



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2022-003562
First-tier Tribunal No:
EA/15191/2021

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 06 April 2023

Before

UPPER TRIBUNAL JUDGE PERKINS

Between

Secretary of State for the Home Department

Appellant

and

Chandana Sugath Dissanayake
(NO ANONYMITY ORDER MADE)

Respondent

Representation:

For the Appellant: Ms S Ahmed, Senior Home Office Presenting Officer
For the Respondent: Mr N Paramjorthy, Counsel instructed by York Solicitors

Heard at Field House on 11 November 2022

DECISION AND REASONS
(extempore)

1. This is an appeal by the Secretary of State against the decision of the First-tier Tribunal allowing the appeal of the respondent, hereinafter “the claimant” against the decision of the Secretary of State refusing him status as the family member of an EEA national.
2. The Secretary of State’s position is that the First-tier Tribunal has fundamentally misunderstood the law and has decided, impossibly, that the claimant succeeds because he is in a durable relationship. As the grounds made clear, a durable relationship certainly in a colloquial sense is of no relevance whatsoever. What is required is a prescribed document which the appellant simply does not have.
3. Since this decision has been made we have all had the benefit of the very considered decision of this Tribunal in **Celik (EU exit, marriage; human rights) [2022] UKUT 220 (IAC)**, which is a decision that, if not strictly binding on me, is one I have every intention of following and do.

4. Mr Paramjorthy has realistically recognised that it would be an uphill task to persuade me not to follow that decision and without in any way conceding that it was right, did not address me at length.
5. This is a case where I am satisfied that, given the present state of the law, the First-tier Tribunal clearly erred and I set aside its decision and substitute a decision dismissing the appeal against the Secretary of State's decision.

Jonathan Perkins

Judge of the Upper Tribunal
Immigration and Asylum Chamber

8 February 2023