IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI-2023-004794

First-tier Tribunal No: HU/54223/2023

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On 16th of January 2024

Before

UPPER TRIBUNAL JUDGE HANSON

Between

SYED ABID AHMED SHIPON
(NO ANONYMITY ORDER MADE)

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr Collins, instructed by Highland Solicitors.
For the Respondent: Mr Diwnycz, a Senior Home Office Presenting Officer.

Heard at Phoenix House (Bradford) on 8 January 2024

DECISION AND REASONS

1. The appellant appeals with permission a decision of First-tier Tribunal Judge McCall ('the Judge'), promulgated following a hearing at Manchester on 27 September 2023, in which the Judge dismissed the appellant's appeal against the Secretary of State's decision dated 22 March 2023 which refused his application for leave to remain in the United Kingdom based upon a relationship with Mrs Jahan ('the Sponsor'), who herself is a citizen of Bangladesh who was granted leave to remain in the United Kingdom on 4 November 2022.
2. The appellant is a citizen of Bangladesh born on 5 May 1989.
3. Following consideration of the documentary and oral evidence the Judge sets out the findings of fact from [23] of the decision under challenge.
4. At [24] the Judge finds, for the reasons stated in that paragraph, that the sponsor's evidence in relation to when she and the appellant met is inconsistent which seriously damages her credibility. The Judge actually finds at [25] that they met on 26 September 2022, the date they both confirmed at the hearing, and entered into an Islamic marriage on 27 October 2022, approximately four weeks after they had first met.
5. The Judge considered the evidence in relation to accommodation, finding the history relating to the appellant's accommodation relevant. The Judge was

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unable to place weight upon this but did find that photographs provided were genuine and gave some weight to them [30].

6. The Judge finds there was no evidence to confirm the claimed living arrangements since October 2022 and no documentary evidence to support his claim the appellant actually lives at the Gray Road address occupied by the Sponsor, other than a letter from the occupier of that property. The Judge did not find the appellant and sponsor credible witnesses and did not accept the appellant's claim that he is in a genuine and subsisting marriage with the Sponsor [31].
7. The Judge accepted that the appellant and Sponsor had arranged to lawfully marry in the UK but did not consider that altered the finding that this is not a genuine and subsisting relationship [32].
8. At [43] the Judge finds that the obstacles faced by the appellant upon return to Bangladesh, either alone or with the Sponsor and her daughter, are not insurmountable. The Judge finds the appellant will have family support on return to Bangladesh from his and his sponsor's family, that there was nothing to prevent him from finding employment, or the Sponsor should she decide to return with him, as she lived in Bangladesh until 2015 and has strong family, social and cultural ties there.
9. When assessing the proportionality of the decision from [45] the Judge writes:

> 45. In regard to the Appellant, I am satisfied that he faces no insurmountable obstacles to integrating back into the community in Bangladesh. He has a poor immigration history, firstly overstaying and then submitting a false asylum claim. I have added little weight to the private and family life he may have established in the UK whilst his immigration status was precarious which it has been since he stopped his studies and did not seek to immediately regularise his stay. He has letters of support from friends and a local councillor which date back to 2021. Some of the letters say he has been known as a member of the community (in Newcastle) since 2009 or "over a decade". The Appellant's own evidence is he did not move to Newcastle until 2012. There are no witness statements from the authors of the letters and they did not attend the hearing to give evidence and have that evidence tested as to exactly how well they know the Appellant. On the evidence before me I find that it is not clear exactly how well he is known to them, for example, if they knew or know of his conduct in the past in terms of his immigration status and his fraudulent asylum claim. The Appellant's local Councillor speaks highly of him, he refers to the Appellant being very active politically, that he has met him at many ward events and he is "aware of Syed's application for asylum", that letter is dated 27th January 2021. The fraudulent asylum claim was made in 2015 so it is unclear which application the councillor is referring to; it is also noted that the Appellant has produced evidence that he is on the electoral register and has been for a number of years despite the fact he has no right to be in the UK. I am not satisfied that the persons writing letters of support actually know this Appellant as well as they claim to know him. The Appellant says that he has not worked since entering the UK and he has presented no evidence of any skills that would assist him in the job market. I am satisfied that if the Appellant remained in the UK he would present as a financial burden on the state. I find that his removal would not lead to unjustifiably harsh consequences for him.
> 46. The Appellant's sponsor has been in the UK since May 2015. I have found that she still has strong family, social and cultural ties to Bangladesh. At the date of the application on 12th January 2023 she had known the Appellant four months. She states she knew his immigration status and therefore knew his stay here was precarious. I have not found the marriage to be genuine and subsisting, however, even if it is I am satisfied the sponsor can return with the Appellant to live in Bangladesh. I have found there would be no insurmountable obstacles to them doing so and I am satisfied the Respondent's decision would not lead to unjustifiably harsh consequences for the sponsor.

