



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: PA/06841/2016

THE IMMIGRATION ACTS

Heard at Glasgow
on 14 February 2018

Decision and Reasons Promulgated
On 22 February 2018

Before

Mr C M G OCKELTON, VICE PRESIDENT & UT JUDGE MACLEMAN

Between

ASIM KHAN
(anonymity direction not made)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Chaudry, of Latta & Co, Solicitors

For the Respondent: Mr M Matthews, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The respondent refused the appellant's protection claim for reasons explained in her letter dated 22 June 2016.
2. FtT Judge David C Clapham SSC dismissed the appellant's appeal for reasons explained in his decision promulgated on 18 March 2017.
3. The principal issue raised in the appellant's grounds is based on ¶55 of the decision:

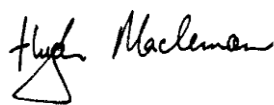
“According to the original Home Office bundle, when the appellant was encountered by the immigration officers in Inverness, the appellant was hiding in the basement. ¶29 of the reasons for refusal letter is correct to suggest that such behaviour demonstrates an attempt to evade the enforcement officers.”

4. The appellant’s statement dated 8 December 2016 was before the FtT. He says at ¶20 that he did not hide, and there was no basement (or back door) where he was detained.
5. Mr Chaudry did not press anything else in the grounds. Apart from this point, they do not rise above disagreement with adverse credibility findings.
6. Mr Matthews accepted that the judge failed to deal with the appellant’s evidence in response to ¶29 of the reasons for refusal letter. He submitted that the judge gave several stronger reasons for rejecting the appellant’s evidence, that this issue was not at the core, and that it made no difference.
7. We asked Mr Chaudry to explain how any error might be material, so as to require a set aside, in absence of challenge to the alternative finding at ¶59, based on availability of internal relocation.
8. Mr Chaudry submitted that the adverse credibility finding led to error in the assessment of risk on return; the assessment at ¶59 had a flawed starting point; the skeleton argument before the FtT had dealt with sufficiency of protection and internal flight; there might be general sufficiency of protection, but that was subject to the individual facts; and although no error could be found on the face of ¶59, that might turn out differently if the issues were analysed from the correct starting point.
9. We reserved our decision.
10. The decision up to ¶59 is based on rejecting the appellant’s account, but ¶59 is based on the alternative that everything he has said is true. For purposes of further analysis, Mr Chaudry could not ask for any more favourable a starting point.
11. From that point, Mt Chaudry relied only on legal generalities, but there is nothing to indicate that the judge was led astray by any error on a point of law.
12. This is what the judge said at ¶59:

“I consider that in any event the appellant would have a realistic internal flight alternative given that Pakistan has a population of more than 187 million people. The objective evidence suggests that the Pakistan government generally does respect freedom of movement and I do not consider that the non-state agents whom the appellant claims to fear would be able to locate the appellant, who is an Urdu speaker, were he to go and live in a completely different part of Pakistan. I agree with paragraph 58 of the reasons for refusal letter that it simply cannot be accepted that Mr Masoud would have either the means or the motive to trace the appellant were he to move elsewhere in such a large and populous country. It will be remembered that in any event, the relevant events apparently took place, according to the appellant’s account, many years ago and while I

reject the appellant's credibility, I maintain that even if the appellant's account were true, there is no reasonable degree of likelihood that the appellant would now be of any interest to anyone in Pakistan."

13. Mr Chaudry was unable to refer to anything specific to the case which might have led the judge to another conclusion, based on positive credibility findings.
14. The paragraph is perhaps a little muddled as to whether the risk, at highest, is one in respect of which legal sufficiency of protection is available; whether it might persist after such lapse of time; whether it might exist throughout the country; and whether, if it persists in the appellant's home area, it is one which may reasonably be avoided elsewhere.
15. There is, however, in the paragraph a reasoned and decisive analysis which is not challenged by anything in the appellant's grounds or submissions:
 - (i) the appellant has a realistic alternative, in a country of over 187 million people;
 - (ii) freedom of movement is generally respected;
 - (iii) the non-state agents whom the appellant claims to fear would be unable to locate him, there being no reason to accept that they have the means or motive to trace him elsewhere in such a large and populous country;
 - (iv) the relevant events took place many years ago; and
 - (v) even if the account were true, the appellant is now of no interest to anyone.
16. Even at this very late stage, we would have considered whether to permit the appellant to raise a new ground of appeal, if he had been able to outline some viable argument; but nothing was said by which the decision might conceivably have been set aside for error on a point of law.
17. The judge erred by failing to deal with the appellant's denial of being found by immigration officers hiding in a basement, but that error does not require his decision to be set aside (a) because the point was not material to the adverse credibility finding, which would have been reached, irrespective of this error, for various stronger reasons, and (b) because the case failed, even taken at its realistic highest, for the reasons given at ¶59, which are not undermined by anything in the grounds or further submissions.
18. The appeal to the UT is dismissed. The decision of the FtT stands.
19. No anonymity direction has been requested or made.



14 February 2018
Upper Tribunal Judge Macleman