Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers:
UI-2021-000421, DC/00061/2020
UI-2021-000420, DC/00062/2020
UI-2021-000422, DC/00064/2020

THE IMMIGRATION ACTS

Heard at : Manchester Civil Justice Centre	**Decision & Reasons Promulgated**
On the 13 September 2022	**On the 04 October 2022**

Before

UPPER TRIBUNAL JUDGE KEBEDE

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

NAIMA SHARIF
MOHSIN NAWAZ
ZAIN NAWAZ

Respondents

Representation:
For the Appellant: Mr A Tan, Senior Home Office Presenting Officer
For the Respondents: Mr Z Raza, instructed by Bukhari Chambers Solicitors

DECISION AND REASONS

1. This is an appeal by the Secretary of State for the Home Department against the decision of the First-tier Tribunal allowing the appeals of Naima Sharif and her two sons Mohsin and Zain Nawaz against the respondent's decisions to deprive them of their British nationality under section 40(3) of the British Nationality Act 1981.

2. For the purposes of this decision, I shall hereinafter refer to the Secretary of State as the respondent and Naima Sharif and her two sons Mohsin and Zain Nawaz as the appellants, reflecting their positions as they were in the appeal before the First-tier Tribunal.

Background and Immigration History

3. The first appellant's date of birth is recorded as 15 May 1964, the second appellant's as 16 May 1987 and the third appellant's as 27 September 1989. They are all currently British citizens, originally of Pakistani nationality. Their immigration history is complicated but is material to the relevant issues.

4. The appellants arrived in the United Kingdom in 2003 on a six month visit visa which had been issued to all three together with the first appellant's husband (the second and third appellants' father) in Dubai, although he did not travel with the appellants. The visit visas were issued in the appellants' original names, Naghma Shareef, Muhammad Mohsin Khalid and Muhammad Zain Khalid, and the first appellant's husband's name Raja Khalid Hussain. A visa was also issued in 2004 to the first appellant's daughter whose name was given as Heena Khalid.

5. On 11 August 2003 the first appellant applied for asylum in the UK under the name Naima Sharif, together with her sons whose names were given as Mohsin and Zain Nawaz. Alternative dates of birth were given. The first appellant's asylum claim was made on the basis that she had suffered domestic abuse at the hands of her husband in Pakistan and was seeking to escape from him. She now claims that she had been advised to change her name and her sons' names and dates of birth to prevent her husband being able to trace them. The appellant was invited to attend an asylum interview, but she did not attend and her asylum claim was refused on 24 September 2003. An appeal was lodged on 2 October 2003 and an appeal hearing was listed for 28 November 2003, but neither the appellant nor her representative attended, and the appeal was dismissed. The reason now given by the appellant for her non-attendance was that, due to difficult circumstances experienced in the UK, she and her children had returned to her husband in Dubai in September 2003, but that due to ongoing abuse from him she and her children re-entered the UK in November 2004. A two-year visit visa had previously been issued to the whole family including her husband in May 2004, in their original names, but it was claimed that they had not entered the UK at that time.

6. On 1 May 2008 the appellants applied for indefinite leave to remain (ILR) in the UK under the legacy scheme and they were granted ILR on 18 October 2010. On 2 December 2011 they applied for naturalisation as British citizens and they were issued with certificates of naturalisation: for the first appellant, on 7 April 2012; for the second appellant, on 23 July 2012; and for the third appellant, on 16 May 2012.

7. Following that, the first appellant reconciled with her husband, and he made an application from Pakistan for entry clearance and for leave to remain as a spouse on 1 July 2019. He applied in the name of Muhammad Khalid Nawaz. The respondent refused the application on 30 July 2019 because the names for the family did not match and commenced an investigation into the appellants. On 4 November 2019 the respondent served on the appellants a notice of intention to deprive them of their British citizenship.

8. The appellants responded, through their legal representatives, on 30 January 2020, confirming their real names and explaining the circumstances of the change of name, namely owing to the domestic abuse suffered by the first appellant and her need to escape from him. It was asserted on their behalf that there had been no intention to deceive and that their assumed names had, in any event, no bearing on the decision to award them ILR under the legacy exercise.

