Upper Tribunal
(Immigration and Asylum Chamber) **Appeal Number: EA/00235/2016**
EA/00237/2016

THE IMMIGRATION ACTS

Heard at Field House	**Decision and Reasons Promulgated**
On 23 March 2018	**On 03 April 2018**

Before:

UPPER TRIBUNAL JUDGE GILL
DEPUTY UPPER TRIBUNAL JUDGE SHERIDAN

Between

ZAKA SUBHANI
(ANONYMITY ORDER NOT MADE)

Appellant

And

The Secretary of State for the Home Department

Respondent

Representation:

For the Appellant: Mr S Bellara, of Counsel, instructed by Western Solicitors.
For the Respondent: Mr T Wilding, Senior Home Office Presenting Officer.

DECISION AND REASONS

Introduction

1. In the First-tier Tribunal, this appeal was heard together with the appeal of a Ms Mehro Javed, the appellant's wife (EA/00237/2016). Both were then represented by Western Solicitors. Mr M Murphy, of Counsel, appeared for them both at a hearing on 25 April 2017 before Judge of the First-tier Tribunal Devittie (hereafter the judge unless otherwise stated). The judge dismissed the appeals.

2. Following the grant of permission by Judge of the First-tier Tribunal P J M Hollingworth, both appeals were listed for hearing in the Upper Tribunal before Upper Tribunal Judge Gill on 31 January 2018. Mr S. Bellara appeared for both the appellant and (so Mr Bellara thought before the hearing commenced) for Ms Javed. That hearing was adjourned because Mr Bellara was surprised by the fact that Ms Javed had written to the Upper Tribunal by letter dated 26 January 2018 (a copy of

which Mr Bellara saw for the first time at the hearing on 31 January 2018) stating that she was separated from the appellant and no longer supported his appeal. Mr Bellara said that he had not been informed of the separation by the appellant who attended the hearing on 31 January 2018 and that Western Solicitors had not received any communication from Ms Javed to that effect. Upper Tribunal Judge Gill adjourned the hearing on 31 January 2018. The Upper Tribunal's reasons for adjourning the hearing on 31 January 2018 for both appeals are set out in Directions dated 31 January 2018.

3. Both appeals were listed for hearing today. We record that Mr Bellara appeared for the appellant and confirmed that he was not instructed to represent Ms Javed. A Mr A.Nasir of Western Solicitors also attended. He confirmed that Ms Javed had withdrawn her instructions from Western Solicitors.

4. We therefore proceeded to deal with Ms Javed's appeal separately. Nevertheless, we have recorded the above in this decision so that it is clear why this appeal was heard together with the appeal of Ms Javed in the First-tier Tribunal with one combined decision promulgated by the judge on 17 May 2017 and why the two appeals are now being decided by the Upper Tribunal in separate decisions.

5. As will be seen, the issue in the appellant's appeal is whether his marriage to Ms Javed is a marriage of convenience. The fact that Ms Javed says that they are separated does not mean that the marriage was a marriage of convenience at its inception. In any event, the issue before us is whether the judge had materially erred in law. The evidence of separation post-dates the judge's decision and we therefore do not take it into account in deciding whether the judge had materially erred in law in reaching his finding that the marriage was a marriage of convenience.

Background facts

6. The appellant is a national of Pakistan, born on 28 September 1986. Ms Javed is a national of Italy, born on 10 October 1992. The appellant arrived in the United Kingdom with a Tier 4 student visa which was valid from 6 June 2010 until 29 November 2011. He was granted further leave in January 2012 which was valid until 27 November 2012. On 25 November 2012 he applied for further student leave, which was refused on 17 June 2013. He appealed this decision, but his appeal was dismissed by the Tribunal on 11 December 2013. His appeal rights became exhausted on 29 January 2014. He did not leave the United Kingdom after his application was refused.

7. On 9 January 2015, the appellant submitted an application for an EEA residence card as the unmarried partner of Ms Javed. The application was refused on 14 May 2015 as there was insufficient evidence to confirm that he and Ms Javed were in a durable relationship. The appellant appealed against this decision but the appeal was struck out on 7 July 2015.

8. On 29 April 2015, the appellant and Ms Javed married in Scotland. On 8 July 2015, Ms Javed applied for a registration certificate as confirmation of a right to reside in the United Kingdom. On the same date, the appellant submitted an application for a residence card as confirmation of a right to reside in the United Kingdom as the spouse of an EEA national exercising Treaty rights in the United Kingdom.

