



**Upper Tribunal
(Immigration and Asylum Chamber)
HU/24309/2016**

Appeal Number:

THE IMMIGRATION ACTS

**Heard at: Manchester
Promulgated
On: 14th March 2018
2018**

Decision & Reasons

On: 1st May

Before

UPPER TRIBUNAL JUDGE BRUCE

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

KA WAI MA

(NO ANONYMITY DIRECTION MADE)

Respondent

Representation:

For the Appellant: Mr Muman, Counsel instructed by Direct Access
For the Respondent: Mrs Aboni, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The Respondent is a British Overseas Citizen date of birth 4th January 1993. On the 12th April 2017 her appeal was allowed by the First-tier Tribunal (Judge Shergill) on human rights grounds. The Secretary of State for the Home Department was given permission to appeal that decision on the 31st October 2017.

2. I need not deal with the Secretary of State's complaints about the determination in any great detail since before me Mr Muman, counsel newly instructed by Ms Ma, recognised that the decision of the First-tier Tribunal contained legal errors such that it could not stand. Those were, in summary, a failure to make clear findings on material matters, legal misdirection (in particular the finding that an application for indefinite leave was not a 'human rights claim') and in the context of Article 8 'outside of the Rules' a failure to identify what the compelling features of the case were.
3. I accept Mr Muman's submission that Ms Ma's case is not so evidently without merit that it can simply be dismissed. She has spent a large proportion of her life in the UK with leave to remain and, it is accepted, has a well-established Article 8 private life. I agree that the appropriate disposal would therefore be remittal to the First-tier Tribunal so that the appeal can be heard *de novo* and appropriate findings of fact made.

Decisions and Directions

4. The decision of the First-tier Tribunal contains a error of law such that the decision must be set aside.
5. The decision is to be remade *de novo* in the First-tier Tribunal.
6. There is no order for anonymity.

Upper Tribunal Judge Bruce
14th March 2018