Respondent's Decisions

9. The respondent, in decisions dated 8 June 2020 for the first appellant, 15 June 2020 for the second appellant and 22 June 2020 for the third appellant, did not accept the explanation as a justification for the deception. The respondent noted that the appellants had entered the UK using their genuine names legally on two occasions without informing the Home Office, at a time when their asylum claim was being progressed in other names. The respondent noted that the first appellant had attended a screening interview and completed a Statement of Evidence Form in which she confirmed that she had entered the UK on 10 August 2003 on a false passport with an agent, having never held a Pakistani passport, and that she was claiming asylum because she feared her husband who beat her, and that she had signed forms to confirm that the information was correct for herself and her children. The respondent referred to the fact that the appellant had failed to attend her asylum interview and her appeal hearing and had next communicated with the Home Office on 1 May 2008 when she had applied for ILR under the legacy exercise, giving the same details as her asylum claim and confirming that she had been continuously resident in the UK since 2003. The respondent noted that the information had been confirmed by further letters from the appellant's representatives on 9 October 2008, 16 June 2010 and 8 October 2010, leading to the grant of ILR on 18 October 2010. The respondent noted further that the appellant had confirmed the details again in her application for naturalisation as a British citizen on 2 December 2011, where she also confirmed that she had never engaged in any activity which may indicate that she was not of good character and that all the information she had given was correct. The respondent also noted that the appellant's husband, when applying for entry clearance to join her in the UK on 1 July 2019, had claimed to have come to the UK in 2005 with his family, that his family had then claimed asylum under false names to escape him, and that he had given up looking for them in 2011 and had then left the UK. However, investigations had revealed that he had been given six months entry clearance in 2003 in another name and had been issued with a two-year entry clearance in 2004 in another name, together with the

appellants under their original names, and his entry clearance application was therefore refused.

10. The respondent considered that the appellant's husband, having admitted to having come to the UK with the appellants in 2005, would have been fully aware that they were claiming asylum and as such did not accept that the appellants were hiding from him and did not accept that they maintained a false identity because they feared him. The respondent considered that, even if the appellant had provided false names to escape her husband, she had continued the deception long after her original asylum claim and after she said they had reconciled and considered that she had repeatedly claimed not to have left the UK since 2003 so that she would be awarded ILR under the legacy exercise. The respondent considered that the appellant had provided no evidence to demonstrate that she was given instructions to provide false information after her original asylum claim or that she was under threat if she failed to do so and therefore concluded that she had knowingly and willingly provided a false name, date of birth, place of birth and nationality to attempt to secure asylum in the UK and British citizenship. The respondent considered that, had it been known that the appellant was not only in the UK using a false identity but that she had not been continuously resident in the UK at the time of the application, this would have had a direct bearing on the outcome of her application. The grant of ILR would not have been applicable and her removal to Dubai would have been appropriate. Had she not been granted ILR she would not have acquired the length of residence required to enable her to apply for and obtain British citizenship. Further, her application for British citizenship would have been refused section 9.1 and 9.5 of the Nationality Policy Guidance and Casework Instruction Chapter 18, Annex D: The Good Character Requirement if the caseworker had known that she had presented a false identity to the Home Office and had continued to use that identity throughout her immigration history and all subsequent applications.

11. The respondent considered that the appellants could continue to enjoy their family and private life in the UK without being British and noted in any event that they would not have been in a position to build such ties had their true details been known. The respondent concluded that the appellants had obtained their status in the UK, including naturalisation as a British citizen, as a result of fraud, false representation and concealment of material fact and did not accept that there was a plausible, innocent explanation for the misleading information which led to the decision to grant citizenship. The respondent accordingly concluded that the appellants' British citizenship had been obtained fraudulently, that they should be deprived of that citizenship under section 40(3) of the British Nationality Act 1981 and that it was reasonable and proportionate to do so.

The Appellants' Appeal before the First-tier Tribunal

12. The appellants appealed against that decision under section 40A(1) of the British Nationality Act 1981. Their appeal was heard on 16 July 2021 by First-tier Tribunal Judge Williams who received oral evidence from all three

appellants. It was argued on behalf of the appellants that the fraud or false representation or concealment had not materially affected the decision to grant nationality, that they had provided different names and dates of birth not to gain an advantage but to prevent the first appellant's husband from locating her and her family and that the changes of name had no bearing on the grants of leave and grants of nationality. It was asserted that the respondent was incorrect in stating that the appellants' departure and re-entry dates to the UK would have affected the grant of ILR and that the respondent ought to have exercised discretion in the appellants' favour given that there had been a misunderstanding about their circumstances and immigration history in 2003 and 2004 and that there had been no criminality or other inappropriate behaviour.

