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

HU/19506/2019
HU/19502/2019 & HU/19505/2019

THE IMMIGRATION ACTS

Heard at George House, Edinburgh
On 22 December 2021

Decision & Reasons Promulgated
**On 25 January 2022**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

**INAS BANI Al-MARJEH, ABDULLAH Al-KHULD & KHALED ABDULLAH Al-KHULD**

Appellants

and

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

Respondent

For the Appellant: Mr Fyffe, of McGlashan MacKay, Solicitors
For the Respondent: Mr Diwyncz, Senior Home Office Presenting Officer

## DETERMINATION AND REASONS

1. This determination is to be read with:
   (i) The respondent's decisions dated 21 October 2019.
   (ii) The appellants' grounds of appeal to the First-tier Tribunal.
   (iii) The decision of FtT Judge Prudham, promulgated on 25 March 2021.
   (iv) The appellant's grounds of appeal to the UT, as stated in the application for permission made to the FtT, and as amplified in "renewed grounds" dated 20 July 2021.

(v) The grant of permission dated 12 October 2021.

(vi) The respondent's response under rule 24, dated 25 November 2021.

(vii) The appellant's skeleton argument, filed on 21 December 2021.

2. Mr Fyffe presented the grounds as raising two issues: firstly, whether the Judge erred by finding that article 8 was not engaged, in the sense of the appellants having protected family life with the sponsor and other relatives in the UK; and secondly, whether the Judge erred by finding, in the alternative, that any interference would not be disproportionate. He acknowledged that if there was no legal error in the first finding, the rest of the grounds fell away.

3. The sponsor is a citizen of Syria, resettled from Lebanon in the UK as a refugee. He came here with his wife and their son, then a minor and now adult. The first appellant is the daughter of the marriage. She was adult, and married, before the rest of her birth family left Lebanon. The second and third appellants are her husband and their child.

4. At [16] the Judge set out the case law on engagement of article 8 to which he was referred by the appellant's solicitor (the SSHD was not represented). He directed himself on children remaining in family homes beyond the age of majority, and on there being no blanket rule about adult children. Neither side suggests that he stated the relevant law incorrectly. The first issue, accordingly, was one of mixed fact and law, but mainly of fact.

5. The Judge resolved that issue at [25], reminding himself that this was a fact sensitive exercise, and mentioning these matters:

(i) The first appellant married shortly before the sponsor was resettled. She and her husband lived with her parents after the wedding, which was said to be due to a combination of financial dependence and support for her mother's mental health.

(ii) It was said that the first and second appellants moved out of the family home only when the sponsor was told of his resettlement. "However, the sponsor remained living in the property for some time afterwards and was not resettled until December 2015 at very little notice of his actual flight to the UK".

(iii) The mother's mental health issues appeared to have been more of an issue since the move to the UK.

(iv) Finance provided from the sponsor to the UK was sporadic, evidenced only for December 2019 and 3 months in 2020. The second appellant continued in employment as a plumber in Lebanon. The main issue over financial dependency arose from lack of money due to the Covid pandemic rather than financial dependency on the sponsor.

(v) The appellants had not demonstrated more than the normal emotional ties.

(vi) "I accept the respondent's case that … the first appellant now has her own family unit in Lebanon".

6. Analysis of the grounds is not assisted by their rather confusing numbering.

7. The grounds firstly look for an error of fact in the Judge saying on (i) above that living arrangements were "largely driven by a lack of finance and a desire to pool resources … the first appellant's brother referred to this in his statement". This is said to be a mistake by reference to the statement, which says that the sponsor and the second appellant were "trying to make enough money to pay the rent". This element of the grounds then goes on to say that it was implicit in the evidence that the parties were financially interdependent, from which it "follows that there were elements of interdependency going beyond normal emotional ties and no reasonable Judge would have found otherwise".

8. Rather than showing material error of fact, or irrationality, this line of challenge is convoluted and self-contradictory. It firstly seems to criticise the Judge for finding a degree of financial interdependency, then insists that there was such interdependency. I see no contradiction between the Judge's view of family arrangements and the brother's description. The ground then says that the evidence could lead to only one outcome on emotional ties, which goes too far.

9. The grounds do not show that the evidence was such that the Judge went wrong on this issue, or that this was anything but a question of fact and degree to be resolved either way.

10. The grounds next burrow into (ii), the timing of the appellants moving out of the house where they lived with the sponsor. The findings are said to imply that the Judge did not accept that they moved only of being told of resettlement, and that he found this indicative of absence of anything beyond normal emotional ties. The evidence is said to have shown that there was time to make necessary arrangements, and thus a "failure to have regard to all relevant considerations".

11. The respondent accepts in the response that the evidence in the underlying witness statement was that the parties lived together from the marriage in June 2015 until September 2015 and again from a month prior to departure in December 2015. It is argued that the slip is immaterial.

12. The underlying evidence was that although the actual date was at short notice, resettlement was known about months ahead. By introducing the sentence with "However," the Judge does seem to have made something of moving out in advance; but I do not see that he was under any misapprehension. The sentence goes on to mention very little notice *of the actual flight*, which accepts that the process was in motion well before then. The passage appears to be more a summary of the evidence than a significantly adverse finding.

13. The grounds here again seek to make too much out of very little.

14. On (iii) the grounds, as presented to the FtT and as developed further on renewal to the UT, probe into the medical evidence which was before the Judge, which he did not cite in his decision. The grounds maintain that he did not accept that the first appellant's mother "had any significant mental health problems before she left Lebanon".

15. That proposition is neither explicit nor implicit in the decision. There is no reason to take the Judge's view as anything other than as he said; she had problems before leaving Lebanon, which became worse afterwards. No error of fact is shown in either part of that general summary.

16. This ground (or sub-ground) ends with the claim that the Judge "made findings which no reasonable Judge would have made", but that aims far too high. This aspect discloses no error.

17. Numbers (iv) and (v) do not appear in the grounds. The next point is identified in the first set as (vi), "failure to have regard to all relevant considerations". This passage of the grounds is only insistence that evidence of the anxieties of the first appellant's mother and brother should have been taken as evidence of dependency beyond the norm.

18. The paradigm cases of family life are between husband and wife, or similar partners, and among parents and minor children. The Judge was directed to, and considered, cases on when family life extends to adult children. All such cases turn ultimately on their own facts, but formation by adult children of relationships such as marriage must tend to take them beyond the core protection of article 8.

19. While extended family links obviously remained strong in this case, and the circumstances are sympathetic, the evidence was such that it was far from irrational to conclude that the first appellant now had "her own family unit" for article 8 purposes. The consideration of the relevant circumstances by the Judge at [25] is not shown to contain any material error. As his conclusion has not been shown to involve the making of any error on a point of law, that resolves this appeal.

20. The rest of the grounds, paragraph [4] of the first set and [9] of the second (identified there as "the fifth ground"), are on proportionality, and on whether the consequences of separation were unduly harsh, which was another issue of fact and degree. This aspect of the grounds has not been shown to amount no more than insistence and disagreement.

21. The decision of the FtT shall stand.

22. No anonymity direction has been requested or made.

23 December 2021
UT Judge Macleman

**NOTIFICATION OF APPEAL RIGHTS**

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:

2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically).**

3. Where the person making the application is in detention under the Immigration Acts**, the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.

4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically).**

**5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.**

**6. The date when the decision is "sent' is that appearing on the covering letter or covering email.**