9. On 18 December 2015, the respondent refused both applications, in separate notices. These were the decisions that were the subject of the appeals before the judge. The appeal before us in the instant case is the appellant's appeal against the judge's decision to dismiss his appeal against the respondent's decision of 18 December 2015 in his case. The judge's decision was promulgated on 17 May 2017 following a hearing on 25 April 2017.

10. Reasons for each decision were given in two separate refusal letters. In essence, the respondent concluded that the marriage between the appellant and Ms Javed was a sham marriage. The decisions followed two visits made by immigration officers to the address where the appellant and Ms Javed claimed to be living. The first visit was made on 22 April 2015 (that is, before the marriage in Scotland took place on 29 April 2015) and the second visit on 11 December 2015. We shall refer to the report following the first visit as the "*first report*" and the report following the second visit as the "*second report*".

The judge's decision

11. The judge had before him a large bundle of documents, including witness statements from several witnesses. The judge also heard oral evidence from a number of witnesses. Besides the appellant and Ms Javed, there were ten live witnesses. They included Ms Javed's mother, two men who were Ms Javed's brothers, the appellant's uncle and another relative of the appellant.

12. Having set out the respondent's case and provided a detailed summary of the appellant's written and oral evidence as well as the evidence of Ms Javed, her mother, her brothers, the appellant's uncle, his other relative and the remaining witnesses, the judge set out a detailed extract of the first report, as follows:

> "Upon arriving at the address at .....officer Hale proceeded to knock on the door which was answered by a female I recognised as ...Javed Mehro. I explained to her why officers were present and she granted entry via informed consent signing my pocket notebook to this effect.
>
> Javed Mehro invited the officers into a three bed semi that was occupied by her immediate family; both her parents were present. I asked if she could take me to her room and I was led to a larger rear facing first floor bedroom with two single beds and a double mattress laid out on the floor. Occupying the two large single beds were her two younger brothers aged 21 and 17. No other persons were present in the room. She claimed that some of the rooms in the house were not habitable due to mould.
>
> Javed went on to claim that *[sic]* appellant was not present because he had been at a party in Harrow the previous night but was unable to give the address he attended. She then showed me items of mail clothing within a wardrobe but as both her brothers also had clothes and cosmetic items within the room this proved to be inconclusive. Mhero Javed then stated that the numerous male cosmetic items within the room belonged to her brothers and claimed that appellant's cosmetic products were in the bathroom; I was then shown one tube of unidentified cream.
>
> Javed Mhero stated that she worked for Primark and showed me a monthly wage slip for £460. She stated that her father paid the rent on the house at £1700 per month. I asked if she could show me paperwork including College certificates for the appellant. She claimed that all of his certificates were at a friends *[sic]* house but that she did not know the address. I was then shown two letters from Barclays dated 2 March 2015 and 16 March 2015 showing that appellant had opened a bank account linked to the address. There was also a letter from Lloyds bank showing the joint account had been set up in Javed's and Subhani's names. There was no date on the letter and she claimed not to know when *[sic]* account had been set up. She could show me no statements attributed to this account.

> At this point I went with Javed back into the room she shared with her two brothers. She had previously stated that the wardrobe in the room contained *[sic]* appellant's clothing but upon closer inspection it transpired that the wallet and the trainers within the wardrobe belonged to her older brother which was confirmed by Javed Mehro.
>
> At this point Javed proffered her mobile phone to I/O Hale to check for evidence of a subsisting relationship. I/O Hale noted that there were some photos of the male that Javed claimed was the appellant. I/O Hale asked about some of these items that appellant was wearing including a denim shirt, jacket, blue shirt and two suits. Javed could produce none of the items of clothing.
>
> Javed claimed to have been in a relationship with the appellant since meeting him at a birthday party of a work colleague in Greenford. She claimed that she had got engaged on 21 February 2015 and that they subsequently had a party to celebrate this although she was not wearing a ring at the time of the visit. It was noted that the very first photos on her phone were of the engagement party; she claimed that her previous phone had been damaged in response to officers asking about photos of the couple before the claimed engagement party.
>
> I put it to Javed that it did not appear that the appellant lived at the property and asked her where he actually did live. She replied that he did not live there. It is my opinion based on the above information that on the balance of probabilities [ ] is not the claimed address of Javed Mehro and Zaka Subhani .This would appear to cast doubt on the veracity of the claimed relationship between and the sponsor and the appellant."