47. I have taken into account the best interests of the child and I accept that she had been in the UK for over seven years at the date of the application; she had known the Appellant for just four months at the date of application. The Appellant's poor immigration history has had no bearing on my assessment of the best interests of the child. It has not been established on the evidence that she is a British citizen as claimed in the ASA, however she may meet the criteria as a qualifying child under the Rules and I have added great weight to that. That in itself however, or even British citizenship, is not a "trump card" that the Appellant can rely on as it needs to considered along with other matters including the public interest test of maintaining effective immigration controls. I add weight to the fact that the Appellant was in the UK in breach of Immigration laws when the application was made. I also accept that it is almost always in the best interest of a child to remain with their parents. The child's biological father is absent and plays no part in her life. I am satisfied that if the sponsor chooses to return to Bangladesh with the Appellant, there is nothing to prevent the child returning with her mother where they can live as one family unit. The child came to the UK aged 4 years old, she has family in Bangladesh and I am satisfied she will understand the language and culture of her country of birth. I am satisfied therefore that the Respondent's decision would not lead to unjustifiably harsh consequences for the child. I am also satisfied that in the circumstances it would be reasonable to expect the child to return to Bangladesh.
48. I have found that the Appellant does not meet the requirements of the Immigration Rules. I am satisfied the decision of the Respondent is in accordance with section 55 BCIA 2009 and section 117B of the NIAA 2002.
49. In considering the arguments on behalf of the Appellant in regard to Article 8, I have adopted the five-stage test referred to by Lord Bingham in the case of Razgar. Given the time the Appellant has been in the UK I do accept he has established a private life in the UK. I also accept he has a family life with his cousins and aunt present in the UK and whilst I have not accepted the genuineness of the marriage for the purpose of his Article 8 submissions, I will take it into account.
50. I find the Respondent's decision would interfere with the Appellant's private and family life. I am satisfied the decision will have consequences of such gravity as to potentially engage the operation of Article 8. I am satisfied that interference is in accordance with the law as the Appellant has failed to meet the requirements of the Rules. I find that the decision pursues the legitimate aim of maintaining effective immigration controls thereby protecting the economic wellbeing of the UK. The remaining question therefore is whether the decision is proportionate.
51. For the reasons I have set out I am satisfied the Appellant can return to Bangladesh and integrate back into the community there. He will be able to settle and support himself and he has the additional support of family and friends there and in the UK. The Appellant does not meet the requirements of the Immigration Rules and he has a poor immigration history. The sponsor and her daughter can return back to Bangladesh with the Appellant if they wish or they can remain in the UK. There is nothing preventing them from enjoying family life with the Appellant in Bangladesh should they so wish. I find the public interest in maintaining effective immigration controls outweighs any wish they may or may not have to live with the Appellant in the UK.
52. In the light of the above conclusions, I find that the Respondent's decision would not cause the United Kingdom to be in breach of the law or its obligations under the ECHR.

