



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

Appeal Number: PA/13485/2016

THE IMMIGRATION ACTS

**Heard at Field House
promulgated
on 24 July 2017
2017**

**Decision and Reasons
on 31 August**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

**SB
(anonymity order in force)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Muquit instructed by Taj Solicitors

For the Respondent: Mr C Avery Senior Home Office Presenting Officer

ERROR OF LAW FINDING AND REASONS

1. This is an appeal against a decision of First-tier Tribunal Judge Callender-Smith promulgated on 24 January 2017 in which the Judge dismissed the appellant's appeal on both protection and human rights grounds.

Background

2. The appellant is a female citizen of Bangladesh born on [] 1966 who entered the United Kingdom as a visitor with leave valid from 9 April 2001 until 9 October 2001. The appellant was encountered by the police on 29 June 2015 at which point she claimed asylum asserting she had come to the UK because her husband in Bangladesh had left her and she could not return to Bangladesh as relatives of her husband were all terrorists. The Judge noted the appellant withdrew that asylum claim on 10 March 2016 and made further submissions dated 14 November 2016 which were refused in the decision under appeal.
3. The Judge noted the appellant's claim from all sources at [16] of the decision under challenge.
4. The Judge sets out findings of fact from [28] which may be summarised in the following terms:
 - a. There are significant credibility issues in relation to all aspects of the claim [29].
 - b. The level of support provided by the appellants UK based family demonstrates determination to maintain the appellant's unlawful presence in the UK for around 14 years [30].
 - c. The lack of original documentation in terms of death certificates for both of the appellant's mother and father, despite the fact the appellant was on notice of this particular challenge is "unsatisfactory" and severely damages not only the appellant's credibility but also that of her brother, Abdul [31]. The fact the documents are said to exist at somebody else's home address was not found to be sufficient as they had not been provided. The Judge concluded he had not been told the truth about their absence [33].
 - d. It is apparently the appellant's eldest sister who it is claimed was old and frail with no assets and who has a son to look after her while she lives with her in-laws as a widow, was able to get herself out only locate but also send to the appellant's brother a copy of the mother's death certificate. The Judge did not accept the evidence presented in the translated certificate but noted the appellant's eldest sister was sufficiently active to be able to do such tasks [34].
 - e. The Judge concluded the appellant does have family and practical support that could assist when she is returned to Bangladesh [35].
 - f. Having seen the level of support given to the appellant by family in the United Kingdom the Judge did not see why the siblings cannot, between them, provide the appellant with additional financial aid to assist her relocation in Bangladesh [36].

- g. The Judge found that whilst the appellant would face the difficulties of a 50-year-old woman having to re-locate to Bangladesh she would not be doing so without significant family and practical support in terms of both what her elder sister could do for her in Bangladesh and the support provided by the UK-based siblings [37].
 - h. At [38] the Judge finds “She has, in effect, lived hidden and unlawfully within Bangladeshi society in the UK. There is no reason in my view why she could not live a more fulfilled and less stressful life lawfully in her own country”.
 - i. The Judge did not find any risk on return to Bangladesh from either the appellant’s former husband’s family or generally [39].
 - j. The Judge finds Bangladesh is a large country in which, if necessary, the applicant could relocate with the assistance of siblings [40].
 - k. The Judge considered the country information material provided [41].
 - l. The Judge found the evidence did not persuade him that the appellant’s situation on return would be anything other than an adjustment rather than creating any real risk of harm [42].
5. The appellant sought permission to appeal which was initially refused by another judge of the First-tier Tribunal but granted on a renewed application by a Judge of the Upper Tribunal in the following terms:
 1. The grounds are not helpful. They are overly long and in the main seek to reargue the case as it was put before the First-tier Tribunal. I am however prepared to grant permission as I consider it arguable that the Tribunal has erred in its approach to the protection claim. At the heart of this appeal was an assertion that the Appellant was at risk from her ex-husband and his family. This is dealt with at paragraph 39 where the determination simply reads: “I do not think she is at any risk on return to Bangladesh”. The reasoning on internal flight was similarly scant.
6. The application is opposed by the Secretary of State in the Rule 24 response of 26 June 2017.