13. Judge Williams considered that the respondent had made two material errors of fact in her decision: firstly, in asserting that the first appellant was from Dubai when she was born in Pakistan; and secondly, in referring to the appellants travelling in and out of the UK using their genuine details when they had only entered the UK in 2003, returned to Dubai and then re-entered the UK in November 2004 and had therefore entered the UK only once after lodging their asylum claim. The judge found that these findings were made by the respondent without any evidential basis and amounted to errors of law by the respondent. As for the appellants' use of false names and dates of birth, the judge accepted the claim that that was in order to avoid being found by the first appellant's husband and he considered that it had little impact upon the decision to grant leave under the legacy scheme. The judge considered that, whilst the appellants' length of residence had been based upon continuous residence since 2003 and was therefore 7 years and 2 months, the length of residence taken from November 2004 would be 5 years and 11 months and would therefore still be over the 4-year threshold required in family cases for ILR under the legacy exercise, so that they would have succeeded on that basis. There was no suggestion of criminality on the parts of the appellants and therefore the judge considered that it was difficult to see how the appellants' change in name and date of birth would have had any material impact upon the decision. The judge considered that the respondent had failed to have regard to her own guidance in Chapter 55.7.4 of the Nationality Instructions which addressed the question of materiality and concluded that the respondent's approach was one which no reasonable Secretary of State could have adopted.

14. Judge Williams accepted that the appellants had made a clear misrepresentation in their Form AN application for naturalisation by giving a negative response to the question of whether they had ever engaged in any activity which may indicate that they were not of good character and that the respondent had adopted the correct approach in that regard. However he found that, when considering the appellants' Article 8 rights, the deprivation decisions were not in accordance with the law since the Secretary of State had acted in a manner in which no reasonable Secretary of State could have acted. He clarified that had he not concluded as such, he would have found there

otherwise to be no disproportionate interference with the appellants' Article 8 rights. Nevertheless, he allowed the appeals since he found that the respondent had made an error of law in her decisions and had acted in a way in which no reasonable Secretary of State could have acted.

Appeal to the Upper Tribunal

15. Permission to appeal was sought by the respondent on the following grounds. Firstly, that the judge's findings were perverse, unreasoned and irrelevant in so far as he found the respondent's reference to the first appellant coming from Dubai as being material. Secondly, that the judge had failed to have regard to the context of the Secretary of State's reasoning when referring to the appellants having entered the UK twice using their genuine names whilst their asylum claim was being progressed, when the relevant point being made by the Secretary of State was that the appellants had not been continuously resident in the UK. Thirdly, that the judge had failed to take into account the case being advanced by the Secretary of State in regard to the appellants' use of false identities. Fourthly, that the judge's finding that the use of false identities would have had no material impact on the decision made, was a wholly inadequate consideration of whether the appellants would have succeeded under the legacy exercise. Fifthly, that the judge's reliance upon Chapter 55.7.4 was inadequately reasoned as there was never any concession by the Secretary of State. Sixthly, that the judge failed to explain why the appellants' deliberate concealment in answering the question relating to character in Form AN was not determinative of the appeal, by reference to Annex D to Chapter 18.

16. Permission was refused in the First-tier Tribunal but was subsequently granted by the Upper Tribunal on 7 January 2021. The appellants filed a Rule 24 reply in response to the grounds of appeal, resisting the appeal.

17. The matter then came before me for a hearing and both parties made submissions.

Hearing and Submissions

18. With regard to grounds 1 and 2, Mr Tan submitted that the judge had taken into account irrelevant matters. Contrary to the judge's findings, the Secretary of State never said that the appellants were nationals of Dubai but stated that they were from Dubai since that was where they were living when they came to the UK and from where they had applied for entry clearance to the UK and returned in 2003. The point being made by the Secretary of State in the deprivation decision was that the first appellant was claiming to have fled to the UK from Pakistan. In any event the reference to Dubai was not a material matter. As for the judge's reliance on the respondent's error in referring to the appellants having entered the UK twice since claiming asylum, the relevant point there was that the appellants had left the UK but were claiming to have been continuously resident here. As for ground 3 and 4, the judge had failed to consider the Secretary of State's case properly when stating that he found it

difficult to see what benefits the appellants would have had by changing their names and dates of birth. In so doing the judge had failed to consider the separate strands of consideration in legacy cases, as set out in Hakemi & Ors v Secretary of State for the Home Department [2012] EWHC 1967, and the Chapter 53 EIG policy guidance, which included not only length of residence and criminality but also conduct. The consideration of 'character and conduct' involved a holistic assessment in which the appellants' false asylum claim, their departure from the UK and the abandonment of their asylum claim were all relevant matters. With regard to ground 5, Mr Tan submitted that the judge's reliance on Chapter 55.7.4 at [64] and [65] of his decision was misconceived as it was not relevant in the context in which the appellants had used false identities. As for ground 6, Mr Tan submitted that the judge's findings at [68] ought to have been determinative of the appeal, since his findings supported the respondent's case and found it to be rational. Mr Tan asked me to set aside Judge Williams' decision and to re-make the decision by dismissing the appellants' appeals.