10. The appellant relied on two grounds when seeking permission to appeal. Ground 1 asserting the Judge erred at [31] and [33] as in the case where there is a sham marriage/relationship being asserted it was for the Secretary of State to bear the burden of proving this fact and not the appellant. The ground argues that the Judge's conclusion in relation to this issue is unsustainable as the Judge accepted the appellant and Sponsor met on 26 September 2022 and that they entered an Islamic marriage on 27 October 2022 and lived at the Gray Road address prior to the Islamic marriage ceremony and made arrangements to marry in a civil ceremony which they undertook on 4 October 2023. The Ground

asserts the evidence supported the relationship being genuine and not staged and the existence of a genuine and subsisting family unit.

11. Ground 2 asserts the Judge erred when claiming there was no evidence the Sponsor's daughter was a British citizen, as a copy of the daughter's British passport was provided in the appellant's bundle. The Judge's assessment of whether the child was a qualifying child and whether it will be unduly harsh for the child to leave the UK is said to be flawed as it is inadequately reasoned and based on speculation and conjecture.
12. Permission to appeal was granted, in part, by another judge of the First-tier Tribunal on 31 October 2023, the operative part of the grant being in the following terms:

    1. The Applicant seeks permission to appeal in time against the decision of the First-tier Tribunal (Judge McAll) who in a decision promulgated on 6th October 2023 dismissed the Applicant's appeal on human rights grounds. The grounds in the application for permission to appeal argue that there are a series of material errors within the determination on the basis of which, individually and collectively, the judge's decision is unsustainable. It is argued that the judge's findings and conclusion on the Applicant's relationship with his partner and stepchild are challenged as irrational and contrary to the law and the evidence which was before the Tribunal. It is argued that the judge failed to consider the evidence properly or adequately before him.
    2. Ground 1 refers to the wrong legal burden as this was not an appeal where the Respondent had alleged a sham marriage. Nevertheless, it is arguable that the judge made mixed findings of credibility concerning the relationship of the Applicant and Sponsor. In some instances the judge found that the Applicant and Sponsor had not shown that they are in a genuine and subsisting relationship. The judge accepted they entered an Islamic marriage, made arrangement for a civil ceremony, and that they had provided photographs at various events including their marriage and show other persons (adults and children) present in what appears to be family gatherings and days out. The judge accepted these photographs as genuine and added weight to them. This amounts to a contradiction to the judge's earlier finding that the Applicants are not in a genuine and subsisting marriage. With regards to Ground 2 the judge erred in finding that the Sponsor's daughter is not a British citizen. There is clear evidence of the copy of her passport. There is also a letter from the daughter's school addressed to the Applicant and the Sponsor.
    3. It is arguable that the judge has made contradictory findings leaving an objective reader unclear about the nature of the Appellant's relationship with his partner. Furthermore, it is quite clear that there is a mistake of fact amounting to an error of law with regards to the Sponsor's daughter's nationality and that would have had an effect in making a proportionality assessment. Due to the inconsistency in the findings of the judge, the error concerning the Sponsor's daughter and other evidence which the judge did not engage with, permission to appeal is granted.

13. The appeal is opposed by the Secretary of State in a Rule 24 response dated 17 November 2023, the operative part of which is in the following terms:

    1. The respondent opposes the appellant's appeal. In summary, the respondent will submit *inter alia* that the judge of the First-tier Tribunal directed himself appropriately.

