



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/08136/2016

THE IMMIGRATION ACTS

Heard at Field House
On 6th June 2018

Decision & Reasons Promulgated
On 25th June 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE GRIMES

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MISS J A J
(ANONYMITY DIRECTION MADE)

Respondent

Representation:

For the Appellant: Mr P Deller, Senior Home Office Presenting Officer

For the Respondent: Miss I Sriharan, instructed by Bespoke Solicitors

DECISION AND REASONS

1. Although the Secretary of State is the Appellant I refer to the parties as they were in the First-tier Tribunal.
2. The Appellant, a national of the Philippines, appealed to the First-tier Tribunal against a decision made by the Secretary of State on 9th March 2016 to refuse her application for leave to remain in the UK on the basis of her private and family life. First-tier Tribunal Judge Butler allowed the appeal in a decision dated 20th October 2017. The

Secretary of State now appeals to this Tribunal with permission granted by First-tier Tribunal Judge Saffer on 3rd April 2018.

3. At the outset of the hearing before me Mr Deller accepted that any error by the judge in relation to his approach to this decision was not material. He accepted that, although it appeared that the judge may have erred at paragraph 34 of the decision in failing to unpack the considerations going into the decision that the refusal of leave to remain in this case was not proportionate, in all the circumstances of the case as they were before the First-tier Tribunal this error was not material. He accepted that the circumstances had changed between the date of the Secretary of State's decision and the hearing by which time the Appellant and her partner had a young child. The judge undertook an analysis of the situation including taking into account the best interests of the child. He accepted that in the circumstances of the case where the Appellant and her partner are different nationalities, where her partner is a refugee, and in light of the evidence in relation to the child, that the conclusion reached by the judge was inevitable despite the criticisms made in relation to the decision.
4. Ms Sriharan accepted that the judge had perhaps not undertaken sufficient analysis of the circumstances but she agreed that this error was not material.

Error of Law

5. I have taken into account the submissions by the parties and in particular the concession made by Mr Deller at the hearing. In analysing the evidence before him the judge concentrated on the best interests of the child. The judge's reasoning would have been fuller had he made specific reference to the particular circumstances of this case whereby the Appellant's partner is a refugee and the impact this may have on the family relocating to the Philippines. However, it is clear reading the decision as a whole, that the judge was aware of all of the issues in the appeal and in taking account of these issues the decision to allow the appeal was open to the judge on the basis of the evidence before him.

Notice of Decision

6. The decision of the First-tier Tribunal Judge does not contain a material error of law.
7. The decision of the First-tier Tribunal will stand.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

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

Signed

Date: 22nd June 2018

Deputy Upper Tribunal Judge Grimes

TO THE RESPONDENT
FEE AWARD

I maintain the fee award made by the First-tier Tribunal Judge.

Signed

Date: 22nd June 2018

Deputy Upper Tribunal Judge Grimes