



IAC-TH-CP-V1

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

Appeal Number: OA/15543/2014

THE IMMIGRATION ACTS

Heard at Field House

On 12th May 2016

**Decision &
Promulgated
On 19th May 2016**

Reasons

Before

DEPUTY UPPER TRIBUNAL JUDGE APLEYARD

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MRS MARIAMA CIRE BAH
(ANONYMITY ORDER NOT MADE)**

Respondent

Representation:

For the Appellant: Mr. N. Bramble, Home Office Presenting Officer.

For the Respondent: Mr D. Ball, Counsel.

DECISION AND REASONS

1. The appellant in this case is the Secretary of State for the Home Department. However, for the sake of clarity, I shall use the titles by which the parties were known before the First-tier Tribunal, with the Secretary of State referred to as “the respondent” and Mrs Bah as “the appellant”.

2. The appellant is a citizen of Nigeria who made application for entry clearance as a partner under Appendix FM of the Immigration Rules. It was considered by the respondent and refused.
3. The appellant appealed that decision and following a hearing at Taylor House Judge of the First-tier Tribunal N M Paul, in a decision promulgated on 14 October 2015, allowed the appeal to the “limited extent that it is remitted for the Entry Clearance Officer to conduct the interview which was due to take place as part of the initial process of this application”.
4. The respondent sought permission to appeal. This application was considered by Judge of the First-tier Tribunal Mark Davies who on 29 March 2016 gave his reasons for granting permission. They state:-
 - “1. The Respondent seeks permission to appeal against a decision of the First-tier Tribunal (Judge) promulgated on 14th October 2015 who allowed the Appellant’s appeal against the decision to refuse her entry clearance as a partner under Appendix FM of the Immigration Rules.
 2. The Judge’s reasoning is wholly inadequate.
 3. On the one hand he states (paragraph 22) ‘I am not satisfied the case has been properly made out’ but then goes on to allow the appeal.
 4. Whilst indicating that ‘the burden is on the appellant to show that her application meets the requirements of the Rules’ the Judge makes no reference to the standard of proof being on the balance of probability.
 5. The grounds and the decision do disclose an arguable error of law.”
5. Thus the appeal came before me today.
6. I heard submissions from both Mr Bramble and Mr Ball. Mr Bramble relied on the grounds seeking permission to appeal which he went on to amplify. Mr Ball put forward various arguments in relation to differing strands within the judge’s decision. His conclusion was twofold; that firstly there was no material error of law but in the alternative in light of paragraph 23 of Judge Paul’s decision (in relation to which both representatives argued that there was a lack of adequate reasoning for the decision made) the judge’s decision should be set aside and I should remit the decision to the First-tier Tribunal for a de novo hearing. Having listened to Mr Ball’s arguments Mr Bramble agreed with the final submission and urged me to remit for the reasons suggested by Mr Ball.
7. That is an analysis which I share. The decision discloses a material error of law with particular reference to paragraph 23 and the inadequate reasoning therein contained for the ultimate decision made.

Notice of Decision

The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal to be dealt with afresh, pursuant to Section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Statement 7.2(b), before any judge aside from Judge Paul.

No anonymity direction is made.

Signed

Date 18 May 2016.

Deputy Upper Tribunal Judge Appleyard