    2. The FTTJ outlines clear reasons at [24-25] as to why the evidence was contradictory as to when the appellant met the sponsor. The declarations of having met in their statements was wholly inconsistent to the evidence given at the hearing which established that they had met only weeks before the Islamic marriage in October 2022. The FTTJ goes on to make findings on the unconvincing evidence in relation to the dowry paid as part of the Islamic marriage [26]. At [27-30] the FTTJ outlines the

inconsistent evidence to the claim by the A that he moved into the address with his partner at Gray Road in October 2022, having found that he had in fact been residing there for a lengthy period beforehand. None of these findings are specifically challenged. Clear reasons are provided by the FTTJ that are not contradictory to the finding at [33]. Whilst the FTTJ acknowledged the presence of the A and his partner at an Islamic ceremony, the FTTJ clearly did not accept that this was a genuine and subsisting relationship and certainly not one that satisfied the definition of partner under the rules.

3. At [35] the FTTJ finds that the A has no form of parental responsibility for the child – this is not challenged. There is no challenge to the findings made under EX.1 either. At [47] the FTTJ adds 'great weight' to the fact that in the scenario the child is a qualifying child and refers to British citizenship not being a trump card. It is submitted that in the consideration of 'reasonableness' for the child to leave, that would only apply in instances where the child is considered to be a qualifying child- i.e. either British or having lived in the UK for 7 years.

4. The FTTJ provides a number of reasons as to why it would be reasonable for the child to leave amongst the other relevant findings in a proportionality assessment. Whilst it may not have been the view of every other FTTJ, it was far from irrational especially given the concerns highlighted as to the claimed domestic set up.

Discussion and analysis

14. I accept the Judge made an error of fact in claiming there was no evidence the child concerned is a British citizen when a copy of the child's passport is in the appellant's bundle. I do not accept, however, having reviewed the matter in detail following the hearing, that this is indicative of failure of the Judge to consider the other evidence with the required degree of anxious scrutiny.
15. Whether that error is material is the issue. Section 11B(6) of the Nationality, Immigration and Asylum Act 2002 states that in the case of a person who is not liable to deportation the public interest does not require the persons removal where (a) the person has a genuine and subsisting relationship with a qualifying child, and (b) it would not be reasonable to expect the child to leave the United Kingdom.
16. The definition of a "qualifying child" is to be found in section 117D(1) which means a person who is under the age of 18 and who (a) is a British citizen, or (b) has lived in the United Kingdom for a continuous period of seven years or more.
17. The child concerned clearly satisfies the definition of a "qualifying child" on the basis of nationality and period of residence.
18. I do not find it made out, however, that the Judge's error in relation to the child is material. The Judge in fact accepts the child is a "qualifying child" at [47] albeit by reference that the child being in the UK for over seven years. In that same paragraph the Judge concludes that it will be reasonable to expect the child to return to Bangladesh if her mother chooses to return with the appellant.
19. It is also important to note the Judge's unchallenged finding at [35] that there was little or no evidence of the appellant exercising any form of parental responsibility for the child. This casts doubt on whether there is a genuine and subsisting relationship between them.
20. It has not made out the Judge's conclusions in relation to the child are outside the range of those reasonably open to the Judge on the evidence.

21. In relation to the claim the Judge made contradictory findings and that the Judge's conclusions concerning the relationships are irrational and contrary to the evidence and the law; I find no merit in the assertion the Judge failed to apply the correct burden and standard of proof.
22. This is not a sham marriage case or one relating to the application of EU law, the context in which the decision in Sadovska, relied upon at [5] of the grounds seeking permission to appeal, was considered by the Supreme Court. The burden of proving what he was alleging, namely that he is in a genuine subsisting relationship with the Sponsor lay upon the appellant. That is the approach adopted by the Judge.
23. The relevant paragraphs of the determination are [24 – 35] in which the Judge writes:

