



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

Appeal Number: PA/05626/2019

THE IMMIGRATION ACTS

**Heard at Cardiff Civil Justice Centre
On 20 February 2020**

Decision & Reasons Promulgated

On 9 April 2020

Before

MR C M G OCKELTON, VICE PRESIDENT

Between

**HAH
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr N Gobir, Counsel instructed by Albany Solicitors (Cardiff)

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

DECISION AND REASONS

1. The appellant is a national of Ethiopia of Oromo ethnicity. So much is accepted on both sides. She came to the United Kingdom in January 2019 and, having been served with illegal entry papers, claimed asylum. Her claim was refused. She appealed to the First-tier Tribunal. Her appeal was heard by Judge Page in a hearing which took place on two days, but the hearing had to be terminated on the first occasion because the appellant was unwell during the course of giving evidence. It was therefore adjourned and the final part of the hearing took place on 14

October 2019. Judge Page gave his decision on 28 October 2019 dismissing her appeal.

2. The appellant applied for and was granted permission to appeal to this Tribunal. The basis of the appellant's claim is that she is at risk because of her ethnicity and because of a suspicion, which she says in her case would be a well-founded suspicion, that she has been active on behalf of the Oromo Liberation Front (OLF). Expert evidence provided in support of her case was to the effect which is, as I understand it, accepted by Mr Howell for the purposes of today's hearing, that despite recent changes in Ethiopia she would indeed still be at risk of persecution if she had been a supporter of the OLF. But as Mr Gobir on the appellant's behalf very frankly accepts the question is not whether people with certain profiles are at risk but whether the appellant is a person with such a profile. Thus, the matter before Judge Page depended on whether the appellant's story is reasonably likely to be the truth.
3. The judge set the appellant's history on the basis of the evidence derived from her. She was asked questions on a number of occasions by the Home Office in written form and a substantive interview, and she also provided a witness statement for the purposes of her appeal.
4. In summary her account is as follows. She herself came from an OLF - supporting family and she married a man in 2009 of the same ethnicity. She began to support the OLF in a secret and informal way, providing food and so on in 2012. Her husband was a member of the OLF but she did not know that; although the members of the OLF knew about her support and so her husband must have known about that too. She had a child with her husband and they lived together in Ethiopia. At some point the following events happened. Her husband's land was taken by the government on the basis that it was tainted by OLF activities. Her husband's shop, in which she worked, was taken by the government on the basis that it was tainted by OLF activities. She received news of her husband's death. She attended demonstrations. She was arrested twice. She left Ethiopia in 2015. I shall have to look in a little bit more detail at those events.
5. However, after she left Ethiopia, it is reasonably clear what happened. She engaged in a tour of Europe, first visiting Sudan for twenty days and Egypt for about a month but then travelling to Europe and visiting at various stages Germany, Denmark, Sweden, Norway, Belgium and France, before coming to the United Kingdom. She was in Norway for about three years. She made an asylum claim there which was refused. In the course of this present claim she has decided to give no indication at all of the basis or the reason for its refusal. There has been no challenge to the Norwegian decision other than by making another claim in the United Kingdom.
6. The judge considered that there were too many discrepancies in her various accounts of what had happened in Ethiopia for her account to be the truth. He set out the reasons for his views on that issue between paragraphs 50 and 57 of his decision. At paragraphs 35 and 36 he had

already indicated that her story appeared to have inconsistencies. At paragraph 35 he notes an inconsistency about her own belief in relation to the reason for her husband's asserted death. At paragraph 36 he notes an inconsistency about the process by which she discovered her husband's death, that is to say who gave her the news. At paragraph 51 the judge notes that at one stage she had said that her two arrests both occurred at demonstrations but on another occasion she had said that she was arrested once at a demonstration and once not in relation to any demonstration. At paragraphs 53 to 54 the judge noted that from her account of her own family life in Ethiopia it was impossible to reconcile the various accounts that had been given. In particular, she said that in 2019 her child that she had with her husband in Ethiopia was 5 years old; but she also said that her husband had been killed in 2012; and she also said she lived in Ethiopia as a family with her husband and child. At paragraph 55 the judge said that her evidence about her activities with the OLF was, as he described it, "vague and vacuous". He also pointed out that the letter purporting to provide further evidence of those activities was written in the same words as she had provided herself. At paragraph 57 the judge noted that the appellant had failed to claim asylum in many of the safe countries which she had visited and that she had arrived in the United Kingdom and claimed asylum, having as he put it, been determined to arrive in this country after her asylum claim was refused in Norway.

