



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

Appeal Number: HU/18659/2019

THE IMMIGRATION ACTS

**Heard remotely via Skype for Decision & Reasons Promulgated
Business
On 27 April 2021** **On 6 May 2021**

Before

UPPER TRIBUNAL JUDGE LANE

Between

**AGNES RITAH MUBIRU
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: Mr Jafar

For the Respondent: Mr Tan, Senior Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Uganda. She appealed to the First-tier Tribunal against a decision of the Entry Clearance Officer dated 18 October 2019 refusing her entry clearance to the United Kingdom on the basis of her marriage to the sponsor (Mr Patrick Mubiru). The First-tier Tribunal, in a decision promulgated on 30 November 2020, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. The judge found (contrary to the decision of the Entry Clearance Officer) that the appellant and sponsor enjoy a genuine and subsisting relationship. However, she found that the evidence concerning the couple's financial circumstances was insufficient to prove that the appellant met the income requirements of Appendix FM of HC 395 (as amended). Having failed to satisfy the Immigration Rules, the judge found that the appellant was also unable to establish that there were exceptional circumstances justifying a grant of entry clearance
3. At the remote initial hearing, Mr Jafar, who appeared for the appellant, was able to participate by sound only. Notwithstanding the problems, I was able to consider all his submissions. I reserved my decision.
4. The argument advanced at [8] of the grounds of appeal was not pursued at the initial hearing. The sponsor had secured the offer of a job between the First-tier Tribunal hearing and the promulgation of the decision and had communicated this fact to the First-tier Tribunal. However, he no longer has that job and Mr Jafar told me that, in the circumstances, the appellant does not argue that the judge erred in law by failing to consider the job offer. Both parties accept that the judge was correct to finding that the appellant could not meet the income requirements of Appendix FM.
5. The remaining grounds are without merit. Whilst it is the case that the judge at [59-60], having identified the need to determine whether there are exceptional circumstances in the appeal to determine it on Article 8 ECHR grounds outside the Rules, raises the question of whether it would be reasonable for the United Kingdom sponsor and his 14 year old son (for whom he is sole carer) to live in Uganda with the appellant, she has not reached a clear finding on that issue. However, it seems reasonably clear that the judge found that the relocation of the sponsor and his son could not reasonably be expected to leave the United Kingdom and that the family will need to remain separated for the time being for, at [63], she concludes that 'the continued interruption of the appellant's established family life is both reasonable and justified.' That conclusion was open to the judge on the evidence and the challenge in the grounds at [4], which complains that the child's best interests, in the event that he may need to live in Uganda, have not been properly considered, falls away.
6. The remaining ground arises from a typographical error of the judge at [3]. The judge states that the Entry Clearance Officer's decision was made on 18 October 2020. The argument in the grounds that the delay in making the decision was excessive is rather robbed of its force when one notes that the decision was in fact taken on 18 October 2019, that is only 2 months after the appellant made her application.
7. It was open to the judge, for the reasons she has given, to conclude that, having failed to show that she met the requirements of HC 395 (as amended), there exist no exceptional circumstances justifying a grant of entry clearance and consequently there was no breach of Article 8 ECHR. Accordingly, the appeal is dismissed.

Notice of Decision

The appeal is dismissed.

Signed

Date 28 April 2021

Upper Tribunal Judge Lane