19. Mr Raza submitted that the judge's approach, of determining whether the condition precedent could be impugned on public law grounds pursuant to [71] of Begum, R. (on the application of) v Special Immigration Appeals Commission & Anor [2021] UKSC 7 , was consistent with the guidance in Ciceri (deprivation of citizenship appeals: principles) Albania (Rev1) [2021] UKUT 238. The respondent's grounds 1 and 2 failed to take account of the context in which the judge's findings were made. The judge was analysing and critiquing the respondent's decision and the condition precedent on public law grounds, which is what he was supposed to do. The judge was entitled to take account of the fact that the appellants, when granted ILR, were not removeable to Dubai. The judge also properly assessed the materiality of the respondent's error in referring to the appellants as having re-entered the UK twice since making their asylum claim. Grounds 3 and 4 failed to recognise [62] of the judge's decision, where he noted that, irrespective of the appellants' representations about having remained in the UK continuously since 2003, their length of continuous residence was still sufficient to meet the 4- year threshold under the legacy exercise and their previous history was therefore not material to the grant of ILR. Mr Raza submitted that ground 5 was an attempt to re-argue the case for the respondent, whereas the judge had found at [62] that the appellants' immigration history was immaterial to the grant of ILR under the legacy exercise. As for ground 6, Mr Raza submitted that the judge, prior to the findings made at [77], had decided that there were public law errors made by the respondent and that was sufficient for him to dismiss the appeals. The finding at [77] in regard to the appellants' application for British nationality was a matter for the proportionality exercise in Article 8, but the judge had not gone on to consider that because he had decided that there was sufficient to show a public law error in the respondent's decision relating to the grant of ILR. Mr Raza asked that if I was against him on the condition precedent issue, there should therefore be a resumed hearing to re-make the decision on Article 8 and proportionality.

20. In response, Mr Tan submitted that the grounds recognised, but challenged, the judge's decision at [62] in regard to the materiality of the appellant's immigration history under the legacy exercise, as it failed to take account of the question of the appellants' character and conduct. As for the last point made by Mr Raza, Mr Tan submitted that the Article 8 proportionality assessment was settled by the Tribunal and had not been challenged in a cross-appeal. There was therefore no re-making to be done.

Discussion and Findings on the Error of Law

21. Whilst the judge may well have set out the correct legal principles in considering the deprivation decision in accordance with the Supreme Court judgment in Begum and may well have followed the correct approach as set out in Ciceri, that was not the basis of the challenge in the respondent's grounds. Rather, the grounds challenged the basis upon which the judge found that the respondent had legally erred in considering the condition precedent and I have to agree with Mr Tan that that basis was legally flawed.

22. The challenge in grounds 1 and 2 was to Judge Williams' finding that the respondent had materially erred in two respects. Those two errors relied upon by the judge were firstly, by considering the first appellant as a national of Dubai and thus considering her ability to be returned to Dubai at the time of the ILR application being made, when she was in fact a Pakistani national; and secondly, by considering the appellants' cases on the erroneous basis that they had entered the UK twice since claiming asylum, when in fact they had only re-entered once since making their claim. Like Mr Tan, I consider neither matters to be material to the respondent's decision on the condition precedent.

23. With regard to the first matter, it seems to me that the respondent was perfectly entitled to consider Dubai as the country from which the first appellant came, when it was clear from the visa application forms and the subsequent evidence that the appellants were living in Dubai with their husband/ father before coming to the UK and returned there in September 2003 before coming back to the UK in 2004. Indeed, the submissions made on 30 January 2020 for the second appellant specifically refer to him being born in Dubai and having lived there until coming to the UK. In any event, the point being made by the respondent was that the first appellant's asylum claim had been based upon fear of her husband who had been abusing her in Pakistan and that she had fled from there to the UK (as can be seen from the decision of the First-tier Tribunal dismissing her appeal on 11 December 2003, at Annex G of the respondent's appeal bundle for the second appellant), which was clearly a false claim when she had been living in Dubai and not Pakistan. It seems to me that there was accordingly no error made by the respondent, but even if there was, I fail to see how that was material to the outcome of the respondent's decision when the material issue was whether or not there had been deception. As for the second matter, again I agree with Mr Tan that whether or not the appellants had left the UK and re-entered once or twice was immaterial, when the relevant issue was that they had lied about being continuously resident in the UK since 2003 and had been living outside the UK,

