



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

Appeal Number: PA/07453/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 17 October 2017**

**Oral Decision & Reasons
Promulgated
On 23 October 2017**

Before

UPPER TRIBUNAL JUDGE JORDAN

Between

**MRS THI KHEO NGUYEN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Khan, Counsel instructed by Thompson & Co Solicitors

For the Respondent: Mr P Deller, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Vietnam and was born in 1937. She is now 80 years old and she was present at the hearing before me. The appellant's immigration history is set out in the determination.
2. She arrived in the United Kingdom in December 2005, that is now nearly twelve years ago, using a visit visa which was only valid until June 2006

and thereafter she made no further applications to remain lawfully. Since that time she has been living with her daughter who is settled in the United Kingdom. Quite understandably the daughter would like her mother to remain with her in the United Kingdom. There was only one apparent avenue open to the appellant to remain and so on 21 January 2016 she made an asylum claim and she said that she feared for her life in Vietnam because her son was a member of a Catholic Church group and he had been involved in a demonstration and had been arrested in 2014.

3. In paragraph 24 the First-tier Tribunal Judge set out the evidence in support of the appellant's claim. It was not, unsurprisingly, given by the appellant herself but by her daughter, Mrs Nguyen. She said she visited Vietnam in October 2014 until 1 December 2014. During that time she herself experienced no difficulties but that her account is entirely explicable by the fact that it was only after that visit that events took a turn for the worse and they took a turn for the worse, literally, within a few days of her returning to the United Kingdom.
4. Whilst the daughter was in Vietnam her brother was not present but his wife and children were and the claim arises because of a telephone call from a neighbour received upon the daughter's return. It is said that in the course of this telephone call there were reasons to believe that the appellant's son was under the adverse attention of the Vietnamese authorities. The judge records the evidence in this way:

"The appellant's daughter was unsure in her oral evidence whether the neighbour knew whether these items were taken away from the house were papers or leaflets or indeed whether the police had actually been seen by the neighbour taking items away or the neighbour was merely guessing that the police had taken items away. The information from the neighbour had been obtained over the phone."

5. Accordingly, on the daughter's own evidence there was nothing that could be said to be compelling or persuasive evidence that the appellant's son was the subject of adverse attention and certainly there is no suggestion that his wife and children were the subject of such adverse attention. Insofar as there was an incident in which the police called at the house, there was no evidence that this put anybody at risk.
6. The principal piece of evidence recorded by the First-tier Tribunal Judge in paragraph 24 is that the appellant's daughter said in evidence that the neighbour had told her that the appellant had been seen on TV as having been arrested in the north for participating in an anti-government demonstration organised by a Catholic group. Thereafter the appellant's daughter did not know what had happened to her brother. This was the sole piece of evidence, obtained from the neighbour in the course of a telephone call. The evidence is not augmented by anything that is said from the brother's wife and children. Her sister-in-law had called her to say that she was going back to her parents' village. The neighbour who

provided the information had moved on to Taiwan. On the basis of that claim the judge found in paragraph 25:

“It is to be noted that these events are said to have occurred in or about December 2014 yet no claim for asylum was made until the end of January 2016. Moreover, it was only after friends of the appellant in the UK said she should seek to regularise her stay that the claim for asylum was made. These facts damage the appellant’s daughter’s credibility when consideration is given to what she claims she learned from her neighbour on the phone. The appellant does not claim to have had any discussions herself with the neighbour. Also very damaging to the appellant’s daughter’s claims is the undisputed desire of both the appellant and her daughter long before 2014 that the appellant should remain in the UK living with her daughter and her family, notwithstanding that the appellant had no legal right to be here, and the appellant’s daughter’s collusion in the appellant remaining here illegally.”

That adverse credibility finding was in my judgment properly open to the judge.

7. In paragraph 27 he says:

“In view of the low standard applying in asylum claims I proceed to consider the asylum claim on the assumption that the appellant’s son was arrested because he took part in a demonstration by a Catholic group. Even proceeding on that assumption however the appellant herself is not a member of that group, there is no reason to think that the government would arrest the appellant because of her son’s activities. There is no evidence that any forbidden material was found in the appellant’s house. In any event the appellant has an alibi in that at the time of her son’s arrest she had been in the UK for the preceding 9 years.”

That makes very good sense to me. Were I to consider that the appellant was at any risk of being harmed, I would, without hesitation, say that her claim was made out but, bearing in mind the evidence that was provided in support of this claim, I am quite satisfied that the judge made a rational decision about the risk.

8. In the grounds of appeal it is said that the judge failed to take into account the respondent’s country policy and information note entitled ‘*Vietnam: political opponents*’ and in particular paragraphs 2.2.6 and 3.1.1 and 3.1.2. There within the country information is evidence that where a person is perceived to have taken part in opposition political activities and, as a result, would have come to the adverse attention of the authorities they would face a real risk of persecution and, importantly, that the risk may *also* extend to members of their families. That is repeated in paragraph 3.1.2. In some cases family members may also be at risk of ill-treatment. I am quite satisfied that that background information is not only correct but makes good sense in the context of a regime which does not like political opposition. However, that background material has to be considered in the context of the appellant’s claim as expressed through

her daughter's evidence and the fact that the judge did not believe that daughter's evidence.

9. In my judgment it is simply inconceivable that this small and defenceless 80 year old woman would be of any interest to the Vietnamese authorities by reason of her son's attending a demonstration in Vietnam in December 2014. There is simply no evidence about what the consequences of attending that demonstration were, no attempt has been made to follow through any evidence about what happened to the son but, even if he was arrested and even if the judge accepted, as he did, that the arrest took place because he took part in a demonstration by a Catholic group, that is a far cry from saying that this appellant in the United Kingdom throughout the relevant period, who has never shown any interest in this group, would be at risk of arrest and persecution. I think the judge got it entirely correct when he took the view that the appellant is not at risk even had the appellant's son been arrested as was claimed.
10. In my judgment the determination of the First-tier Tribunal Judge reveals no error of law and accordingly I dismiss this appeal from that determination.

DECISION

The First-tier Tribunal Judge made no error on a point of law and his determination of the appeal shall stand.

ANDREW JORDAN
JUDGE OF THE UPPER TRIBUNAL