Error of law

7. On the appellant’s behalf Mr Muquit referred to the fact the appellant is a divorced woman who faced animosity between her first husband and second husband’s family. He also adopted the grounds on which permission was granted.
8. It is not disputed the appellant has remained in the United Kingdom unlawfully but it is alleged the Judge erred when referring to the lack of original documentation in terms of the death certificate for the appellant’s mother and father. This Tribunal notes there is reference to the photo copy death certificates provided in the reasons for refusal

letter at [26] which were not found by the decision maker to support the appellants claim [29]. It was submitted on the appellant's behalf that her brother gave evidence regarding the original documents being in Bangladesh and that there was no assertion in the evidence that the appellant's sister was old and frail. The evidence was that the sister lived in Bangladesh with her mother and own child. It was submitted the country information did not mean the fact the appellant had a female sibling meant she had a male guardian which is referred to as an important element to enable a woman to live safely in Bangladeshi society. It was submitted that whilst the appellant has family in Bangladesh the only relatives are a widow sister and mother and son with the possibility of some practical support from other relatives in the UK.

9. Mr Muquit accepted on the appellant's behalf that this is a 'protection only' case but asserted the Judge did not deal with the core issue or give adequate reasons to support the overall conclusion that the appeal must fail.
10. In relation to the materiality of the error, it was submitted the Judge did not make out an adequate foundation for the claim the appellant could relocate as the test is that of reasonableness. It was argued the appellant is a housewife and that her economic capacity was not considered. It is argued that the country information refers to landlords outside a home area not wanting single women as tenants for their properties. It is asserted no findings were made on the evidence regarding the strength of the ex-husbands network, on which there was arguably no evidence. There was also the need to consider that the appellant's family only live in the home area and not outside the home area and so the issue of the reasonableness of relocation must arise.
11. It is also asserted no findings were made on the documents and no findings with regard to the problems the appellant would encounter in relation to accommodation as a person without male support in Bangladesh.
12. Mr Muquit submitted on the appellant's behalf that although the respondent asserts in the decision letter that there was no evidence regarding a risk on return created in the appellant's case, the fact the Judge was considering internal relocation supports a finding there must be a risk in the appellant's home area. It is therefore necessary for the Judge to undertake a holistic assessment. It was asserted internal relocation is not a reasonable prospect as it is argued such relocation would be unduly harsh on the basis of the evidence before the Judge.
13. It is asserted the Judge had not done enough which was arguably material to the decision to dismiss the appeal.
14. It is accepted on behalf of the Secretary of State that the findings made by the Judge in relation to the appellant's ex-husband are "very thin" but it was also submitted that there was not a great deal of evidence on this point.

15. The Judge notes at [22] the appellant's oral evidence that she had suffered abuse at the hands of two former husbands and did not want to get hurt by anybody in Bangladesh, and that the appellant feared that if returned as a single lone woman to Bangladesh she will be in a vulnerable position, she has had two relationships which had ended which will be frowned on in Bangladesh. It does not appear, however, from the evidence before the Judge that the material adequately substantiated the claim to face a real risk on return at the hands of her previous husbands.
16. It is arguable that in light of the lack of evidence to substantiate this point the finding by the Judge that he did not think the appellant is at any risk on return from Bangladesh from either of her former husband's families is, in reality, the only finding the Judge was able to make. It is effectively a finding that the appellant has failed to discharge the burden of proof upon her to the required standard to establish that such a risk existed.
17. At [30] the Judge comments upon the level of support given to the appellant by her family in the United Kingdom which included the appellant staying with her sister between 2001/2002 and 2011/2012, one of her brothers from 2002 to 2004 and another brother from 2005 to 2008, before staying with the brother she stayed at between 2002 to 2004 from 2009 until September 2012. The finding by the Judge that the factual analysis demonstrated the strong level of support is a finding reasonably open to the Judge on the evidence.
18. In relation to the internal relocation point, such only arises if it is found the appellant faces a real risk in her home area. The finding by the Judge that the appellant had not established any real risk on return to Bangladesh in her home area makes the lack of reasoning in relation to the reasonableness of internal relocation arguably immaterial. The Judge does not find internal relocation is the only option but states at [40] that the appellant could relocate if necessary. Necessity had not been established in relation to any risk in the appellant's home area on the basis of the evidence before the Judge.
19. There is also an important issue to remember which is that the respondent in the reasons for refusal letter raised the availability of internal flight. Once raised the burden passes to the appellant to establish, by adducing sufficient evidence, to show that any relocation would be unreasonable. On the basis of the material provided by the appellant to the Judge it is arguable that the appellant failed to discharge this burden.
20. The core finding is that the appellant can return to Bangladesh to her home area where she has a sister and her sister's son. There is no evidence that those family members suffer any persecution or ill-treatment in Bangladesh or that the appellant would not be able to settle with or near them and benefit from the presence of a male family member.
21. The appellant fails to make out that the evidence supports the contention the Judge made an error of law material to the decision to dismiss the appeal. Accordingly, the decision shall stand.

Decision

22. There is no material error of law in the Immigration Judge's decision. The determination shall stand.

Signed.....
Judge of the Upper Tribunal

Dated the 30 August 2017