> 24. In the application form the Appellant claims he met the sponsor in April 2022 and they married in October 2022 and an Islamic marriage certificate has been produced to confirm the date of that ceremony. The questions posed in the application form submitted by the Appellant are straight forward, when did you meet? When did you marry? At the hearing, Miss Tariq asked the Appellant when did he meet the sponsor he replied "26th September 2022". He was asked where that meeting took place and who was present and he stated it was at the sponsor's aunt's address and the meeting had been arranged by the Appellant's aunt. He also confirmed that his immigration status was explained to everyone present and they were aware of it, which means they knew he had overstayed and that he had no right to be in the UK. When Miss Tariq asked the sponsor when did she met the Appellant, she replied, "26th September 2022". Their oral evidence is therefore consistent on the date they met, however it is inconsistent with the claim in the application from that they had met five months earlier in April 2022. In the sponsor's statement dated 5th June 2023, that she adopted as her evidence in chief she states, "my relation started with Mr Shipon more or less about 2 years ago, I could not give exact date as I cannot remember" she goes on to add "… our relationship started well before our Islamic marriage took place". Therefore, in that statement the sponsor is claiming to have met the Appellant sometime two years earlier in 2021 and not four weeks prior to marrying him which is her oral evidence. I find the sponsor's evidence is inconsistent and the inconsistency seriously damages her credibility.
> 25. Highland Solicitors wrote to the Respondent on the 12th January 2023 [page 250] informing her that the Appellant and sponsor had married on 27th October 2022 and they go on to add, "… however their relationship started for more or less 1 year now". That would place their relationship starting in the January of 2022, which is again far earlier than the September 2022 which they both stated in their oral evidence. I find the evidence before the Respondent, and now submitted in evidence before the Tribunal, is far from clear on what should be a relatively simple point as to when the Appellant and sponsor first met. For the sake of clarity, I find they met on 26th September 2022, the date they both confirmed at the hearing. I find they entered into an Islamic marriage, as evidenced by the certificate, on the 27th October 2022 which was approximately four weeks after they had first met.
> 26. The Appellant and sponsor explained that their marriage was arranged by their aunts. Their evidence is that a £5,000 dowry was paid by relatives of the Appellant to the sponsor's aunt for the benefit of the sponsor. The relevance of this being that the Islamic marriage and the relationship is genuine. The Respondent argues there is a discrepancy in the evidence as to who provided the dowry on behalf of the Appellant and she also questions why they would provide such a large sum of money. The Appellant explained it is a perfectly acceptable transaction and permitted in his culture and it was more than one relative that contributed. I have considered the evidence and submissions on this issue. At page 80 is a letter from Imrom Alom, a cousin of the Appellant who says he paid the dowry from his savings to the bride under Islamic law. There is no evidence showing the transaction of the payment from him to the bride. He has not provided a statement and he did not

attend the hearing despite the fact the Respondent disputes this matter. At page 82 is a letter from Misha Begum the Appellant's aunt, she says the dowry "was paid by me in cash as a gift entirely from my own savings" to the bride. Again, there is no evidence of the transaction, no statement and the aunt was not called. At page 101 is a letter from another cousin of the Appellant, Mr Syeda Nafisah, who also claims to have "gifted Mr Shipon cash as a dowry for his bride". There is no supporting evidence, no statement and he did not attend the hearing. I do accept the submission by Miss Tariq that it is not clear if a dowry was actually paid, who paid the dowry and where that money ended up. I find the Appellant's failure to satisfactorily address what evidentially should be a straightforward issue undermines his credibility and his claim the marriage is genuine.

