



**Upper Tribunal
(Immigration and Asylum Chamber)
OA/06182/2015**

Appeal Number:

THE IMMIGRATION ACTS

Heard at North Shields

Determination

On 29 April 2016

Promulgated

On 10 May 2016

Prepared on 30 April 2016

Before

DEPUTY UPPER TRIBUNAL JUDGE JM HOLMES

Between

C. U.

(ANONYMITY DIRECTION MADE)

Appellant

And

ENTRY CLEARANCE OFFICER SHEFFIELD

Respondent

Representation:

For the Appellant: No attendance

For the Respondent: Mr Johnson, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of Nigeria. His wife was granted entry clearance as a Tier 4 (general) student, and leave to enter as such from 29 September 2014 until 30 January 2016. His first application for entry clearance as her dependent spouse was refused on 20 January 2015 as a result of a lack of evidence of adequate funds. His second application was refused on 16 March 2015 by reference to paragraph 320(7A) of the Immigration Rules.

2. The Appellant duly appealed against the decision to refuse his second application. His appeal was heard on the papers at his request and dismissed by Judge Cox in a decision promulgated on 10 September 2015.
3. The Appellant's application to the First Tier Tribunal for permission to appeal was granted by First Tier Tribunal Judge Parkes on 3 March 2016.
4. The Respondent filed a Rule 24 response on 14 March 2016 stating simply that the Judge directed himself appropriately, and that there was ample evidence to establish that the company registration number claimed for the corporation said to be sponsoring the Appellant and his wife, actually belonged to a quite different corporation.
5. Thus the matter comes before me.

The hearing

6. The Appellant was not represented at the hearing, and his sponsor did not attend it. He had offered no explanation for this, and he had not requested an adjournment of the hearing. No evidence has been served in support of the appeal beyond that which was before the First Tier Tribunal.
7. The appeal was of course determined by the First Tier Tribunal upon the papers at the Appellant's request. Moreover the sponsor's leave had expired on 30 January 2016, and I was informed by Mr Johnson that the Respondent's records show that she has not applied for a variation of it.
8. I was satisfied that notice of the hearing was served upon the Appellant at the address he had given for service. In the circumstances I was satisfied that I should proceed to determine the appeal, and that there was no proper purpose to be served by my adjourning the appeal of my own motion.

The decision under appeal

9. In support of the application the Appellant submitted a letter dated 23 December 2014. The author was not identified, but the letter purported to be written on behalf of a company, Divine Roziks NIG Ltd ["DRN"]. The letter heading gave details for a head office in Lagos, and a telephone number there. It also gave details for a branch office in China and two email addresses. In the text of the letter it was claimed that the company was incorporated on 22 March 2002 under registration number RC 44640.

10. The ECO made enquiries of the Nigerian Corporate Affairs Commission and was told that whilst a company did exist which was incorporated with registration number 44640, it was not NRG, but rather a company that had been registered on 6 April 1982. It was not suggested that a company of the name NRG was incorporated or registered.
11. The ECO attempted to make enquiries of NRG itself, but telephone calls to the number given on the letter head of the letter dated 23 December 2014 were not answered or returned.
12. As a result the ECO concluded that false representations had been made in the application and a false document had been produced in support of it.

The appeal to the First Tier Tribunal

13. In support of his appeal the Appellant produced a document that was said to be a genuine copy of the certificate of incorporation of DRN, which was said to record its incorporation on 22 March 2002 with registration number 446405. There was also an Affidavit from an individual who claimed to be a director of DRN, and who confirmed that DRN had never been contacted by the ECO. This Affidavit was deficient in a number of material respects. It did not identify who had written the letter of 23 December 2014, their position within DRN, explain how the telephone calls of the ECO had not been answered or responded to, or, offer an explanation as to how the author had failed to give the accurate registration number for DRN.
14. By inference the Appellant's case as put in the Affidavit was (a) that a typographical error had been made by the author, and, (b) either that the ECO had lied about trying to make telephone contact with DRN, or, that the ECO must have repeatedly made a mistake with the telephone number when trying to contact DRN.
15. Judge Cox was satisfied that the Respondent had discharged the burden of proof that lay upon her, and that she had established on the balance of probabilities that false representations were made because DRN did not have the registration number 44640, and thus the letter of 23 December 2014 contained false information. He went on to conclude that there had been no innocent mistake, and that there had been deliberate deception.

Conclusion

16. The grounds of appeal assert that Judge Cox failed to consider all of the evidence provided by the Appellant,

and failed to take account of the document which is said to be the certificate of incorporation of NRG. Thus it is said the Judge erred in law in finding that DRN was not a registered company, and the Appellant demanded the Upper Tribunal direct the ECO to undertake further enquiries into the status of DRN.

17. As such the grounds are no more than a disagreement with the Judge's assessment of the weight that could be given to the various documents placed before him. The findings that he made were well open to him on the evidence and were adequately reasoned. The reality was that the Appellant had accepted that a false statement had been made. He offered an excuse for that, asserting that an innocent mistake had been made, but he had failed to offer any cogent evidence to explain how such a mistake had come to be made, or even who had made it. Indeed, given the allegation he faced, the evidence that DRN existed and was registered under the number he claimed for it, was limited. Nor did the evidence produced offer an explanation as to how the ECO's telephone calls to the number provided had gone unanswered.
18. Accordingly the grounds disclose no arguable error of law in the Judge's decision, and it follows that, despite the terms in which the grant of permission to appeal was framed, this is a challenge that must be dismissed.

DECISION

The Determination of the First Tier Tribunal which was promulgated on 10 September 2015 did not involve the making of an error of law in the decision to dismiss the appeal that requires that decision to be set aside and remade. The decision to dismiss the appeal is accordingly confirmed.

Direction regarding anonymity - Rule 14 Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until the Tribunal directs otherwise the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify her. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to proceedings being brought for contempt of court.

Deputy Upper Tribunal Judge JM Holmes
Dated: 30 April 2016