



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM**  
**CHAMBER**

Case Nos: UI-2022-005888  
UI-2022-005889  
First-tier Tribunal Nos:  
HU/53842/2021; IA/09985/2021  
HU/53845/2021; IA/09987/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:  
On 24 April 2023**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE SAINI**

**Between**

**MARIAM ADEBISI OLANIYAN (FIRST APPELLANT)  
FOAO (SECOND APPELLANT, A CHILD)  
(NO ANONYMITY ORDER MADE)**

Appellants

**and**

**ENTRY CLEARANCE OFFICER**

Respondent

**Representation:**

For the Appellants: Mr M Adophy, Counsel, instructed by Atlantic Solicitors  
For the Respondent: Ms J Isherwood, Senior Presenting Officer

**Heard at Field House on 24 March 2023**

**DECISION AND REASONS**

1. The Appellants appeal against the decision of First-tier Tribunal Judge S Meah dismissing their appeals seeking entry clearance on the basis of the first Appellant joining her British citizen child as a parent and on the basis of the second Appellant applying for entry as the dependent child of the first Appellant. The decision was promulgated on 27<sup>th</sup> June 2022. The Appellants applied for permission to appeal against that decision which was granted by First-tier Tribunal Judge Chowdhury in the following terms:

“(1) The application is out of time. She has submitted a doctor’s letter from a clinic in Nigeria which states she was admitted in July 2022 and discharged after a week. In the circumstances I extend time.

- (2) The grounds argue that the Appellant was not seeking entry as a partner but to have access to her British child. It is argued that the applicable rules are E-ECPT 3.1. and 3.2. i.e. the applicant must provide evidence that they will be able to adequately maintain and accommodate themselves etc. The grounds submit those funds are provided by the father and argue the Judge only places weight on the Appellant's finances. However the Judge pointedly notes there is no evidence from the father on this issue (see paragraph 42). The grounds contend father's witness statement does state he would meet all the requirements. It is unclear where these documents are on the case management system. It may be arguable that the Judge overlooked this issue if it can be demonstrated it was in fact before him.
- (3) There is no merit in the second ground. The Judge undertook a reasoned and detailed analysis of the family life Article 8 rights of the child in the UK. This ground amounts to a mere disagreement with the findings of the Judge.
- (4) Permission is granted on Ground 1 only".

2. The Respondent provided the Appellant and the Upper Tribunal with a Rule 24 response which I have taken into account in reaching this decision.

### **Findings**

3. At the close of the hearing I reserved my decision which I shall now give. I do not find that the Grounds of Appeal demonstrate a material error of law for the following reasons.
4. There is only one ground upon which permission to appeal was granted, namely that the judge erred in his assessment of whether or not the Appellants were able to meet the financial requirements. In granting permission it appears that the Judge Chowdhury mistakenly believed that the grounds stated that the funds relied upon for the purposes of meeting the financial requirement were provided by the father of the sponsoring British child, however that is not what is stated on the face of the grounds. The Grounds of Appeal at paragraph 3(v) explicitly argue that the father's evidence was that he "would meet all maintenance and accommodation needs".
5. It is pertinent to consider what the witness statement of the father actually states at paragraph 11 (the statement can be found at pages 8 to 9 of the Appellants' Bundle before the First-tier Tribunal):

"11. I have fully given my consent to the mother, the Appellant coming to the UK to look after my daughter, and I will support her to the best of my ability until she is able to settle down".
6. As is clear from a plain reading of that sentence, the father's statement does not state that he "would meet all maintenance and accommodation needs" as the Grounds of Appeal contend at paragraph 3(v). To that extent Mr Adophy pragmatically accepted that there was some "confusion" in the drafting of the grounds and the understanding of them by the First-tier Tribunal in granting permission. To my mind the Grounds of Appeal for whatever reason do not

accurately reflect the statement by the Sponsor's father (which the First-tier Tribunal did not have before it when granting permission to appeal). In any event, my reading of the father's statement that he will 'support the first Appellant to the best of his ability until she is able to settle down' is obviously not sufficient to meet paragraph E-ECPT.3.1. which states that the applicant must provide evidence that they will be able to 'adequately maintain and accommodate themselves and any dependants in the UK without recourse to public funds'. Even so, even if one were to read more into it the text of the statement than a plain reading warrants as Mr Adophy urged me to do, the sentence on its own is insufficient to meet the rules. I asked Mr Adophy whether or not there was any evidence before the First-tier Tribunal as to the father's ability to support the Appellants and therefore assist them in meeting the relevant paragraph of the immigration rules. In reply, Mr Adophy accepted that there was no evidence whatsoever of the father's financial capability in the Appellants' or Respondent's bundles before the First-tier Tribunal. Therefore, I find that the grounds are not made out in demonstrating a material error of law in the judge's assessment of the financial requirements.

7. In any event, till date the Appellants have not sought to explain the discrepancies in the bank statements in any event to demonstrate that the sums referred to within the account are truly present and accounted for. To my mind, the figures on the bank statements require clarification as they are not in the normal course of what one would expect to see and literally do not add up, as alluded to in the Respondent's review before the First-tier Tribunal. Therefore, it is insufficient for the Appellants to submit that these are funds which are in the possession of the first Appellant as this argument not address the core issue, namely, the discrepancies between the figures and any reasons why those discrepancies are visible on the face of the bank statements.
8. As I have found that there is no material error of law in the First-tier Tribunal's decision, the appeal remains dismissed; however, my decision should not be taken as indicating in any way that the refusal of entry clearance cannot be reversed in a further application. It is possible for the Appellants to make a further application for entry clearance if they are able to resolve the discrepancies in the evidence in this appeal and if they are so advised. I note the tender ages of the children involved in this appeal, namely that the sponsoring British child was born on 14<sup>th</sup> September 2011 and that the second Appellant was born on 7<sup>th</sup> August 2014. Consequently, the first Appellant being the mother of both children and these children still very much being minors, it remains open to the Appellants to make a further application for entry clearance armed with appropriate evidence, if so advised.
9. In light of the above findings I find that the decision of the First-tier Tribunal does not contain any material error of law.

### **Notice of Decision**

10. The appeal to the Upper Tribunal is dismissed.
11. The decision of the First-tier Tribunal shall stand.

Deputy Upper Tribunal Judge Saini of the Upper Tribunal  
Immigration and Asylum Chamber

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