



IAC-AH-PC-V1

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

Appeal Number: OA/05156/2014

THE IMMIGRATION ACTS

**Heard at Bradford
On 24 July 2015**

**Decision & Reasons Promulgated
On 7 September 2015**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**SOPHIA TUMEYI CHIKWANI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

ENTRY CLEARANCE OFFICER - PRETORIA

Respondent

Representation:

For the Appellant: Mr Mutebuka, Mutebuka & Co Immigration Lawyers

For the Respondent: Mrs R Pettersen, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Sophia Tumeyi Chikwani, was born on 25 September 1999 and is a citizen of Zimbabwe. She claims to be the daughter of Tumeyi Obvious Chikwani (hereafter referred to as the sponsor) who is settled in the United Kingdom. Her application for entry clearance for settlement with the sponsor was refused by a decision of the respondent dated 31 March 2014. The appellant appealed to the Upper Tribunal which gave permission in the following terms:

“The respondent refused the application as it was not found that the sponsor exercised sole responsibility. No issue was raised as to the sponsor

being her father. No issue was raised about the appellant's birth certificate which named the sponsor as her father. The FTTJ refused the appeal as he found that the sponsor was not the father of the appellant. One reason for this was that she did not find weight could be placed on the birth certificate. The appellant and the sponsor had no notice prior to the hearing of this new and fundamental point being taken against them and it is not clear from the determination that they were given a proper opportunity to address it at the hearing. An arguable procedural error arises."

2. On 25 June 2015, the respondent wrote to the Tribunal to indicate that the respondent did not oppose the setting aside of the First-tier Tribunal decision. That position was confirmed by Mrs Pettersen, for the respondent, at the Upper Tribunal hearing on 24 July 2015. In the circumstances, I set aside the First-tier Tribunal decision. The appeal will be remitted to the First-tier Tribunal (not Judge Shimmin) for that Tribunal to remake the decision.

Notice of Decision

The decision of the First-tier Tribunal promulgated on 17 December 2014 is set aside. The appeal is remitted to the First-tier Tribunal (not Judge Shimmin) for that Tribunal to remake the decision. None of the findings of fact of the First-tier Tribunal decision shall stand.

Signed

Date 2 September 2015

Upper Tribunal Judge Clive Lane