13. The judge then considered the matters that arose from the first report, at paras 12(a)-(i) on pages 7-9 of his decision. He considered the credibility of the evidence of the appellant, Ms Javed and other witnesses as he went along. Paras 12(a)-(i) may be summarised as follows:

    (a) The judge took into account the assertion in the first report, which he noted was not disputed, that Ms Javed's two younger brothers were occupying the two single beds in the room which was said to be the bedroom of the appellant and Ms Javed. He took into account the explanation that the reason why the brothers were occupying the single beds was that there was dampness in the other rooms.

    (b) He took into account the assertion in the first report, which he noted was not disputed, that Ms Javed had said that the appellant was not present because he was attending a party in Harrow.

    (c) He took into account the assertion in the first report, which he noted was not disputed, that Ms Javed was unable to give the address of where the appellant had attended the party. He considered that, in any event, Ms Javed did not know the address because in her oral evidence she gave the name of the appellant's friend at whose residence he had spent the night but she did not appear to have any more information about him.

    (d) He took into account the assertion in the first report, which he considered was consistent with the evidence of the appellant and Ms Javed that the bedroom shown to the immigration officers by Ms Javed as the one she claimed she shared with the appellant had male clothing which could have belonged to her brothers.

    (e) He took into account the assertion in the first report, which he noted was not challenged, that Ms Javed did not have any of the appellant's college certificates and that she had said that the documents were at the appellant's friend's house. He took into account the appellant's oral evidence on this aspect of the

evidence, stating: *"… the appellant has at this hearing, when faced with difficulties in cross examination as to where his possessions were on the day, suggested that he had left some of them at his friend's house as it was his habit to sleep overnight at the houses of various friends",* evidence which it is clear the judge did not find credible.

(e) He took into account the fact that the first report stated that "*upon close inspection of the room which [Ms Javed] claimed she was sharing with the appellant, it was clear that none of his clothing was in that room. Nor were there any other items belonging to him that could be identified"*. He noted that this aspect of the report was not challenged in evidence at this hearing and he said that he found that it was probably true.

(f) He noted that the first report states that Ms Javed showed the immigration officer her mobile phone with photographs of the appellant but that, when asked to produce the very distinctive clothing he was wearing in the photographs, she was unable to do so. He considered that this aspect of the report was probably true and, furthermore, he noted that this evidence was not challenged by the appellant and Ms Javed.

(g) He noted that Ms Javed has not challenged the assertions in the first report that she was asked to produce evidence on her mobile phone of her relationship with the appellant prior to the date of her claimed engagement and that her response was that the phone which contained such evidence had been damaged and hence the evidence was not retrievable. He noted that Ms Javed did not challenge this version when it was put to her in cross examination.

(h) He took into account the fact that the first report states that Ms Javed accepted that, despite claiming to have been engaged, she did not wear any ring on the date of the visit. He considered her explanation that she feared that her ring would be damaged if she wore it. However, he also noted that, when the same question was put to her mother, she suggested that her daughter suffered from an allergy which brought about stiffness in her finger and hence her tendency was not to wear the ring at night.

(i) He noted that the first report states that, at the conclusion of his visit, the immigration officer put it to Ms Javed that the appellant was not in fact living on the premises and that the immigration officer recorded that she had accepted that this was so.

(j) The judge then said (at para 12(i)):

> "I have no doubt in accepting that in the light of the conspicuous lack of evidence shown to the officer to prove that the appellant was residing at the premises, it would have been logical for him to put such a question to [Ms Javed]. I find it highly probable that [Ms Javed] would have been constrained to admit that it indeed was the case that the appellant was not living at the premises. All of the *[sic]* of the report is not contentious and is accepted by [Ms Javed] and the appellant; in these circumstances I struggle to find a reason why the immigration officer would have fabricated this one response to a question which logic dictated he should put to [Ms Javed]."

14. The judge then considered the second report. He noted that the main thrust of the second report concerned the fact that the side of the bed where Ms Javed claimed to

have been sleeping before the visit was cold upon being checked by the officers whereas the bed in a single room was warm even though Ms Javed's family claimed that no one had slept in that bed on the night in question.

15. The judge dealt with the second report briefly, at para 13, stating as follows:

> "I have considered the contents of the report of the second visit in December 2015. It's [sic] main thrust appears to be that the warmth of the bed or lack of warmth on the one side of the bed where the appellant and the sponsor claimed to have been sleeping at the time of the visit, raises serious questions as to whether they were indeed sleeping together. I am reluctant to rely on this report support in my assessment of the issues in this case, not least because the officers who made these findings were not cross-examined and indeed, the appellant and the sponsor have challenged the evidence regarding the warmth of the one side of the bed and the lack of warmth on the other side of the bed in which there was sleeping."

