



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: HU/03275/2016
HU/03285/2016

THE IMMIGRATION ACTS

Heard at Field House
On 11 December 2017

Decision & Reasons Promulgated
On 8 January 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE ESHUN

Between

ROSA [T] (FIRST APPELLANT)
[P T](SECOND APPELLANT)
(ANONYMITY DIRECTION NOT MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss S Iqbal, Counsel
For the Respondent: Mr P Deller, HOPO

DECISION ON ERROR OF LAW

1. The appellants are a mother and daughter and are citizens of the Philippines. They have been granted permission to appeal the decision of First-tier Tribunal Judge Miller who dismissed their appeal against the decision of the respondent to refuse them leave to remain on the basis of their family and private life. The application was refused on 26 March 2013. The principal appellant came to the UK in 2004 as a

student. Her leave to remain as a student was extended on a number of occasions until 29 February 2012. Her daughter, the second appellant, was born in 2008 in the UK. The child at the date of the application was 7½ years and at the date of the hearing was 8 years old.

2. Both parties agreed that the judge adopted the wrong approach in dismissing the appeal under Article. The judge failed to place the child or the Section 55 consideration at the centre of his decision. What the judge did was to consider the circumstances of the principal appellant and consequently his conclusions were heavily weighted on the fact that the principal appellant came to the UK in 2004 as a student with no expectation at that time that she would not have to return to the Philippines. I agree with the grant of permission that paragraph 24, the first paragraph of the judge's conclusions were damning of the first appellant and her immigration history in the United Kingdom. That set the tone for the conclusions that followed.
3. It is evident under the respondent's guidance that strong reasons will be required in order to refuse a case with continuous UK residence of more than seven years. That principle has been adopted by the Court of Appeal in **MA Pakistan**. It was apparent from the decision that the judge failed to apply the principles in **MA Pakistan**. Consequently, the judge's approach was flawed and his decision could not stand.
4. I had to remit this case because it appears that there is further evidence in respect of the child's medical condition which needs to be updated. There were also factual errors in the judge's finding at paragraph 24. For these reasons, I could not go ahead and determine the appeal myself.
5. Accordingly, the appellant's appeal is remitted to the First-tier Tribunal to be heard at Taylor House by a judge other than First-tier Tribunal Judge Miller.

No anonymity direction is made.

Signed

Date: 4 January 2018

Deputy Upper Tribunal Judge Eshun