



IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case Nos: UI-2022-002069

UI-2022-002068

First-tier Tribunal Nos: EA/06486/2021

EA/06311/2021

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On 15 July 2023**

Before

UPPER TRIBUNAL JUDGE RIMINGTON

Between

**Elizabeth Konadu Danso (First Appellant)
Priscilla Achiaa Owusu (Second Appellant)
(NO ANONYMITY ORDER MADE)**

Appellants

and

Entry Clearance Officer - UKVS Sheffield

Respondent

Representation:

For the Appellant: Mr Avery, Adukus Solicitors

For the Respondent: Mr Karim, Home Office Presenting Officer

Heard at Field House on 15 June 2023

DECISION AND REASONS

1. The appellants appeal with permission against the decision of First-tier Tribunal N M Paul (the judge) promulgated on 6 January 2022 dismissing their appeals against the decisions of the Entry Clearance Officer. The appellants are the spouse, Mrs Danso and Ms Owusu, her daughter, the step-child of the EEA Belgium citizen Mr Francis Safo Danqua.
2. The Entry Clearance Officer refusals are dated 2 December 2020 and 18 March 2021 for both appellants under the EU Settlement Scheme. The applications were refused under the Appendix (EU Family Permit) Rules of the Immigration Rules on the basis that the appellants had not shown they were family members.

The refusal in relation to the said spouse asserted in the first refusal that the registration of the marriage did not take place at the time and in the second refusal that there were inconsistencies in the documentation provided. Neither appellant was accepted as a family member under the rules.

3. The two grounds of appeal to the Upper Tribunal cited are that first, there was arguable failure by the judge to consider the principles of **Tanveer Ahmed Documents unreliable and forged) Pakistan** * [\[2002\] UKIAT 00439](#) in dismissing the evidence in the appellants' appeal and secondly, an arguable failure by the judge to give adequate reasons in respect of his findings concerning the documentary evidence.
4. The judge misdirected himself in law with regard to **Tanveer Ahmed** by stating that the appellants needed to produce "direct and compelling evidence". Paragraph 38 of **Tanveer Ahmed** makes clear that the evidence is to be looked at "in the round". The judge at [15] appeared to place little or no weight on the documentary evidence submitted in the appeal due to it being of "standard form" and not "substantiated by direct and compelling evidence".
5. The judge failed to examine all of the documentary evidence, which was critical to the appeal, in his reasoning at [12] to [17].
6. The decision under the appeal could be summarised as:
 - (1) the marriage was not registered at the time it took place and although confirmation had been provided the letter was not dated until 29 December 2020 (a matter of days before the decision of 2 December 2020); and
 - (2) in the box for "Signature or Thumb-print for Husband" was a signature of the spouse although he did not attend the ceremony and the signature of the wife did not match the signature on her passport. There was no evidence from the competent authorities that had been provided to state this part of the marriage was disregarded.
7. These were the only matters relied on by the Entry Clearance Officer.
8. The issues taken were related to the validity of bona fides of the documentary evidence. It was not alleged that the appellant and sponsor were not married nor that the marriage did not happen. In those circumstances it was incumbent upon the judge to examine the documents provided to support the appeal with anxious scrutiny and he did not.
9. The documents were critical because they demonstrated:
 - (1) the marriage was conducted in accordance with the law of Ghana as per the letter of the High Commissioner dated 23 October 2020;
 - (2) the marriage was validly registered per the registration certificate for the marriage, (page 71 of the appellants' bundle);
 - (3) the letter of the marriage registrar (Bortei) on 29 September 2020 confirmed the marriage took place on 15 August in Accra and was duly registered;

