



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Numbers: PA/08779/2017
PA/08781/2017

THE IMMIGRATION ACTS

**Heard at Manchester CJC
On 7 December 2018**

**Decision & Reasons Promulgated
On 12 December 2018**

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

**[M M]
[M B]**

ANONYMITY DIRECTION MADE

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr Mehr, Counsel

For the respondent: Mr Tan, Senior Home Office Presenting Officer

DECISION

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (SI2008/269) an Anonymity Order is made. Unless the Upper Tribunal or Court orders otherwise, no report of any proceedings or any form of publication thereof shall directly or indirectly identify the original Appellant. This prohibition applies to, amongst others, all parties.

1. I have anonymised the appellants' names because this decision refers to sensitive matters relating to their international protection claims.
2. The appellants are citizens of Iran. They fled Iran together in fear of family members and the authorities, because they claim that they have been in a relationship that the second appellant's family members are vehemently opposed to.

Appeals linked

3. It is unclear whether the appellants' cases have been formally linked. For the avoidance of any doubt, and with the consent of the parties I link the appeals now. It is entirely appropriate for these appeals to be linked: they relied upon the exact same factual matrix as to what happened in Iran; both appellants left Iran together on 13 March 2017 and claimed asylum in the UK on 24 March 2017; their asylum interviews took place on the same day albeit at different times; the reasons provided by the SSHD for refusing their respective claims are overlapping albeit contained in two different letters, but of the same date - 25 August 2017.

First-tier Tribunal hearing and decision

4. In two separate decisions both dated 27 March 2018, by the same First-tier Tribunal ('FTT') (Judge Lloyd), each appellant's appeal was dismissed. The FTT did not accept the credibility of each claimed account.
5. It is very difficult to see why two separate decisions were reached in the light of the matters set out at [3] above. In addition, both the appellant's appeals appear to have been considered at one hearing together. The second appellant's file does not contain a record of proceedings. The record contained in the first appellant's file demonstrates that the hearing began at 12.06. the first appellant began his evidence at 12.12. There was a short break at 13.02 after the completion of the first appellant's evidence. The hearing resumed at 13.07 with the second appellant giving evidence. At 13.33 the SSHD made submissions concerning both appeals, followed by submissions commencing at 13.40 by the appellants' solicitor. These submissions are recorded as including the following: "*As corroborate each other. And consistent.*" The hearing ended at 13.48.

Appeal to the Upper Tribunal

6. The grounds of appeal dated 10 April 2018 include the submission that the FTT failed to engage with or give any weight to the

consistencies between the accounts provided by the appellants. When granting permission to appeal Deputy Upper Tribunal Judge Doyle observed all the grounds to be arguable.

7. At the hearing before me Mr Tan acknowledged that it was regrettable that the FTT provided two separate decisions, when there was clearly a single hearing. In providing two separate decisions, the FTT ran the risk of failing to take into account evidence from one appellant capable of corroborating that of the other. Given this, I invited Mr Tan to take me to aspects of the two decisions in which the FTT addressed the apparent consistencies between the two appellants' evidence and the mutual potential corroboration that resulted. He was unable to do so.
8. I am satisfied that in failing to engage with the apparent consistencies between the appellants' detailed accounts and in failing to give any reasons for rejecting the corroboration each was able to offer for the other, the FTT has erred in law. By way of example the decision concerning the first appellant refers to his witness statement and him giving oral evidence. There is no reference to the second appellant's witness statement evidence and little reference to her oral evidence. Whilst I accept that the FTT must have had in mind the evidence from both appellants and appears to refer to this at [40] of the first appellant's decision and [42] of the second appellant's decision, when reaching its credibility findings, there has been a complete failure to reason why weight was not given to the consistencies in the evidence. In addition, there are elements of the second appellant's decision which indicate that it was 'cut and pasted' from the first appellant's decision. By way of example the second appellant is wrongly referred to as a "he" at [10], [43], [45] in the second appellant's decision.
9. The error set out above is sufficient to vitiate the decision but there is a further obvious error of law undermining the credibility findings (not referred to in the grounds of appeal) which I set out briefly. The FTT has inverted the correct lower standard of proof at [44], [45] and [46] of the first appellant's decision. These errors are repeated almost verbatim in the second appellant's decision at [48] and [50]. The correct application of the standard of proof is a fundamental requirement in the determination of an asylum appeal.
10. It follows that the FTT's conclusions on credibility are vitiated by errors of law and unsafe.

Disposal

11. Given the nature and extent of further fact-finding, the matter is remitted to the FTT to be remade on a de novo basis. When deciding these linked appeals, the FTT shall need to make entirely

fresh findings of fact. If, as appears likely (the second appellant is pregnant) the relationship is accepted as credible, the FTT shall need to address whether, irrespective of the acceptance of any family disapproval in the past, the appellants will be treated as having committed adultery upon return to Iran.

Decision

12. The decision of the FTT involved the making of a material error of law. Its decision cannot stand and is set aside.
13. The appeal shall be remade by the FTT de novo.

Signed:

Ms M. Plimmer
Judge of the Upper Tribunal

Date:

7 December 2018