



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

Appeal Number: IA/32744/2014

THE IMMIGRATION ACTS

Heard at Field House

On 5th October 2015

**Decision & Reasons
Promulgated**

On 14th October 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**GRACE FOLUSHO ADEMISOYE
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

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

For the Respondent: Mr R Parkin, Counsel instructed by Highland Solicitors

DECISION AND REASONS

1. The First-tier Tribunal considered an appeal by Grace Folusho Ademisoye on the 24th March 2015 at Hatton Cross. It was an application under the Immigration Rules under paragraph EX.1 of Appendix FM and also under article 8. The case was heard by Judge Owens on the 24th March and the decision was promulgated on the 22nd April 2015.
2. In the decision the Judge at paragraph 31 found that the Appellant's husband would face very significant difficulties if he were to relocate to Nigeria. He had lived all his life in the UK, his family were settled here, a British citizen with no connection to Nigeria apart from his now deceased

grandparents and it was found that as a person born in the UK he is fully integrated here. He does not travel frequently to Nigeria and does not speak any of the languages in Nigeria and with close family here he would not be familiar with the way of life there. Apart from the fact that he speaks English, which is spoken widely in Nigeria, he has qualifications which would enable him to obtain employment. Paragraph 31 is inadequate because that is simply a list of the difficulties that anybody relocating from one country to another would face such as those faced by the Appellant herself when she came to the UK.

3. The Secretary of State, however, challenged only the decision under EX.1. The Judge had gone on to consider article 8. No consideration was given to the case of Chen (appendix FM-Chikwamba-temporary separation-proportionality) IJR [2015] UKUT 00198 (IAC), which dealt with the issues of Chikwamba and the rules, and it was found under that heading that the factors were finely balanced and that the Appellant would succeed.
4. It is lucky for the Appellant that no challenge was made to that side of the decision. The Appellant's illegal entry to the UK using a false document, remaining here for many years illegally and entering into a relationship with that status is a factor which under section 117 of the 2002 Act attracts little weight. However as I have noted that aspect of the decision has not been challenged. Consequently it is irrelevant whether there is an error under Appendix FM and paragraph EX.1 because the part of the decision that allowed the appeal under article 8 is unchallenged and remains extant. Accordingly in those circumstances I find that there is no material error of law and the Secretary of State's appeal is dismissed.

NOTICE OF DECISION

The decision contains no error of law and the decision of the First-tier Tribunal stands as the disposal of the Appellant's appeal.

Fee Award

This was an appeal by the Secretary of State which has been dismissed there can be no fee order.

Signed

Date 13th October 2015

Deputy Upper Tribunal Judge Parkes