



**Upper Tribunal  
(Immigration and Asylum Chamber)  
EA/03782/2016**

**Appeal Number:**

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Decision & Reasons**

**Promulgated**

**On 11 April 2018**

**On 13 April 2018**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE MANUELL**

**Between**

**MR GEORGE MENSAH TETTEY**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr K Alim, Counsel (Vine Court Chambers)

For the Respondent: Mr L Tarlow, Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. Permission to appeal was granted by First-tier Tribunal Judge Farelly on 15 February 2018, against the dismissal of the appeal seeking the issue of a residence card under regulations 7 and 8(5) of the Immigration (European Economic Area) Regulations 2006 (as amended) ("the EEA Regulations") by First-tier Tribunal Judge Beg in a determination promulgated on 24 August 2017. The Appellant is a national of Ghana, born on 10 April 1968. He relied on a proxy marriage in Ghana

which Judge Beg ruled was shown by the evidence to be invalid under Ghanaian law.

2. That decision was free-standing, such that the judge's references to Kareem (Proxy marriages - EU law) [2014] UKUT 00024 (IAC) and TA and Others (Kareem explained) Ghana [2014] UKUT 00316 (IAC), (since overruled by Awuku [2016] EWCA Civ 1301), are almost certainly not material. The judge's decision was based on a proper construction of the *lex loci celebrationis*.
3. There was, however, a further problem, although again and also through no fault of Judge Beg. At the time the decision and reasons was prepared, Sala [2016] UKUT 411 (IAC) applied, and the judge therefore held that the tribunal could not consider the alternative claim made by the Appellant under Regulation 8, the allegedly durable relationship relied on, as there was no jurisdiction. In SM (Algeria) [2018] UKSC 9, Sala (above) was held to be wrongly decided. Hence findings about the durable relationship claimed should have been made.
4. Mr Tarlow for the Secretary of State accepted Mr Alim's submission that in these circumstances the decision and reasons could not stand.
5. It was thus accepted that the appeal would have to be reheard by another judge in the First-tier Tribunal.
6. Hence the tribunal finds that there was a material error of law in the decision and reasons (through no fault of the judge who applied the law as it then stood).

### **DECISION**

There was a material error of law in the First-tier Tribunal's determination, which is set aside.

The original appeal must be reheard in the First-tier Tribunal, by any judge except First-tier Tribunal Judge Beg.

**Signed**

**Dated** 11 April 2018

**Deputy Upper Tribunal Judge Manuell**