



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA229922015  
IA262682015  
IA262742015  
IA262772015

THE IMMIGRATION ACTS

Heard at Field House  
On Wednesday 19 July 2017

Decision and Reasons Promulgated  
On Friday 21 July 2017

Before  
UPPER TRIBUNAL JUDGE SMITH

Between

CHIKESHKUMAR [P]  
YESHA [P]  
[T P]  
[P P]

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms R Popal, Counsel instructed by S Satha & Co  
For the Respondent: Mr P Duffy, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This matter comes before me to determine whether there is a material error of law in the decision of First-tier Tribunal Judge O’Keeffe promulgated on 9 September 2016 (“the Decision”).

2. The background to the appeal before this Tribunal is amply set out in my decision promulgated on 17 February 2017 and I do not propose to repeat it. The matter came back before me on 26 April 2017 when I again adjourned it, first because there was no interpreter booked to permit the First Appellant to give oral evidence and second because the Respondent sought to obtain a report from the National Document Fraud Unit (“NDFU”) concerning the letter dated 19 December 2014 on which the Appellants rely. That letter purports to grant the First Appellant indefinite leave to remain. I refer to that letter hereafter as “the Grant Letter”.
3. In short summary, the Appellants’ grounds before this Tribunal focus on the Grant Letter and aver that the Respondent, having granted the First Appellant indefinite leave to remain by the Grant Letter, is not entitled to withdraw that grant and, as a result, the Appellants should be entitled to leave to remain in the UK. The complaint made in relation to the Decision is that Judge O’Keeffe failed to have regard to that evidence.
4. The matter has come before me on two occasions previously. On the first, I expressed concerns about the genuineness of the Grant Letter for reasons set out at [6] of my decision promulgated on 17 February 2017. On the second, as I note above, I adjourned again in order to allow the Respondent to obtain a report from NDFU. By an e-mail dated 29 June 2017, Mr Duffy informed me that NDFU was not in a position to provide a report as to the authenticity of the Grant Letter. That did not surprise me since the letter is simply that; there is no security marking or other feature on which NDFU would be able to comment. He did however provide me with further e-mails concerning the purported author of the Grant Letter which supplemented the evidence previously supplied in relation to the author of the Grant Letter, the records relating to the First Appellant’s case and the Respondent’s policy in relation to the grant of leave at the time of the Grant Letter.
5. I do not need though to deal with any of that evidence since, at the outset of this hearing, Ms Popol, now Counsel for the Appellants, informed me that they no longer assert that the Grant Letter is genuine. Again, I am unsurprised by that concession not least since the First Appellant’s own statement dated 2 March 2017 refers at [7] to the Grant Letter as being “a letter supposedly headed by the Home Office” (my emphasis). It appears that, even before the latest evidence from the Respondent, the First Appellant entertained doubts as to the authenticity of the Grant Letter.
6. I permitted Ms Popol to make submissions which were largely matters of evidence. She did so, however, with the consent of Mr Duffy who indicated that, due to the content of her submissions, there was no need to cross-examine the First Appellant.

7. Ms Popol informed me that, prior to instructing S Satha & Co, the Appellants had instructed a person named Abdul Farooq said to be a lawyer dealing with immigration matters. The Appellants paid him £12,000 (or thereabouts) for his services. Ms Popol showed me evidence that Mr Farooq had been convicted in 2015 for offences linked to his immigration practice. Those offences involved the falsification of immigration documents. Mr Farooq was assisted, it appears, in this enterprise by his partner who worked for the Home Office. Ms Popol said that the Appellants are adamant that this is the gentleman who acted for them previously and who they paid as their solicitor. Ms Popol indicated that the Appellants believed the Grant Letter to be genuine. As evidence of that, she pointed to evidence that the First Appellant paid £100 to obtain a Biometric Residence Permit as requested by the Grant Letter.
8. The Respondent does not allege any deception against the First Appellant or the Appellants generally in relation to the Grant Letter. The evidence before me shows that, on the balance of probabilities, the Grant Letter is not a genuine document. That evidence does not however show that the Appellants were involved in the falsification of the Grant Letter.
9. The fact that the Grant Letter is not genuine, however, puts an end to this appeal. The only ground of appeal relates to whether Judge O’Keeffe properly considered the content and implication of the Grant Letter. Whilst the Judge deals with the Grant Letter only briefly at [26] and [27] of the Decision, any error of law in that regard could not possibly be material given that it is now accepted that the Grant Letter is not a genuine letter sent by the Home Office.
10. For the sake of completeness, I also record a further submission made by Ms Popol that certain consequences flow from the duping of the First Appellant by Mr Farooq. She pointed out that the Appellants understandably had to change solicitors after the Respondent’s refusal of leave to remain and before the hearing before the First-tier Tribunal. It appeared to be her submission that, as a result, the Appellants had insufficient time to prepare for the hearing before Judge O’Keeffe and that the refusal by the First-tier Tribunal to adjourn the hearing was unfair. Ms Popol very properly abandoned that submission however having been shown that the Appellants’ current solicitors were instructed as early as 18 June 2015 (when the refusal letter was apparently faxed to them) and that the hearing before the First-tier Tribunal took place over one year later (on 19 August 2016). The Appellants’ current solicitors asked for the appeals to be determined on the papers, an adjournment having been refused on grounds of health of the First Appellant for failure to produce sufficient medical evidence (see [8] of the Decision). There is no ground of appeal challenging the Decision on this basis. Nor is there any basis for finding an error of law in the Decision for that reason.

**DECISION**

**The First-tier Tribunal Decision did not involve the making of a material error on a point of law. I therefore uphold the First-tier Tribunal Decision of Judge O’Keeffe promulgated on 9 September 2016 with the consequence that the Appellants’ appeal is dismissed.**



Signed

Dated: 20 July 2017

Upper Tribunal Judge Smith