- (4) the letter from the High Commissioner dated 23 October, confirmed the signatures of certifications dated 17 and 19 February 2020 as Samuel Boakye-Yiadom (deputy judicial secretary) and Albert Kan-Dapaah Jnr. (assistant director) respectively but authenticated as well as the form of Register of Customary Marriage dated 17 February 2020.
10. None of that evidence was looked at by the judge with care and no reasons were given for its rejection.
 11. The documentary evidence was overwhelming and demonstrated the marriage was validly conducted and the documents were genuine. That was the only issue in the appeal.
 12. The appellant made detailed submissions as to the issue of the brother signing for the sponsor and the alleged divergence of the appellant's signature in her passport as against the registration certificate and these submissions were not considered at all in the judge's reasoning.
 13. The judge had erroneously used issues in oral evidence to reject the documentary evidence.
 14. At ground 2 the judge's decision was not in accordance with **MK (duty to give reasons) Pakistan** [2013] UKUT 641 (IAC), and if a Tribunal found oral evidence to be implausible, incredible or unreliable or a document to be worth no weight whatsoever, it is necessary to say so in the determination. A bare statement or witness was not believed or the document was afforded no weight is unlikely to satisfy the requirement given to give reasons.
 15. At [15] the judge rejected the documentary evidence on the basis that it was in a standard form and not substantiated by direct and compelling evidence. This was a bare statement and the judge had failed to give adequate reasons for rejecting the evidence.
 16. The documentary evidence in the form of a letter from the high commissioner dated 23 October 2020 attesting for the registration form of marriage of 17 February 2020 and both certificates of the Deputy Judicial Secretary of the Judicial Service for Ghana dated 17 February 2020 and the Ministry of Foreign Affairs and Regional Integration dated 19 February 2020 and the letter from the registrar dated 29 September 2020 and former registration of marriage dated 17 February 2020 , were arguably more than sufficient to demonstrate the validity of the marriage but the judge gave no adequate reasoning for rejecting that documentary evidence.
 17. At the hearing Mr Karim submitted that the marriage had already taken place and there were numerous documents to substantiate the fact that it was a genuine marriage. There were documents from three separate sources from the High Commission, from the registrar of the Ayawaso East Municipal Assembly marriage district and from the Minister of Foreign Affairs. The judge was required to consider the documents in the round although the judge merely dismissed them stating they were in a standard form and not compelling. There was documentation which attested to the genuineness of the customary marriage. In addition this was not a case to be considered in a vacuum; there were photographs to show that this was not a sham marriage. Further there was the oral evidence of the sponsor. What was clear from the determination was a lack of findings on the evidence on the ceremony and the money being sent to the

appellant by the sponsor and a lack of reference to the officials in Ghana attesting to the genuineness of the marriage.

18. Further, with reference to **MK (duty to give reasons) Pakistan** the judge did not engage with the evidence of the sponsor.
19. Mr Avery submitted that the problems in fact were those set out by the Entry Clearance Officer and arose from the difficulties from the signatures on the certificate and the wife's own signature. Those were the core issues and the problem was that the evidence did not address them. The evidence was acceptable as far as it went but it did not engage with the problems identified with the Entry Clearance Officer at all.
20. One of the key questions was the signature of the wife and there was no evidence that that was the wife's signature. The documentary evidence, which was relied upon, emanated from officials who were not there and there was no reference to the question of what the effect was if it was not the wife's signature. The genuineness of the relationship did not affect the validity of the marriage and that is what the judge said and he was not satisfied that the burden was discharged. Was the judge able to conclude the couple were not legally married and it appears from the documentation that he was open to him to make that conclusion? None of the documents address the issue that the signature is not the signature of the sponsor.
21. Mr Karim responded that the oral evidence of the sponsor was not considered and there was evidence that the brother was asked to write the appellants' sponsor's name on the marriage certificate and that is just what had been done. I questioned whether the documentation confirmed that that procedure was acceptable under Ghanaian Law and whether there was any indication on the documents that it had been recognised that this was a proxy marriage, to which Mr Karim referred me to the marriage certificate.

Conclusions

22. The one issue in this appeal, as confirmed to me, was whether this marriage had complied with the requirements of Ghanaian Law. As the judge stated at [16], he was not finding that this was a sham marriage but he concluded that the "evidence in its current form simply does not establish that it was a customary marriage that met the requirements".
23. The judge recorded at [3] the respondent's objections to the application such that there were a number of inconsistencies with the evidence and the documentation. In the box for "Signature or Thumb-print for Husband" is a signature for the sponsor although he did not attend the ceremony. In the box for "Signature or Thumbprint of Wife" is a signature which did not match the signature on the wife's passport. As the judge recorded from the decision letter "There was no evidence from the competent authorities provided to state that this part of the Marriage Act had been disregarded, and therefore that cast doubt on the legitimacy of the document". On that basis it was that the respondents were not satisfied that the appellants were family members of the relevant EEA citizen. That was key to the consideration in this matter.
24. I do not accept that the judge failed to approach the evidence as a whole and although his reference to "direct and compelling evidence" was inelegantly phrased, that does not indicate that the judge failed to take into account the

