



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

Appeal Number: OA/14461/2013
OA/14462/2013

THE IMMIGRATION ACTS

Heard at Field House

On 10th April 2015

**Determination
Promulgated**

On 22nd May 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE MCCLURE

Between

**Ms Shenglan Chen
Ms Wanying Chen**

Appellants

and

**The Entry Clearance Officer Beijing China
(NO ANONYMITY DIRECTION MADE)**

Respondent

Representation:

For the Appellant: Mr H Kannagra Counsel instructed by Anglo Chinese Law Firm Ltd

For the Respondent: Ms Savage Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellants, Ms Shenglan Chen date of birth 12th of January 1997 and Ms Wanying Chen date of birth the 24 August 1999 are citizens of China. Having considered all the circumstances including the fact that both appellants are minors, I do not consider it necessary to make an anonymity direction.
2. This is an appeal by the Appellants against the determination of First-tier Tribunal Judge Ross promulgated on 7 August 2014, whereby the judge dismissed the Appellants' appeal against the decisions of the ECO dated 13th June 2013 [see below]. The decisions by the ECO were to refuse the

Appellants entry clearance to the United Kingdom as minor child dependants of a person present and settled in the United Kingdom under paragraph 297 of the Immigration Rules.

3. By decision made on the 3rd February 2015 leave to appeal to the Upper Tribunal was granted. Thus the matter appears before me to determine in the first instance whether there is an error of law in the original decision.
4. The sole issue dealt with in substance by the judge was whether the sponsor had sole responsibility for the Appellants. All of the other requirements of the rules under paragraph 297 appear to have been accepted as satisfied. The decision/explanatory statement [decision letter] had raised the general grounds of refusal under paragraph 320(7A).
5. The date on the decision letters by the ECO is 13th January 2013. At the outset of the hearing before me it was accepted that the decision letters by the ECO should have been dated 13th June 2013. It was accepted that the date on the decision letters was not correct.
6. That of itself may not have undermined the Judge's decision. However much of the analysis in paragraphs 10 to 16 of the decision indicates that documents were being obtained and had been produced to counter issues raised in the decision letter and problems in the case arising from an interview with the paternal grandmother of the Appellants conducted in May 2013. The Judge comments on the fact that the documents have been obtained months after the decision and in response to issues raised in the interview or in the explanatory statement. That clearly is not the case given the correct chronology. The letters and documents pre-date the interview and the decision letter.
7. However here were other issues with regard to this appeal and the bundle before the Tribunal. In the decision at paragraph 5 there is reference to the fact that "*At the outset of the hearing Counsel on behalf of the Respondent had conceded that no evidence had been produced that a false representation had been made already or a false document produced, in the form of a document verification report.*"
8. An examination of the list of documents accompanying the ECO's and ECM's decision indicates that there was a document verification report. The Appellant's representative accepted that he had a copy of that document. The representative for the Respondent produced a further copy of that DVR. Either that document was not in the bundle before the Judge or the Judge failed to take account of the document.
9. As is evident from paragraph 10 of the decision the judge in substance based much of his adverse credibility findings on the fact that evidence had been produced in response to the decision letters bound after the interview with the paternal grandmother to counter what the paternal grandmother had said.

10. It appears to me that through no fault of the judge there is an error of fact which infects the whole of the findings of fact made by the judge such that it constitutes an error of law.
11. There were other issues with regard to the documentation available to the judge. The proper course appears to me is for the appeal is to be allowed to the limited extent that these cases are remitted back to the First-tier Tribunal for a hearing afresh. At that hearing given that there is a document verification report it is appropriate that all issues be determined afresh and that there be none of the findings of fact should be preserved.
12. Accordingly there is a material error of law in the original determination and I remit these matters back to the First-tier Tribunal for hearing afresh on all issues.

Signed

Date

Deputy Upper Tribunal Judge McClure