



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

Appeal Number: EA/05930/2016

**THE IMMIGRATION ACTS**

**Determined at Field House without a  
hearing  
On 12 February 2018**

**Decision & Reasons  
Promulgated  
On 13 February 2018**

**Before**

**UPPER TRIBUNAL JUDGE RINTOUL**

**Between**

**VIRGINIA DELA CRUZ PEREY  
(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**DECISION AND REASONS**

1. On 26 January 2018 I gave the following directions:-
  - “1. In the light of Khan v Secretary of State for the Home Department [2017] EWCA Civ 1755, the First-tier Tribunal granted permission to appeal on the basis that it was arguably wrong in law to have concluded that it did not have jurisdiction to hear the appeal.
  2. The Upper Tribunal is minded to find an error of law, set aside the decision of the First-tier Tribunal and remit the case to the First-tier Tribunal.
  3. A party who is opposed to this course is directed to inform the Tribunal in writing (giving reasons), not later than 7 days from the

date this decision is sent by the Upper Tribunal. Following that period, the Upper Tribunal will issue its decision.”

2. There has been no response to these directions by either party. Accordingly, I am satisfied that neither party objects to the matter being determined without a hearing and has nothing further to say. I am satisfied that that the determination of the First-tier Tribunal did involve the making of an error of law for the reasons set out above, and must therefore be set aside. Given the nature of the error, I remit the appeal to the First-tier Tribunal for a fresh determination on all issues.

**Summary of conclusions**

1. The determination of the First-tier Tribunal did involve the making of an error of law and I set it aside.
2. I remit the decision to the First-tier Tribunal for a fresh decision on all issues
3. The appeal must not be before First-tier Tribunal Judge Shimmin

Signed

Date: 12 February 2018



Upper Tribunal Judge Rintoul