



**Upper Tribunal
(Immigration and Asylum Chamber)
IA/23414/2014**

Appeal Numbers:

IA/23417/2014

THE IMMIGRATION ACTS

**Heard at Birmingham Employment
Centre
On 8 March 2016**

**Decision & Reasons
Promulgated
On 17 March 2016**

Before

DEPUTY UPPER TRIBUNAL JUDGE McCARTHY

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

**ABIMBOLA TEMITOPE POPOOLA (1)
NICOLE ADUNOLAOLUWA OPEMIO POPOOLA (2)
(NO ANONYMITY ORDER)**

Respondent

Representation:

For the Appellant: Mr D Mills, Senior Home Office Presenting Officer
For the Respondent: Ms V James, instructed by Rotherham & Co

DECISION AND REASONS

1. Although an anonymity direction was made by the First-tier Tribunal there has been no application for it to be continued and I can see no reason to

make a similar order in the Upper Tribunal. The direction previously given is therefore rescinded.

2. At the outset of the hearing, Mr Mills argued that there was a legal error in the decision and reasons statement of First-tier Tribunal Judge H Clark in allowing the appeal under the immigration rules for the reasons outlined in the ground of appeal. Mr Mills, however, conceded that this would have no bearing on the outcome were the decision to be remade because there was no challenge to the findings relating to the reasonableness of expecting the second appellant to leave the UK. Those findings would have to be applied in accordance to s.117B(6) of the Nationality, Immigration and Asylum Act 2002, which would reduce to nothing the public interest in removing either appellant.
3. Ms James accepted this approach, thereby conceding the error of law issue.
4. Although I had some questions as to whether there was in fact an error on a point of law, primarily because it was not clear to me how paragraph 276A0 of the immigration rules might apply, given the agreement between the parties and because it would make no difference to the disposal of this appeal, I did not hear argument on this aspect and make no findings on it.
5. I simply confirm the position taken by the parties, and make the following decision.

Decision

The Secretary of State's appeal is allowed to the limited extent that the decision of Judge Clark contains an error on a point of law but there is no need to set her decision aside because the error is not material.

Signed

Date

Judge McCarthy
Deputy Judge of the Upper Tribunal