27. It is argued on behalf of the Respondent that the Appellant's and sponsor's living arrangements are unclear and not supported by satisfactory documentary evidence. Mr Mukulu submits I have the statements from the Appellant and sponsor along with that of relatives confirming they are supporting the couple and allowing them to live rent free at the Gray Road address. Mr Akter has sent in a letter confirming he owns the property and that he is providing support and that they," are residing with me at my above mentioned address, since October 2022 as they are my close relatives …" [page 268]. Mr Akter has not provided a statement and was not called as a witness.
28. The evidence suggests that the sponsor was living at that address long before October 2022. At page 285 is a bank statement for the sponsor dated 1st July 2022, predating their Islamic marriage and addressed to the Gray Road address where they claim they are currently living together. The marriage certificate [page 342] also shows the sponsor living at the Gray Road address. I am satisfied that the sponsor was living at the Gray Rd address prior to her Islamic marriage ceremony.
29. I have carefully considered the evidence before me and find the Appellant arrived in the UK in 2010 and immediately began to live in London. The Appellant lived at at least two different addresses in London and at some point lived with his cousin Mr Syed Amir Hamsa. He did not complete his studies and he did not apply at that time for leave to remain on any other basis; he chose instead to remain as an overstayer after his leave expired on 30th October 2012. The Appellant claims that he moved to Newcastle at the end of 2012 and stayed with his cousin at 127 Hampstead Rd until approximately 2015 and then he moved in with his aunt at 92 Normount Road where he lived until October 2022 when he moved into the Gray Road address with the sponsor.
30. I find the history relating to the Appellant's accommodation relevant as he has submitted many letters of support from members of the Bangladeshi community in addition to his and his and the sponsor's family members. Many of those letters (not appeal statements) are dated 2021 and predate the Islamic marriage and were not intended, when written, to be submitted in support of this appeal and were clearly intended as letters of support in 2021. The Appellant has also provided screenshots of text messages that he says support his relationship claims with the sponsor [page 178 onwards]. The messages are not in English and have not been translated therefore I am unable to add any weight to them. The Appellant has also provided photographs of himself and the sponsor at various events including their marriage and they also show other persons (adults and children) present in what appear to be family gatherings and days out. I find those photographs are genuine and I add weight to them.
31. The Appellant is aware that the Respondent does not accept his claimed relationship. The Appellant could have called witnesses to give evidence as to his living arrangements since October 2022 and he has chosen not to do that. There is no documentary evidence to support the claim that the Appellant actually lives at the Gray Road address other than a letter from the occupier of that property. I have not found the Appellant and sponsor credible witnesses. I do not accept the Appellant's claim that he is in a genuine and subsisting marriage.
32. The Appellant and sponsor both gave evidence that now that the Respondent has given permission for them to undertake a civil marriage, they have arranged for that to take place in Sunderland on 4th October 2023. Miss Tariq asked whether the Appellant and sponsor had any documentary evidence to support that claim and they stated they did not. The Appellant has produced a letter dated 11th September

2023 from the Home Office confirming their proposed marriage has been investigated under section 50 of the Immigration Act 2014 and the Respondent “has decided that [the Appellant and sponsor] has complied with the investigation”. The letter goes on to state that subject to the Registrar being satisfied it is appropriate then they can enter into a marriage or civil partnership. The letter makes clear that it relates to the parties’ compliance with the investigation and, “it does not constitute a determination as to the genuineness of your relationship”. It also makes clear that any application made by the parties that relates to the marriage, “… will still involve an assessment of the genuineness of that relationship by the Home Office”. I find the letter relied on by the Appellant does not take his claim to have a genuine and subsisting marriage any further, as that aspect of his claim has not been accepted. I do accept that the Appellant and sponsor have made arrangements, following receipt of the letter, to marry in a civil service on the 4 th October 2022, however that does not alter my finding that this is not a genuine and subsisting relationship.

