The Upper Tribunal
(Immigration and Asylum Chamber) **Appeal number: AA/01297/2014**
AA/01302/2014
AA/01303/2014
AA/01304/2014

THE IMMIGRATION ACTS

Heard at Field House **Promulgated**
On February 13, 2015 **On February 19, 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE ALIS

Between

MR REHANA NADEEM
MR MUHAMMAD NADEEM BUTT
MASTER MUHAMMAD UMAR BUTT
MASTER MUHAMMAD ALI BUTT
(NO ANONYMITY DIRECTION MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Miss Ofei-Kwatia, Counsel, instructed by Malik Law Chambers Solicitors
For the Respondent: Ms Wilding (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The appellants are citizens of Pakistan. The first named appellant applied for asylum on July 29, 2011 having entered the United Kingdom with her

family on a visa on July 6, 2011. The remaining appellants are dependants on her application. The respondent refused their applications on February 10, 2014 and decisions were taken to remove them by way of directions under section 10 of the Immigration and Asylum Act 1999.

2. The appellants appealed to the First-tier Tribunal under Section 82(1) of the Nationality, Immigration and Asylum Act 2002 on February 27, 2014 and on March 28 2014 Judge of the First Tier Tribunal Obhi (hereinafter referred to as the "FtTJ") heard their appeals and in a determination promulgated on April 10, 2014 he refused their claims for asylum and humanitarian protection as well as finding there was no breach of ECHR legislation.

3. The appellants lodged grounds of appeal on April 24, 2014 and on May 1, 2014 Designated Judge Baird found it was arguable there had been an error in light of the apparent error relating to the first-named appellant's father-in-law. She did not find merit on the other grounds but stated all grounds were arguable.

4. The matter came before me on the above date and on that occasion all appellants were present and represented as set out above.

SUBMISSIONS ON ERROR OF LAW

5. Miss Ofei-Kwatia adopted the grounds of appeal and argued the FtTJ had materially erred. There was at page 45 of the appellant's bundle a copy of the father-in-law's death certificate and by recording in paragraphs [17], [32] and [38] that he was still alive the FtTJ had erred. The FtTj had also made general comments about the school letter and in particular found the principal's name was not mentioned on the letter when in fact it was. The letter was material because it referred to three of the appellants and the FtTJ's findings were flawed. These errors undermined the humanitarian protections assessment and the decision should be set aside. As regards Article 8 it was submitted the FtTJ failed to have regard to the best interest of the children. They ahd been in the country for almost four years and the FtTJ failed to have regard to this period and the delay in assessing the claims. The FtTJ also failed to consider that the children would have been upset by what they saw in 2011 and the fact they vomited. The children have stability and at ages 13 and 15 it would not be in their best interests to remove them. The FtTJ failed to have regard to these factors.

6. Mr Wilding submitted that there was no error in law and he adopted the Rule 24 letter filed on July 2, 2014. With regard to the possible error relating to the father-in-law he pointed to paragraph [17] of the determination where the FtTJ recorded cross-examination evidence in which the first-named appellant stated her father-in-law had sent the documents and was still living in the house. This evidence had not been challenged and the FtTJ was therefore entitled to find the father-in-law was still alive. There was no evidence that the death certificate was raised with

the FtTJ and he invited me to find that the FtTJ's findings were open to him. He adopted Designated Judge Baird's findings on the school letter namely his comments were neither unreasonable nor perverse and submitted that the omission of the principal's name changed nothing. In any event the FtTj had found in paragraphs [38] and [39] that they would have sufficiency of protection or the option of internal relocation. Neither of these findings had been challenged. With regard to Article 8 he reminded me that grounds of appeal were on a failure to consider the best interests of the children. He submitted the FtTJ had considered their interests and found nothing extraordinary about their cases and went onto consider their claim under Article 8. He referred me to paragraphs [42] and [43] and submitted that the FtTJ properly considered the factors necessary and made findings open to him. On the issue of delay he made the point that this had never been raised prior to this hearing and any delay did not mean the appellants should succeed.