in Dubai, with their husband/ father whilst also seeking to pursue an asylum claim in the UK based upon fear of that same person and making an appeal from abroad as though they were still in the UK. Accordingly, I agree with the assertion made in grounds 1 and 2 that the judge erred in law by taking account of irrelevant and immaterial matters.

24. Likewise, I find grounds 3 and 4 to be made out. At [60] of his decision, Judge Williams found that it was difficult to see what benefit the appellants obtained from the changes in their names and dates of birth and, at [63], he commented that it was difficult to see how, if the respondent had been aware of their genuine names and dates of birth, that would have altered the consideration of the decision to grant them ILR. He found, at [62] and [63], that they would have acquired ILR under the legacy exercise irrespective of having left the UK and re-entered, as they still met the threshold of 4 years' presence in the UK for the purposes of the legacy assessment and there was no suggestion of criminality or reprehensible conduct. However, as Mr Tan submitted, such a finding ignored the extent of the considerations which would have taken place under the legacy exercise, such as the fact that the appellants had lodged their appeal against the refusal of asylum from outside the UK as though they were inside the country and had thus effectively abandoned their asylum claim, that they had claimed to have had continuous residence in the UK when that was not true and that they had failed to mention having made an asylum claim when they applied for entry clearance in 2004, all of which were part of the holistic assessment mentioned at [36] of Hakimi, with reference to Chapter 53 of the EIG policy and were material to the consideration of their character and conduct. As Mr Tan properly submitted, the appellants' deception and non-disclosure of their real immigration history would have been relevant to the assessment under paragraph 395C of the immigration rules when their removability from the UK was being considered under the legacy exercise. It is also relevant to note, with regard to [62] of his decision, that in considering there to be no material difference the appellants' declared continuous residence of 7 years and 2 months and their actual residence of 5 years and 11 months under the legacy considerations, Judge Williams failed to have regard to the fact that the 4 year threshold was only one consideration and that the appellants also benefitted under the 'Strength of connections with the UK' section in the Chapter 53 assessment from the children having "spent 7 years of their formative lives in the UK". Accordingly, the judge failed to take account of various relevant matters when making his findings at [60] to [63], all of which may well have had a material affect on the outcome of the legacy consideration and the grant of ILR.

25. Ground 5 also raises a proper challenge to Judge Williams' decision, and I agree with Mr Tan that the judge's consideration and reliance upon Chapter 55.7.4 at [64] and [65] was misconceived and failed to take account of the context in which the appellants used false identities to acquire their British citizenship. Unlike the provision in Chapter 55.7.4, they did not acquire their ILR under a concession. Neither is it the case that Chapter 55.7.4 permitted or excused the use of false names and dates of birth in circumstances such as

those in the appellants' case. Indeed, given the emphasis in Chapter 55.7.4 on false details not being used to conceal information relevant to an assessment of good character or immigration history in another identity, I am entirely in agreement with Mr Tan that it was perverse of Judge Williams not to find that that guidance went against the appellants rather than benefitted them.

26. As with the other grounds of challenge I find merit in ground 6 whereby it is asserted that the judge's findings at [67] and [68] endorsing the respondent's approach to the consideration of the appellants' naturalisation applications ought to have been determinative of the appeal. Having found that the appellants had made false representations in their applications for naturalisation by indicating that they had not been engaged in activities which might indicate they were not of good character, the judge plainly accepted that the condition precedent had been established and that was sufficient to dispose of the case before him to that extent.

27. Accordingly, for all of these reasons, I find the grounds of challenge to be made out and I consider Judge Williams' decision to be materially flawed. I therefore set aside his decision.

28. As regards the disposal of the appeal, it was Mr Tan's submission that the decision should simply be re-made by dismissing the appeals for the same reasons that gave rise to Judge Williams' errors of law, in particular with regard to ground 6. However, Mr Raza submitted that if the errors of law set out in the grounds of appeal were established and in particular if I accepted ground 6 that the deception in the nationality applications was sufficient to deprive the appellants of their British nationality and the condition precedent issue was thereby settled, there was still scope for a further hearing to assess proportionality under Article 8, since the decision to deprive the appellants of their British nationality had to be assessed as part of the proportionality balancing exercise.

