it is appropriate to **remit the case to the First-tier Tribunal**. The members of the First-tier Tribunal chosen to consider the case are not to include Judge Sangha.
8. If the appellants now wish an oral hearing, they should apply to the First-tier Tribunal (and pay any relevant fee). Unless such application is made, the FtT will again consider the case "on the papers". To give the appellants time to consider matters with their representative, the case should not be allocated for further decision until 21 days from this date.
9. No anonymity direction has been requested or made.



25 March 2015  
Upper Tribunal Judge Macleman