



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number:
PA/00487/2019**

THE IMMIGRATION ACTS

Heard at Field House

On 8 August 2019

**Decision & Reasons
Promulgated**

On 30 August 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE JORDAN

Between

**MUHAMMAD RAZA
(NO ANONYMITY ORDER MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person

For the Respondent: Mr C. Avery, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant seeks to challenge the determination of First-tier Tribunal Judge Phull whose determination was promulgated on 28 May 2019.
2. By letter dated 25 July 2019 the appellant's solicitors informed the Tribunal that the appellant would be representing himself in person. They explained there would be no supplementary bundle; nor would

there be any further evidence. However, his solicitors made reference to a letter from the Boleyn Medical Centre dated 11 February 2019 and a printout relating to agricultural land in Pakistan. They invited my attention to the Skeleton Argument and submissions made before the First-tier Tribunal

3. The appellant is a citizen of Pakistan was born on 9 December 1986. He is now aged 32. He had been granted a visit visa due to expire on 2 June 2005, at which point he would already have reached his 18th birthday. He overstayed. On 3 April 2009 he sought further leave to remain outside the Rules which was refused in September 2009. Subsequently, this decision was reconsidered and confirmed. He was served with process as a preliminary to the respondent removing him. Notwithstanding his past unsuccessful applications, he made a further application on 16 January 2013 on the basis of his private life which was refused on 6 December 2013 without a right of appeal. A further application was made, refused and the appeal struck out. It was only at this stage over 10 years after his arrival that he claimed asylum. The application was made on 5 August 2015. The refusal decision was made on 21 December 2018. It was the appeal against this decision that was the subject matter of the appeal before the First-tier Tribunal. On any view, this was a dismal immigration history.
4. The appellant's asylum claim was summarised by the judge in paragraphs 9 to 11 of his determination. In short, he claimed he feared his elder brother who lives in Pakistan as a result of abuse and pressure he exerted upon him. He suffered mental health problems. Land was transferred to the appellant and his brother. He arrived in the United Kingdom as a holidaymaker in 2005 and decided to stay as he feared his brother and was happier in the United Kingdom. He claimed his brother wishes to become the sole owner of the jointly held property. It was his belief that his parents had passed away. On return to Pakistan, he has no support network, home or job. He claimed his brother had threatened to kill him if he were to return and that he would receive no protection because his brother had influential friends within political circles and within the police.
5. The First-tier Judge did not believe the appellant was at risk as he claimed.
6. This was a claim based on threats by a non-state agent. Assuming that the brother had the settled intention to harm the appellant, the focus moved on to whether the Pakistani legal system afforded him any relief against the brother's attempts to deprive him of his property and whether the police were incapable of offering the appellant the appropriate level of protection against physical harm or coercion. This required the appellant to establish that his brother had the naked power to orchestrate his scheme by silencing the

lawyers, judges and police or by enrolling them onto his side. Further, the claim required the appellant to establish that the brother had the logistical capability of ascertaining if and when and where the appellant returned to Pakistan and then the further capacity to trace the appellant wherever he might attempt to relocate across the length and breadth of Pakistan. It was a Herculean task that the appellant spectacularly failed to perform. Indeed, even the most sophisticated mechanisms of most States would be daunted by the challenge, even if they had access to airline passenger manifests and the information held by local and central government agencies.

7. The appellant has two other brothers who live in the United Kingdom. It is a curiosity of the claim that they have no legal interest in the disputed property. The appellant, however, claims through his previous representatives that, although they are not owners, they have an interest in it as the older brother had a duty of fairness to provide them with their share. This account sits uncomfortably with the appellant's claim that his brother has no scruple about depriving him of what is rightfully his. The First-tier Tribunal Judge noted that, although living in the United Kingdom, they had not submitted any evidence to confirm that interest.
8. It only required taking a step back to make a casual consideration of the claim to realise that it was bogus.
9. The clear lack of merit in the claim has, however, been obscured by focusing upon issues which have little bearing on its substance. Large amounts of argument were directed towards the documentary evidence in relation to proving ownership of the disputed land which the appellant had claimed was transferred to him when he was aged only five. This has resulted in the appellant's skeleton argument calling into issue whether the documents provided were a lease or an inspection report conducted every four years and whether dates contained in the documents referred to the data transfer or something else.
10. There was also an issue about the production of a Power of Attorney about which it is said the judge made a factual error about its provenance.
11. None of these points, which have engendered considerable controversy, are germane to the central issue of risk.
12. It was for the appellant to establish, even if he had also managed to establish the existence of a land dispute and threats of coercion and physical harm on the part of his brother, that this was sufficient to require the British authorities to afford him sanctuary. Inevitably, he was asked to provide evidence to support his claim that his brother had the degree of influence over politicians, the