29. It seems to me that the decision can be re-made without a further hearing. I agree with Mr Tan that the judge had already addressed Article 8 and the question of proportionality and that there was no reason for that part of his decision to be set aside, particularly as there had been no cross-appeal by the appellants. Mr Raza accepted that there was no further evidence and that the facts were as already stated, and he said that the purpose of a further hearing would be simply to make further submissions. He accepted that if I agreed with Mr Tan that Judge Williams had already fully dealt with Article 8 there would be no need for a further hearing. I do agree with Mr Tan. Judge Williams gave full consideration to the effect of deprivation on the appellants in terms of their Article 8 rights at [72] to [76]. Accordingly, I have proceeded to re-make the decision without a further hearing.

Re-making the Decision.

30. In accordance with the approach set out in Ciceri, the first step is to establish whether the relevant condition precedent specified in section 40(3) of

the British Nationality Act 1981 exists for the exercise of the discretion whether to deprive the appellant of British citizenship. As the headnote to that case states, "*In a section 40(3) case, this requires the Tribunal to establish whether citizenship was obtained by one or more of the means specified in that subsection. In answering the condition precedent question, the Tribunal must adopt the approach set out in paragraph 71 of the judgment in Begum, which is to consider whether the Secretary of State has made findings of fact which are unsupported by any evidence or are based on a view of the evidence that could not reasonably be held*."

31. Given the indications of both parties it seems to me that there is no need for detailed reasons to be given as to why the condition precedent has been established, in light of the above discussion and findings made on the error of law. For the reasons already given it is the case that the appellants obtained their British citizenship through fraud, false representation and concealment of material facts. That was accepted by Judge Williams for the reasons given at [67] and [68] where he found nothing adverse in the respondent's approach. As I have found above, his findings in those paragraphs can be considered as sufficient in themselves to dispose of the matter. However, in any event, I reject any assertion that the Secretary of State made findings of fact which were unsupported by any evidence or were based on a view of the evidence that could not reasonably be held. I reject any suggestion that the Secretary of State acted in a way in which no reasonable Secretary of State could have acted, that she took into account irrelevant matters or disregarded something which should have been given weight, or that she was guilty of some procedural impropriety. I note that it has not been argued that the deprivation order would make the appellants stateless.

32. As has already been discussed, the appellants had maintained a deception as to their true identities over a period of several years, pursuing an asylum claim in false identities on the basis of having experienced ill-treatment by the first appellant's husband in Pakistan when in fact they were in fact living in Dubai, appealing against the refusal of the asylum claim from outside the UK as though they were still in the UK and thus effectively abandoning their claim by leaving the UK, making no mention of the asylum claim in different identities when seeking entry clearance to return to the UK, failing to reveal their true identities even after being reunited with their husband/ father, declaring a period of continuous residence in the UK in their applications for ILR which was inconsistent with their immigration history and failing to give their true identities when applying for indefinite leave to remain and naturalisation as British citizens, and declaring that they had not been involved in any activities indicating that they were not of good character, all of which were material to the grant of ILR and the grant of citizenship. All of those matters were properly relied upon by the respondent in making her decision and all of the respondent's findings on those matters were founded upon the evidence before her.

33. For all of those reasons the relevant condition precedent specified in section 40(3) of the British Nationality Act 1981 existed for the exercise of the

discretion whether to deprive the appellants of British citizenship and the respondent was fully entitled to exercise her discretion as she did.

34. For the reasons given by Judge Williams at [73] to [75], which have not been challenged, the deprivation of British citizenship would not amount to a disproportionate interference with the appellants' family and private life established in the UK. No decision has been made by the respondent to remove them from the UK and there is no basis for concluding that depriving them of British citizenship would constitute a violation of their human rights. Considering the inherent weight that will normally lie on the Secretary of State's side of the scales in the Article 8 balancing exercise and given the importance of maintaining the integrity of British nationality law in the face of attempts by individuals to subvert it by fraudulent conduct, I conclude that the balance falls firmly in favour of the public interest and that the deprivation decision does not give rise to a breach of Article 8.

DECISION

35. The original Tribunal made an error of law and the decision is set aside. I re-make the decision by dismissing the appeals of Naima Sharif and her sons Mohsin and Zain Nawaz against the Secretary of State's decision to deprive them of their British citizenship.

Signed: S Kebede
Upper Tribunal Judge Kebede Dated: 22 September 2022