



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

Appeal Number: PA/06254/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 9 October 2018**

**Decision & Reasons Promulgated
On 23 October 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE APLEYARD

Between

**MS A A T
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms M Malhotra, Counsel.

For the Respondent: Mr L Tarlow, Home Office Presenting Officer.

DECISION AND REASONS

1. The Appellant is a citizen of the Ivory Coast who made an application for international protection. It was refused and she appealed and following a hearing, and in a decision promulgated 27 June 2018, Judge of the First-tier Tribunal McLaren dismissed her appeal. At paragraph 54 of the decision it is recorded: -

“54. On balance I do not find that the Appellant’s general credibility has been established and I do not accept the incidents described in relation to her family have occurred. There is therefore no reason to fear persecution or harm on return to the Ivory Coast.”

2. The Appellant sought permission to appeal. It was granted by Judge of the First-tier Tribunal Ford on 15 August 2018. Her reasons for so granting were:-

“1. The Appellant seeks permission to appeal in time, against a decision of First-tier Tribunal (Judge Mc Laren) dated 27 June 2018 whereby it dismissed the Appellant’s appeal against the Secretary of State’s decision to refuse her protection claim based on her fear of retribution from her diplomat partner who had brought her to the UK in circumstances where she thought she would have the status of his wife but discovered on arrival that he had a wife in the UK.

2. It was accepted by the Respondent that the Appellant was subjected to domestic abuse by her husband.

3. It is argued that the Tribunal erred in;-

- a. Not making appropriate allowance for the Appellant being a victim of trafficking for the purpose of domestic slavery when assessing her credibility
- b. Stating wrongly that the Appellant conceded that she had used deception in applying for a visit visa when her position was that it was her husband who had used deception
- c. Failing to consider that her husband had suffered adverse consequences to his status and employment as a diplomat after she revealed her presence in the UK, when assessing the risk of retribution from him on her return to the Ivory Coast
- d. Its findings on sufficiency of protection even if the Appellant’s account is true (paras 56 and 57)

4. The grounds are arguable. The Tribunal considered the evidence and found “on balance” that the Appellant’s credibility had not been established and it did not accept that the incidents she described in relation to her family had occurred and that therefore she had no reason to fear persecution on her return to Ivory coast (see paragraph 54).

5. There is an arguable material error of law. All of the grounds arguable”

3. Thus, the appeal came before me today.
4. At the outset Mr Tarlow acknowledged that on a reading of the decision as a whole the Judge had materially erred by applying the incorrect standard of proof as referred to in paragraph 54 of his decision. That, he contended rendered the decision unsustainable and that there was no alternative but for the appeal to be remitted to the First-tier Tribunal to be reconsidered de novo.

5. Not unsurprisingly, Ms Malhotra did not disagree with that analysis and on that basis urged me to accept that any consideration of further grounds of appeal was rendered redundant.
6. I share the analysis of both representatives. The Judge has materially erred for the reason stated above.

Notice of Decision

The making of the decision of the First-tier Tribunal involved the making of an error on a point of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal to be dealt with afresh pursuant to Section 12(2)(b)(i) of the Tribunals, Courts and Enforcement Act 2007 and Practice Direction 7(b) before any Judge aside from Judge McLaren

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed
2018

Date 15 October

Deputy Upper Tribunal Judge Appleyard