7. Having heard the submissions I indicated to Miss Ofei-Kwatia that I was unconvinced by her submissions but I would give a full written determination.

DISCUSSIONS AND FINDINGS

8. The grounds raised three areas of appeal but for the reasons I set out herein I find there is no error in law.

9. The first ground related to the first-named appellant's father-in-law. Contained within the bundle is a document that is said to be his death certificate. There is nothing in the determination that suggests submissions were made on this document but what is clear is that the FtTJ recorded in paragraph [17] that the first-named appellant's father-in-law sent her the documents although this is partially contradicted in the next sentence when she made reference to her paternal aunt's son sending documents. However, the FtTJ went onto record that in answer to questions put to her she confirmed her father-in-law continued to live in the house so perhaps it comes as no surprise that the FtTJ summarised her evidence in paragraph [28] that he was still alive. At paragraph [32] the FtTJ concluded by finding hew as still alive and living in the property. It was not suggested in the grounds that submissions had been made on the father-in-law being dead and I accept Mr Wilding's point that there had also been no challenge to the finings on sufficiency of protection and internal relocation in paragraphs [38] and [39] of the determination.

10. Even if the father-in-law was dead this did not change the FtTJ's findings on the shooting incident in 2011 because he was alive in any event at that time. The FtTJ completely rejected the claim and gave reasons in paragraph [32]. Regardless of the findings relating to what happened involving her brother-in-law I find the FtTJ's findings on sufficiency of protection and internal relocation are unchallenged and stand. There is therefore no material error of law on this ground.

11. With regard to the letter from the school it seems no one spotted the typed name under the school stamp. In any event the FtTJ gave ample reasons for rejecting the content of the letter and this omission does not negate those findings. The same principle for sufficiency of protection and internal relocation apply in relation to what was alleged in the letter. There is therefore no material error of law on this ground.

12. I turn to the final ground of appeal namely Article 8. The FtTJ considered the evidence before him and I am satisfied that in paragraphs [43] and [43] he considered the necessary evidence.

13. At paragraph [35] of EV (Philippines) [2014] EWCA Civ 874 the Court confirmed what a court should be considering when looking at the best interests of the child-

> "A decision as to what is in the best interests of children will depend on a number of factors such as (a) their age; (b) the length of time that they have been here; (c) how long they have been in education; (c) what stage their education has reached; (d) to what extent they have become distanced from the country to which it is proposed that they return; (e) how renewable their connection with it may be; (f) to what extent they will have linguistic, medical or other difficulties in adapting to life in that country; and (g) the extent to which the course proposed will interfere with their family life or their rights (if they have any) as British citizens."

14. The FtTJ was clearly aware of the children's ages because they were present in court when he heard the case and he had before him the family's immigration history so would have been aware how long they had been here. He had evidence of their schooling and the fact they had spent the majority of their lives in Pakistan. He had rejected their mother's claims about what happened in Pakistan and found they could all return to Pakistan as a family and renew their family connections. At paragraph [43] the FtTJ note he had extended family in Pakistan and he shared their culture, religion and language. They were both at ages where they could continue their education in Pakistan.

15. There is nothing wrong with his assessment of the children's best interests and although there had been a delay this had not prejudiced their situation. If anything it had strengthened their situation but not sufficiently to override the public interest in immigration control.

16. I am satisfied the FtTJ did consider the children's interest but he also had regard to the overall picture and in particular that the family would be removed together.

17. There is no error of law and I dismiss the appeals.

DECISION

18. The decision of the First-tier Tribunal did not disclose an error in law and the original decision shall stand.

19. Under Rule 14(1) The Tribunal Procedure (Upper Tribunal) Rules 2008 (as amended) an appellant can be granted anonymity throughout these proceedings, unless and until a tribunal or court directs otherwise. An order was not made in the First-tier and I see no reason to amend that order.

Signed: Dated: **February 19, 2015**

Deputy Upper Tribunal Judge Alis

TO THE RESPONDENT

I make no award on fees.

Signed: Dated: **February 19, 2015**

Deputy Upper Tribunal Judge Alis