evidence in the round. I note from [10] of the decision that the judge specifically referred to and considered Mr West's, the appellants' advocate in the First-tier Tribunal, written and oral submissions and was clearly aware of the representations that the documents, taken as a whole, purported to confirm the marriage, had been properly registered and confirmed the authenticity of the marriage, and were all powerful evidence that a customary marriage had taken place and the marriage was in accordance with Ghanaian customary marriage and divorce registration law 1991. Mr West submitted that "there was no requirement under Ghanaian Law that the respondent has been able to identify which stipulated that the spouse cannot sign the form after the date of marriage".

25. The judge at [13] referred to the sponsor's evidence that he told his brother to sign for him, and was clearly aware of the key arguments raised. As the judge identified at [13] the evidence fell into two categories, those given by the sponsor, whose evidence the judge clearly took into account, and those of the papers before him. As the judge identified, there was no witness statement from the appellant's brother confirming that he had the authority to sign on his brother's behalf and further there was no evidence from the person in the photographs who appeared to be officiating at the wedding to confirm the manner in which it occurred. The judge specifically stated at [15] that he took into account Mr West's detailed legal submissions and the documents that had been submitted were 'examined with care'. The judge clearly found the documentation inadequate and in particular he remained "not satisfied by the explanation as to what was a false signature on the certificate or the so called mistake by his wife".
26. Mr Avery was correct when stating that the key points in the decision letter had not been addressed. The letter on behalf of the High Commissioner dated 23 October 2020 merely confirmed the authenticity of the *signatures* appended on the documents from Samuel Boakye-Yiadom in his letter of 17 February 2020, Albert Kan-Dapaah of 19 February 2020, Minister for Foreign Affairs and from the registrar of Ayawaso East Municipal Assembly dated 17 February 2020. The letter from the High Commissioner does not confirm the contents. The High Commissioner letter also states that the letter from the Ayawaso East Municipal Assembly dated 29 September 2020 attested that the marriage was contracted in accordance with a customary marriage and divorce, registration law 1985.
27. That letter from Mr Bortei of the Ayawaso Assembly, however, does not attest that the marriage was indeed conducted in accordance with Ghanaian Law but that the certificate was authentic. He did not address directly the issue as to the signature being that of the brother and not the groom himself. It has not been doubted that the certificate is authentic. The question and issue is whether the signature of the sponsor given by the sponsor's brother was sufficient to satisfy Ghanaian Law. It was the responsibility of the appellant to show that it was compliant with Ghanaian law. There is no direct evidence on this point nor included the documentation which the judge is supposed to have omitted to consider. It does not appear that the authors of the various letters realised this was a proxy marriage, rather than merely a customary marriage.
28. As the judge stated at [14]

'Notwithstanding the refusal notice by the respondent, the appellant's witness statement was short in the extreme and did not make any reference to any of the particular points that had been raised by the respondent. ...First of all, there was no witness statement from the appellant's brother confirming that he had the

authority to sign on his brother's behalf, and furthermore there was no evidence from the person in the photographs who appears to be officiating at the wedding to confirm the manner in which it occurred.'

And at [16]

'I am not ruling that this is a sham marriage and/or a marriage of convenience, but I have concluded that the evidence in its current form simply does not establish that it was a customary marriage that met the requirements'.

29. In the light of the above, I am not persuaded that the judge failed to give proper reasons in accordance with **MK** and in relation to the second ground of challenge. The judge did assess the documentation but notwithstanding there can be no material error because the documentation does not address the questions raised in the refusal letter nor confirm what they are said to confirm. The difficulty with the evidence both oral and written was that it did not address, as the judge effectively found, the relevant points. It is quite clear that on a careful reading of the FtT decision the judge considered matters in the round and gave adequate reasoning for dismissing the appeal.
30. I therefore find there is no material error of law and the FtT decision will stand. The appellants' appeals remain dismissed.

Helen Rimington

Judge of the Upper Tribunal
Immigration and Asylum Chamber

3rd July 2023