police and all other relevant authorities that was the foundation of his case that the State of Pakistan was unable to offer him appropriate protection. In paragraph 2.10 of the skeleton argument, it is conceded that the appellant clearly stated he was unaware of how his older brother formed the strong connections with the police and politicians in Pakistan. The appellant's complaint is that '*...it seems like that the Interview Officer was not accepting "I don't know" as an answer.*' The skeleton continues:

"It is submitted that the appellant's answer was not vague or speculative, if he is unaware of how or who his older brother associates with, then the SSHD should accept this as answer and not expect the appellant to have knowledge of everything. The SSHD should appreciate that the appellant left Pakistan and came to the UK 14 years ago, he since has not returned to Pakistan, nor has he spoken to his brother in a way where he could ask about his connections. Therefore, the appellant cannot reasonably be expected to know this information required by the SSHD."

13. The submission continues that the appellant should not be penalised for poor questioning of the interviewing officer and if the SSHD felt the answers were unclear then further details should have been sought.
14. This is a quite extraordinary submission. It was for the appellant to establish that his brother had the influence that was so central to the success of his claim. He failed to do so. There was *no* credible in evidence.
15. This effectively disposes of the claim. It also disposes of any viable claim that the appellant is at risk of a malicious prosecution brought by his brother such that, on return he would be arrested, detained and ill-treated.
16. In the absence of any persuasive evidence that the appellant's brother has sufficient sway in Pakistan to involve the authorities in his attempt to abuse or coerce the appellant, there is an unanswerable case that it would be reasonable to expect him to relocate to any area he might choose, even if he is a risk from his brother in his home area.
17. I am aware that the appellant has produced a letter dated 11 February 2019 from the Boleyn Medical Centre which confirms the appellant is known to suffer from clinical depression and is currently on an anti-depressant drug. The purpose of the letter was that the appellant told his General Practitioner that due to the effects of the depression and especially his forgetfulness, he felt he would not be in a fit state to attend the court at the hearing in February 2019.
18. That does not materially advance his case.

19. In granting permission to appeal to the Upper Tribunal, First-tier Tribunal Judge L. Murray was properly concerned that there had been a delay of just over three months between the date of the hearing on 21 February 2019 and the date on which the determination was prepared and promulgated, namely, 28 May 2019. No arguments were addressed to me that the delay has had any bearing on the outcome of the appeal. The judge recorded in paragraph 7 that there had been oral evidence provided by the appellant and a record of proceedings had been kept of it. The appellant's representative has not called for the production of the Record of Proceedings, as far as I am aware.
20. As Judge Murray rightly observed, there is no rule of law that vitiates a determination if more than three months has elapsed between hearing and promulgation. There is nothing in the body of the determination to suggest that the appellant's oral evidence was crucial to his overall assessment. There is a reference to the cross-examination in paragraph 27 of the determination in which the judge makes the sensible and proper point about his good relations with his other two brothers living in the United Kingdom but their failure to provide evidence in support of the appellant. As I have set out above, the appellant's claim fails largely on the basis that the appellant was unable to establish the risk that he claimed existed. This was not a matter which is over-concerned with issues of credibility arising from his oral evidence. Although the delay is mentioned in paragraph 11 of the grounds, it is only suggested as a '*possibility*' that the judge missed crucial information when determining the appeal. In order to pursue such a point, the appellant's representative would have had to have produced their record of proceedings or required the Tribunal to produce its own Record of Proceedings. It would then have been necessary to identify the areas in which the judge overlooked crucial information resulting in findings of fact which were made without regard to that evidence or were contradicted by it.
21. The point was not elaborated in the appellant's representative's letter to the Tribunal of 25 July 2019 inviting the Tribunal to determine the appeal without recourse to further documentation.

DECISION

The First-tier Tribunal Judge made no error of law in her handling of this appeal and her determination shall stand.

My findings do not necessitate the making of an anonymity direction.

ANDREW JORDAN

DEPUTY UPPER TRIBUNAL JUDGE
21 August 2019