16. It is therefore clear from para 13 of the judge's decision that he placed little or no weight on the second report. It is clear from the remainder of his paras 12(a)-(i) of his decision, which we have summarised at our para 13 above, that he placed much weight on the first report, stating, in addition, at para 15 as follows:

> "15. The contents of the first report in my opinion clearly establish that the appellant was not residing at the premises at the time of the visit. This finding seriously undermines the claim that the parties are in a genuine marriage relationship. The report clearly demonstrates in my view, that [Ms Javed] was unable to point to any evidence of the appellant living on the premises. She claimed she did not have her mobile phone to demonstrate communication between her and *[sic]* appellant prior to their engagement; she was unable to point to any clothing items of the appellant during the visit; she accepted that he did not have any of his college certificates on the premises and sought to explain this by stating that he had left them at a friend's place."

17. The judge took into account the documentary evidence of the photographs (para 14). At para 14, he also said that he took into account the evidence of the several witnesses who gave evidence who he considered were not wholly independent witnesses, in that, they have some relationship including friendship with the appellant and Ms Javed. He said that he would consider in the round the weight to attach to the evidence of the witnesses and to the documentary evidence having regard to the totality of the evidence before him. At para 16, he said that the evidence of the appellant and Ms Javed lacked credibility and that they were poor witnesses.

18. At para 16 of his decision, the judge also said:

> "16. I observed the appellant and the sponsor give evidence at this hearing. I find that their evidence lacked credibility and they were poor witnesses. The most serious conflict in the evidence is that the appellant said that he was not at the house on the day of the first visit because he had attended the birthday party of a friend. He said that he did on frequent occasions sleep at friend's houses and hence, some of his clothes were at friend's houses and not at the premises he was living with [Ms Javed]. In stark contrast to this evidence, [Ms Javed's] mother and indeed [Ms Javed], said that it was not his practice to sleep at friend's houses overnight, and that the occasion on which he did so when the officers visited was the first such instance for him to sleep out. This conflict is fundamental. It goes to the very core of the claim that this is a sham marriage. The appellant was not at the premises where he claimed to be residing. He had not slept there. The explanation given as to his absence I find to be entirely lacking in credibility."

19. In his concluding para 17, the judge said that:

> "17. In the light of the unsatisfactory features of the evidence of the appellant and [Ms Javed], I attach very little weight to the supporting evidence that was adduced, including the evidence of the several witnesses, the bank statements and the photographs. I am satisfied that the respondent has established that the appellant's marriage to [Ms Javed] is one of convenience."

The grounds and submissions

20. There were four grounds before Judge Hollingworth who granted permission. It is not necessary to summarise the four grounds because Mr Bellara only pursued a single ground, which arose from grounds 2 and 3 of the written grounds, i.e. that the judge erred in law in failing to assess the credibility of all of the witnesses, in particular, the evidence of the appellant's in-laws.

21. In particular, Mr Bellara submitted that the judge erred in failing to assess, and make any findings upon, the evidence of Ms Javed's father, a Mr Mohammed Javed (hereafter Mr Javed).

22. Mr Bellara drew our attention to the fact that Mr Javed was not even mentioned by the judge. We were taken to Mr Javed's witness statement (pages 262-264 of the appellant's bundle) where he described the events that took place during the second visit, on 11 December 2015. He described, inter alia, the knock on the door; who answered the door; when he first saw the immigration officers; that an officer went to the bedroom that he (Mr Javed) shared with his wife and said that the bed in that room was warm; that they then went to Ms Javed's room and touched the bed in that room; and that he was told by Ms Javed that the officers said that she had not been sleeping with her husband. He confirmed that the marriage between the appellant and Ms Javed was genuine. He described how it came about that the appellant and Ms Javed had their legal marriage on 29 April 2015 and why the wedding celebrations in (according to his statement) February 2015 were rushed.

23. Mr Bellara placed particular reliance on para 16 of Mr Javed's witness statement where he said:

> "16. I would like the court to consider that Mrs Mehro Javed is my only daughter. Me and my wife would never allow a man who is not married to our daughter to be sleeping beside her. No parent would put their daughter in that situation. If we were to allow this as parents, we would be going against the teachings of our religion and we would be looked down upon by the community. In my culture, we treat the women in our homes with respect, we would not be protecting the honor and dignity of the woman by allowing a man who she is not married to, to be laying next to her in our own home. I believe the Home Office should have considered this before reaching such negative and unsubstantiated conclusions."