33. Taking all of the evidence in the round I find the evidence provided by the Appellant to establish his claim that his marriage and his relationship with the sponsor is genuine and subsisting is less than transparent. I accept that they did enter into a marriage ceremony and there is evidence of them sharing family events and days out after that service, however the evidence is extremely weak and limited and I do not accept they have been in a genuine marriage and relationship since 27th October 2022. I also find, even on the Appellant’s own account, the Appellant cannot meet the definition of partner as set out in the RfRl and the Rules, due to the duration of his claimed relationship with his sponsor.
34. The sponsor has been married previously and divorced her former husband on 26th July 2022. She married on 13th November 2010 in Bangladesh. The sponsor and her daughter came to the UK on 18th May 2015. I accept the claim that the sponsor and her daughter have leave to remain in the UK since November 2022, however I have not been directed to any evidence to support the Appellant’s representative’s claims in the ASA that the sponsor’s daughter is a British citizen.
35. The Appellant claims that he has taken on the role of the father of the sponsor’s daughter. When asked what that role entails, he stated he will sometimes take the child to school and collect her if the sponsor is not available. The sponsor gave the same response when she was asked the same question. The sponsor does not work and the child is 12 years old. The sponsor did not elaborate in her evidence as to how frequently she would be unavailable to collect her daughter from school. There were no claims made that the Appellant attends the child’s school parent evenings or any other events relating to the child. It is a matter for the Appellant to establish his claim and on the evidence before me I find little to no evidence of the Appellant exercising any form of parental responsibility for the child.

24. I remind myself of the recent judgement of the Court of Appeal in Volpi v Volpi [2022] EWCA Civ 464 at [2] in which Lord Justice Lewison, when delivering the lead judgment with which the other members of the Court agreed, wrote:

2. The appeal is therefore an appeal on a pure question of fact. The approach of an appeal court to that kind of appeal is a well-trodden path. It is unnecessary to refer in detail to the many cases that have discussed it; but the following principles are well-settled:

i) An appeal court should not interfere with the trial judge's conclusions on primary facts unless it is satisfied that he was plainly wrong.

ii) The adverb "plainly" does not refer to the degree of confidence felt by the appeal court that it would not have reached the same conclusion as the trial judge. It does not matter, with whatever degree of certainty, that the appeal court considers that it would have reached a different conclusion.

What matters is whether the decision under appeal is one that no reasonable judge could have reached.

iii) An appeal court is bound, unless there is compelling reason to the contrary, to assume that the trial judge has taken the whole of the evidence into his consideration. The mere fact that a judge does not mention a specific piece of evidence does not mean that he overlooked it.

iv) The validity of the findings of fact made by a trial judge is not aptly tested by considering whether the judgment presents a balanced account of the evidence. The trial judge must of course consider all the material evidence (although it need not all be discussed in his judgment). The weight which he gives to it is however pre-eminently a matter for him.

v) An appeal court can therefore set aside a judgment on the basis that the judge failed to give the evidence a balanced consideration only if the judge's conclusion was rationally insupportable.

vi) Reasons for judgment will always be capable of having been better expressed. An appeal court should not subject a judgment to narrow textual analysis. Nor should it be picked over or construed as though it was a piece of legislation or a contract.

25. The Judge clearly took the photographs into account together with all the other evidence relied upon by the appellant. The Judge attached the weight to that evidence that was thought appropriate, having considered the evidence as a whole. So far as the appellant seeks to challenge the weight given that was a matter for the Judge which has not been shown to be either perverse, irrational, or outside the range of findings reasonably open to the Judge.
26. I do not find it made out the Judge did not properly assess the evidence. I do not find it made out that the Judge’s findings are rationally unsupportable when the evidence is considered as a whole.
27. It dies not matter whether another judge may or may not have made this decision. The difficulty for the appellant is that whilst he objects to the Judge’s findings and suggests more favourable findings that he would have preferred the Judge to have made, he has not established the findings actually made are outside the range of those reasonably open to the Judge on the evidence.
28. A careful reading of the determination does not establish contradiction or lack of adequate reasoning which prevents an informed reader understanding what the Judge’s findings are and the reasons for the same. As recognised by the Court of Appeal, it may be that a decision could have been written with greater clarity but that does not amount to legal error per se.
29. I find the appellant has failed to establish the Judge has erred in law in a manner material to the decision to dismiss the appeal.

Notice of Decision

30. The First-tier Tribunal has not been shown to have materially erred in law. The determination shall stand.

C J Hanson

Judge of the Upper Tribunal
Immigration and Asylum Chamber

10 January 2024