



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

**Appeal number: IA/18657/2014**

**THE IMMIGRATION ACTS**

**Heard at Field House  
On March 18, 2015**

**Decision & Reasons Promulgated  
On March 20, 2015**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE ALIS**

**Between**

**MS JOY OMOROGIEVA  
(NO ANONYMITY DIRECTION MADE)**

Appellant

**and**

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

Respondent

Representation:

For the Appellant: Mr Ikie (Solicitor)

For the Respondent: Mr Tarlow (Home Office Presenting Officer)

**DECISIONS AND REASONS**

1. The appellant was formerly a citizen of Nigeria but then became a citizen of Sweden. On November 29, 2002 the appellant was issued, in Nigeria, with a visit visa enabling her to travel to the United Kingdom. On March 5, 2004 the appellant was granted Swedish citizenship and was issued with a Swedish passport as the child of a Swedish national. This was valid until January 29, 2007 and was subsequently renewed and extended until January 29, 2012. In January 2012 she approached the Swedish Embassy to renew her passport but was advised that before this could be done she had to renounce her Nigerian nationality. On January 25, 2012 she

attended at the Nigerian High Commission and was advised to make a written application and she did this the following day. She then approached the Swedish Embassy to complete the renewal of her passport but was then told that she had lost her citizenship for failing to submit an application, prior to her 22<sup>nd</sup> birthday, proving she had close links to Sweden. The appellant submitted on April 29, 2013 an application for indefinite leave to remain on the grounds of ten years lawful residence. The respondent refused her application on December 9, 2013 and on December 18, 2013 a removal notice under section 10 of the Immigration and Asylum Act 1999 was issued to her.

2. The appellant appealed under section 82(1) of the Nationality, Immigration and Asylum Act 2002 on January 3, 2014 and the matter came before Judge of the First-tier Tribunal Kempton (hereinafter referred to as the "FtTJ") on November 26, 2014 and in a decision promulgated on December 12, 2014 he refused her appeal under the Immigration Rules, EEA Regulations and human rights.
3. The appellant lodged grounds of appeal on December 16, 2014. She submitted the FtTJ erred primarily on three grounds namely by failing to find the appellant was stateless, failing to find the appellant had already obtained permanent residence and consequently demonstrated she had accrued ten years lawful residence and failing to consider the claim under article 8 ECHR properly.
4. Judge of the First-tier Tribunal Osborne granted permission to appeal on January 28, 2015 although exact areas of error were not specifically identified.
5. The appellant was present and was represented as set out above. My full record of Mr Ikie's submissions are recorded in the note of proceedings but for the purpose of this error of law determination I intend to concentrate on two issues namely:
  - a. Had the appellant obtained permanent residence under the Immigration (EEA) Regulations 2006 and if so was it possible for her to lose it?
  - b. If she could demonstrate she had been here lawfully did she satisfy the requirements of paragraph 276B HC 395.
6. Mr Ikie argued that the appellant had been in the country since March 2004 as a Swedish citizen and had produced evidence from McDonalds dated September 17, 2007 that confirmed she commenced work on May 25, 2007 and a letter from HM Revenue and Customs dated February 4, 2014 that confirmed she had been economically active in tax years 2007 2012.
7. She lost her Swedish citizenship on August 22, 2012 by which time she had been economically active for five years.

8. Mr Tarlow considered the documents submitted in the appellant's additional bundle (pages 13 and 14) and agreed that the records supported her claim to have been exercising treaty rights for a continuous period of five years and consequently Mr Tarlow did not disagree with Mr Ikie's submission that she had obtained permanent residence under Regulation 15 of the 2006 Regulations. Mr Tarlow further agreed that she could only lose this right if she was absent from the United Kingdom for two years and the respondent was not asserting this.
9. In those circumstances I was persuaded that as she had a permanent right of residence and consequently had demonstrated she had been living here for ten years lawfully (since March 2004) the FtTJ had erred in refusing her appeal under the Immigration Rules. Mr Tarlow did not disagree with this conclusion and did not seek to argue that the appellant did not meet the requirements of paragraph 276B HC 395.
10. I therefore found there had been an error in law and allowed her appeal under the Immigration Rules.
11. The citizenship/statelessness issue is misconceived. Whilst the appellant had renounced her Nigerian citizenship and had been told she could not have her Swedish passport renewed, Section 14 of the Swedish Citizenship Act 2001 makes clear that the loss of Swedish citizenship does not apply if it would result in the person becoming stateless. I am therefore satisfied that Grounds A and B have no substance. Grounds C to E are dealt with above and I make no finding on Ground F in light of my finding on the main application.

### **DECISION**

12. The decision of the First-tier Tribunal did disclose an error in law. I set aside the decision and I allow the appeal under Paragraph 276B of the Immigration Rules.
13. The First-tier Tribunal did not make an anonymity direction pursuant to Rule 14 of The Tribunal Procedure (Upper Tribunal) Rules 2008 and I see no reason to alter that order.

Signed:

Dated: **March 19, 2015**

Deputy Upper Tribunal Judge Alis

### **TO THE RESPONDENT FEE AWARD**

No fee award is made because none was requested. If a request had been made I would not have made an award because documents supporting the appeal were submitted after the application had been submitted.

Signed:

Dated: **March 19, 2015**

Deputy Upper Tribunal Judge Alis