



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

Appeal Number: HU/02599/2018

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 7 January 2019**

**Decision & Reasons**

**Promulgated**

**On 24 January 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE SHERIDAN**

**Between**

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

Appellant

**and**

**NKECHIWETA MARTHA CHIDI CHIDI  
(NO ANONYMITY DIRECTION MADE)**

Respondent

**Representation:**

For the Appellant: Mr L Tarlow, Home Office Presenting Officer

For the Respondent: Mr S Sayeed, Counsel instructed by Wesley Gryk Solicitors

**DECISION AND REASONS**


1. This is an appeal by the Secretary of State against the decision of Judge of the First-tier Tribunal Paul to allow the respondent's appeal against the decision to refuse her application for leave to remain in the UK on the basis of her family life with her spouse.
2. At the First-tier Tribunal hearing, the judge did not permit oral evidence to be given by the respondent, her husband or her mother-in-law.

3. In the grounds of appeal the Secretary of State contends that failing to allow cross-examination of the aforementioned witnesses was a procedural error which prevented the Presenting Officer from fully engaging with and examining the evidence.
4. In the respondent's Rule 24 response it is agreed that there was procedural unfairness in how the hearing in the First-tier Tribunal was conducted.
5. At the error of law hearing the parties informed me that they were in agreement that the decision of the First-tier Tribunal should be set aside on the basis that there was procedural unfairness in how the judge conducted the hearing. Both parties submitted that the appeal should be remitted to the First-tier Tribunal to be heard afresh.
6. In light of the agreement between the parties that there has been procedural unfairness and that the appeal should be remitted to the First-tier Tribunal, I will set aside the decision and remit the appeal to the First-tier Tribunal to be heard by a different judge with no findings preserved.

### **Notice of Decision**

7. The decision of the First-tier Tribunal contains a material error of law and is set aside.
8. The appeal is remitted to the First-tier Tribunal to be heard by a judge other than Judge N M Paul.
9. No anonymity direction is made.

Signed



Deputy Upper Tribunal Judge Sheridan Dated:21 January 2019