



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number:
EA/03944/2020**

THE IMMIGRATION ACTS

**Heard at Field House
On 10 January 2022**

**Decision & Reasons
Promulgated
On 27 January 2022**

Before

**UPPER TRIBUNAL JUDGE OWENS
DEPUTY UPPER TRIBUNAL JUDGE JOLLIFFE**

Between

**NADIA TAKLA HANNA ROPHAEL
(ANONYMITY ORDER NOT MADE)**

Appellant

and

ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: Mr Maged Fahmy, sponsor

For the Respondent: Mr Tufan, Senior Home Office Presenting Officer

**DECISION MADE PURSUANT TO RULES 34, 39 & 40 (3) OF THE
TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

1. The appellant appeals with permission against the decision of First-tier Tribunal Judge Bircher sent on 23 February 2021.
2. The respondent conceded in the rule 24 response that the decision of the First-tier Tribunal involved the making of an error of law.

3. In the appellant's bundle which was before the judge, the appellant provided evidence of the sponsor's employment in the UK. The judge found that the sponsor's bank statements were blurred and only identified payments from Ellucian Global Ltd. The judge found that the employer's letter from Ellucian was not genuine because it was rudimentary, and the letter head did not acknowledge that Ellucian is a limited company. The judge placed little weight on these documents as a result.
4. The respondent accepts that the letter provided from the employer refers to Ellucian as a limited company and that the bank statements are blurred because they have been redacted so that only salary payment appears. The respondent concedes in the rule 24 response that the judge's consideration of these documents is flawed. We are in agreement.
5. The respondent accepts that the appropriate way to dispose of this appeal would be to remit the appeal to the First-tier Tribunal to be heard de novo and for fresh findings of fact to be made. This is in our view appropriate because new factual findings are required.
6. At the hearing Mr Tufan for the Secretary of State provided the sponsor with the authority of Lim v ECO Manila [2015] EWCA Civ 1383. At the remitted hearing it will be for the appellant to establish not only that the sponsor is a qualified national, but that she is dependent on him in accordance with the relevant caselaw. If the appellant wants an oral hearing of her remitted appeal, she will need to indicate this to the First-tier Tribunal.
7. Rule 40 (1) of the Tribunal Procedure (Upper Tribunal) Rules 2008 provides that the Upper Tribunal may give a decision orally at a hearing which I did. Rule 40 (3) provides that the Upper Tribunal must provide written reasons for its decision with a decision notice unless the parties have consented to the Upper Tribunal not giving written reasons. I am satisfied that the parties have given such consent at the hearing.

Notice of Decision

8. The decision of the First-tier Tribunal involved the making of an error of law.
9. The decision of the First-tier Tribunal is set aside, and the findings of the First-tier Tribunal are set aside in their entirety.
10. The appeal is remitted to the First-tier Tribunal to be heard de novo by a judge other than First-tier Tribunal Judge Bircher.

Signed

Date: 13 January 2022

R J Owens
Upper Tribunal Judge Owens