



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

Appeal Number: IA218372015

THE IMMIGRATION ACTS

**Heard at Field House
On 12 May 2017**

**Decision & Reasons Promulgated
On 19 May 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE SHERIDAN

Between

SECRETARY OF STATE FOR THE HOME OFFICE

Appellant

and

**Wael Ali Mohamed Atwa
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr L Tarlow, Home Office Presenting Officer
For the Respondent: Mr C Lam, instructed by David Tang & Co.

DECISION AND REASONS

1. By my decision promulgated on 31 January 2017 I found that the First-tier Tribunal made an error of law. I now re-make the decision of the First-tier Tribunal. For convenience, in this decision I refer to Mr Atwa (the respondent) as the appellant.

2. This appeal concerns the appellant's application for a residence card as confirmation of a right of residence as the spouse of an EEA national. The First-tier Tribunal found that the appellant and his wife, who is a national of Poland, were not in a marriage of convenience and that their marriage by proxy in Egypt was valid. These findings were not challenged at the error of law hearing and were preserved.
3. The reason I found there to be an error of law is that the First-tier Tribunal failed to consider whether the marriage was valid in Poland, the country of the EEA national, as required by *Kareem (proxy marriages - EU law)* [2014] UKUT 24 (IAC). The issue before me today therefore is whether there is a valid marriage in Poland.
4. The appellant has adduced a Polish marriage certificate (along with a translation) dated 31 January 2017 showing that the marriage in Egypt is recognised in Poland. The authenticity of the certificate has not been challenged.
5. I am satisfied that the appellant has adduced sufficient evidence to demonstrate that his marriage is valid in both the country where it took place, Egypt, and the country of his EEA national wife, Poland. Accordingly, he has met the requirements in *Kareem* and on that basis his appeal is allowed.
6. Since the error of law hearing the issue in this appeal has been considered by the Court of Appeal in *Awuku v SSHD* [2017] EWCA Civ 178 where it was concluded that *Kareem* was wrongly decided and that it is not necessary to consider the law in the EEA national's country. Accordingly, following *Awuku*, I would have found in the appellant's favour even if he had not provided the evidence of the marriage being registered in Poland.

Notice of Decision

- A. The appeal is allowed.
- B. No anonymity direction is made.

Signed



Deputy Upper Tribunal Judge Sheridan

Dated: 17 May 2017