24. Mr Bellara submitted that the evidence of Mr Javed was perhaps the most important. His witness statement was the most cogent and detailed of the witness statements. Mr Bellara said that his instructions were that Mr Javed did give oral evidence. However, he could not say what oral evidence he gave because he (Mr Bellara) did not appear before the judge.

25. Mr Bellara submitted that the real point arising from the evidence of Mr Javed was that Mr Javed explained that he had conducted the marriage. This was evidence that the judge had failed to take into account.

26. However, given the fact that it was not in dispute that the appellant and Ms Javed were married, we asked Mr Bellara why this evidence was material to the outcome. Mr Bellara submitted it was material because the main thrust of the second report concerned the warmth and lack of warmth in one or other bed. He submitted that Mr Javed's evidence was therefore important because he explained the layout of the house and, at para 16, that he would never allow his daughter to sleep with a man if the marriage was not genuine.

27. Mr Bellara submitted that the Tribunal could not be satisfied that the judge had taken into account the important evidence of Mr Javed.

28. In response, Mr Wilding submitted that Mr Javed's evidence was not material because it only concerns the visit on 11 December 2015 which led to the second report. He submitted that it was clear that the judge had placed little or no reliance upon the second report. Mr Wilding submitted that para 16 of the witness statement of Mr Javed was not material either because the point that the respondent was making was that the appellant and Ms Javed were ***not*** sleeping together.

29. Mr Wilding drew attention to the fact that there was no evidence from Counsel who had appeared for the appellant and Ms Javed at the hearing before the judge to confirm what evidence Mr Javed gave in oral evidence. Counsel's notes of the hearing had not been produced. Mr Wilding submitted, at our request, a copy of the notes of the Presenting Officer who appeared for the respondent before the judge, as we had difficulty deciphering the judge's Record of Proceedings. He submitted that it was clear that Mr Javed's oral evidence focused on the allegation concerning warmth or otherwise of one or other bed.

30. Mr Wilding submitted that even if the evidence of Mr Javed, written and oral, had not been properly considered, it was not capable of having any bearing on the outcome of the appellant's appeal. This was because the judge attached much weight on the first report and because the discrepancies relied upon by the judge, which arose from the first report, were discrepancies between the evidence of the appellant and Ms Javed and from what Ms Javed's mother had said which the judge mentioned at para 16 of his decision.

31. In response, Mr Bellara submitted that the reason why the witness statement of Mr Javed focused on the second report was that the refusal letter relies to a great degree on the second report and the issue concerning the warmth or lack of warmth of one or other bed. He asked us to bear this in mind.

32. Mr Bellara drew our attention to the fact that the judge took into account against the appellant the timing of his application for a residence card. At paras 4 and 5 of his statement, Mr Javed explained why the marriage took place when it did, i.e. that the appellant's mother had been diagnosed with cancer and did not have long to live. He therefore submitted that there were question marks as to whether all aspects of the witness statement of Mr Javed, including para 16, had been taken into account by the judge.

33. We reserved our decision.

Assessment

34. We will first deal with Mr Bellara's attempt to rely upon the oral evidence of Mr Javed in stating that he could not say what oral evidence he had given. As we said at the hearing, it is for the appellant to show that the judge materially erred in law. In reaching our decision on this issue, we will not enter into any speculations about any oral evidence that any of the live witnesses may have given or decide the appeal on the basis of speculative assumptions that the evidence may have been material to the outcome. It was open to the appellant to have obtained and submitted a witness statement from Counsel who appeared before the judge (Mr M Murphy) and the notes of Counsel. He did not do so.

35. In any event, we noted that the grounds, which were prepared by Mr Murphy, made no mention of the content of Mr Javed's oral evidence nor do the grounds contend that he gave evidence about the first visit. This despite the fact that the grounds contend that the judge placed too much emphasis on the first report. Furthermore, we can see from the Presenting Officer's notes of the evidence (we have explained that we were unable to decipher the judge's record of the proceedings) that the oral evidence that Mr Javed gave focused upon the issue concerning the warmth or otherwise of one or other bed, an issue which was mentioned only in the second report.