7. None of those observations or findings is challenged in the appeal to this Tribunal. The one point that is challenged is as follows. In the appellant's original statement she had said that her land was taken in 2012 and her shop taken in 2015. Those are events to which I referred without dates a few moments ago. In the witness statement prepared for the hearing before the judge she made no reference to those events.
8. In considering the material before him in writing his decision after the second part of the hearing the judge evidently noted the omission of the confiscation of the land and of the shop from the appellant's witness statement. Evidently he thought that that omission was of importance and in paragraph 52 he describes the omission as "glaring". He says that if the appellant's land and shop had genuinely been confiscated by the government those events would not have been omitted from the witness statement. The judge speculates that the appellant was lying when she mentioned those events in her asylum interview and had forgotten to put them in her witness statement.
9. I asked both Mr Gobir and Mr Howells whether that omission had been the subject of any mention at the hearing and I am perfectly satisfied that it was not. Mr Howells had a typed note from the Presenting Officer. Mr Gobir was at the hearing I have looked at the judge's note and can see no mention of it there either.
10. The ground of appeal is that there was an explanation for the absence of those events from the witness statement. The witness statement clearly begins by saying that it is not intended to repeat everything that has been said to the government already but merely to provide amplification of

matters which had been taken in the Reasons for Refusal Letter of which this was not one. I accept therefore that there was an explanation which, if the matter had been canvassed at the hearing, would probably have been provided. If that is right the judge's reason for concluding that the shop and the land had not been confiscated at all is a reason without substance. That error is therefore made out and, as Mr Howells accepts, the judge was therefore in error in taking it against the appellant.

11. Mr Gobir's position on behalf of the appellant is that the error is one which is highly material. It played, in his words, a huge role in the judge's reasoning. I accept that it played a role in the judge's reasoning. I do not accept that it played a huge role in the judge's reasoning. As I have indicated both before and after dealing with that issue the judge made a number of other entirely unchallenged conclusions about the appellant's credibility on other aspects of her story. Further, if her account of the seizure of her husband's land and shop is accepted in the terms in which she gave it in her asylum interview further doubt arises about other aspects of her story.
12. As Mr Gobir very frankly accepted when I put the matter to him, on the evidence available to the judge there is no explanation for the further question which arises which is this - the appellant's consistent story has been that until her husband's death she did not know that he was at all involved with the OLF (although she herself was involved with the OLF and he knew about her involvement). Indeed, in her witness statement she indicates that she suspected that he might be on the other side. She says "if he knew about my activities he might turn his back on me and report me to the authorities".
13. As the judge concluded, and as it is not contested, the appellant's husband was alive after 2012. He would have to be alive after 2012 given the appellant's account of the life with the now 5-year-old daughter and her husband in Ethiopia. It follows that the husband was alive after the land had been confiscated, if the appellant's account of the confiscation of the land is true. But if the land was confiscated in 2012 when the husband was still there, and the land was confiscated because of suspicion of it being tainted by OLF activities as the appellant says, then there is absolutely no explanation of how it can be the case that she did not think that he was involved in the OLF in, at least, the final months of his life.
14. Looking at the matter as a whole as I do, as I have said, I accept that the judge's reasoning in relation to the omission of the two accounts of confiscation from the witness statement was not entitled to the value he gave it. But firstly, if he had not taken that point he would nevertheless clearly not have believed the appellant's story or all the other substantial and unchallenged reasons that he gave; secondly, if one accepts what the judge refused to accept in paragraph 52 then further questions arise which themselves raise further points of credibility.
15. For those reasons I conclude that the error made in paragraph 52 was wholly immaterial to the judge's final conclusion which would inevitably,

and in my judgement properly have been to the same effect, that is to say, that the appellant's story lacks credibility.

16. For those reasons, I decline to set aside his decision which I therefore order shall stand and this appeal is dismissed.

C. M. G. OCKELTON
VICE PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
Date: 24 March 2020