36. We therefore decide this appeal on the basis that Mr Javed did not give oral evidence about the first report. Leaving aside para 16 of his witness statement which we will deal with later, it is clear from Mr Javed's witness statement that his written evidence concerned the first report.

37. Next, we deal with Mr Bellara's submission that the reason why Mr Javed's witness statement focused upon the second report is because the refusal letter placed weight on the second report.

38. With respect, we have to say that this does not help the appellant establish that the judge materially erred in law. Even if we have an explanation as to why Mr Javed focused on the second report, we cannot enter into any speculative assumptions about the evidence he may have given if he had not focused on the second report.

39. Rightly, Mr Bellara did not argue before us that the appellant has been deprived of the opportunity of having his witnesses deal with the first report because they were misled into focusing on the second report as a consequence of the contents of the refusal letter. Such an argument cannot have any purchase for the simple reason that the contents of the first and second reports were both known to the appellant. He and his witnesses chose to focus on the second report, whether or not on the advice of the appellant's representatives.

40. Next, we noted that Mr Wilding did not suggest that the judge had stated, in terms, that he had considered the written and oral evidence of Mr Javed. We have noted that there is no mention at all of Mr Javed by name or by his relationship with Ms Javed in the judge's decision at all.

41. The mere fact that a judge does not refer, in terms, to particular evidence does not mean that it was not considered. Judges are not obliged to refer to every piece of the evidence. It is clear from the judge's decision that he had many live witnesses. His decision refers to a total of 12 live witnesses – the appellant, Ms Javed and ten other

witnesses. It is plain that the witnesses gave evidence about the genuineness of the relationship between the appellant and Ms Javed. That was evidence that the judge plainly had in mind. Accordingly, we do not accept that the mere fact that the judge did not mention in terms that Mr Javed was a witness or that he did not mention in terms Mr Javed's evidence means that he did not take into account his evidence that the relationship was a genuine and subsisting one.

42. The evidence of Mr Javed concerning the timing of the marriage and that he conducted the marriage was not material to the outcome given that the respondent does not contend that the marriage did not take place. Accordingly, there was no need for the judge to mention this aspect of the evidence of Mr Javed.

43. Mr Bellara relied upon para 16 of Mr Javed's statement. Mr Javed states at para 16 that he would never allow his only daughter to sleep with a man if the marriage was not genuine. However, we agree with Mr Wilding that para 16 of Mr Javed's statement was not material to the outcome because the respondent's allegation was that the marriage was not genuine from inception and that the appellant and Ms Javed were not sleeping together.

44. For all of the reasons given above, we do not accept that the judge overlooked considering the written and oral evidence of Mr Javed. In any event, we do not accept that his evidence could have made a material difference to the outcome.

45. Whilst the grounds also contend that the judge did not engage with the evidence of the remaining witnesses (other than the appellant and Ms Javed), this was not the subject of any specific submission by Mr Bellara. He merely relied upon the general point, that the judge had not engaged with the evidence of the witnesses.

46. However, it is clear that the judge summarised the evidence of most of these witnesses; for example, Ms Javed's mother and her two brothers, the appellant's uncle and his other relative. A specific credibility point arose from the evidence of Ms Javed's mother, i.e. as to the reason why Ms Javed did not wear her engagement ring, which the judge dealt with at para 16 where he noted that the evidence of Ms Javed's mother in this regard contradicted the evidence of Ms Javed herself. The remainder of the evidence of the supporting witnesses concerned the genuineness of the marriage, which the judge was plainly aware of, and the second report which the judge plainly placed little or no weight on.

47. Accordingly, there is no substance in the assertion in the grounds that the judge materially erred in law by failing to consider, and make findings of fact upon, the evidence of the supporting witnesses. We are satisfied that he considered the evidence before him adequately, that he gave adequate reasons and made adequate findings of fact.

48. We record that any remaining grounds were not advanced at the hearing.

49. It is appropriate that we should comment upon the terms in which Judge Hollingworth granted permission. He considered it arguable that the judge fell into error in considering in the round the weight to attach to the evidence of the several witnesses and that it was arguable that the evidence of each witness fell to be assessed. For the reasons given above, we are satisfied that there was no such error. The remainder of Judge Hollingworth's reasons essentially concern the weight to be given to particular aspects of the evidence. However, this is a matter for the first instance

judge and will rarely give rise to a material error of law. This is not one of those cases, nor did Mr Bellara make this point.

Decision

The decision of the First-tier Tribunal did not involve the making of any material error of law.

Upper Tribunal Judge Gill Date: 28 March 2018