



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

Appeal Numbers: IA/08660/2015
IA086622015
IA086672015
IA086732015
IA086782015

THE IMMIGRATION ACTS

Heard at Field House

On 6th June 2017

**Decision & Reasons
Promulgated
On 21st June 2017**

Before

DEPUTY UPPER TRIBUNAL JUDGE ROBERTS

Between

MS O.M.E.

MR S.O.E.

MR S.S.E.

MR O.D.E.

MASTER M.N.E

(ANONYMITY DIRECTION MADE)

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr Collins, Solicitor

For the Respondent: Mr Nath, Senior Home Office Presenting Officer

Anonymity

Rule 14: The Tribunal Procedure (Upper Tribunal) Rules 2008

An anonymity direction was made by the First-tier Tribunal. That direction stands.

DECISION AND REASONS

1. The Appellants, who are citizens of Nigeria, are a family of five. The first and second Appellants are husband and wife, the third, fourth and fifth Appellants are their dependent children.
2. They appeal to the Upper Tribunal with permission against the decision of a First-tier Tribunal (Judge Ian Howard) which in a decision promulgated on 5th December 2016 dismissed their appeals against the Respondent's decision to refuse them leave to remain in the UK.
3. The Respondent's decision was made on 28th July 2015 and the Appellants appealed the refusal on the basis that their Article 8 ECHR rights would be infringed by that decision.
4. The grounds seeking permission to appeal Judge Ian Howard's decision are comprehensively set out. It is asserted that the decision is incoherent and dismissive of the Appellants' appeals. It is said, firstly, the hearing before the First-tier Tribunal took place on 22nd June 2016 but the decision is recorded as not being made until 5th December 2016, an elapse of almost six months.
5. Secondly and more importantly, the decision does not address the Appellants' appeals. Whilst the first four paragraphs set out the correct names of the Appellants and the decisions appealed against, the rest of the decision from the heading "The Hearing" onwards bears no resemblance whatsoever to the case. The decision bears all the hallmarks of relating to a different appeal altogether.

Error of Law Hearing

6. Before me, Mr Collins appeared for the Appellants and Mr Nath for the Respondent. Mr Nath quite properly accepted that the decision of FtTJ Howard could not stand. It was his view that the matter should be remitted to the First-tier Tribunal for a full and proper decision relating to the evidence. Since the findings of fact in the extant appeals appeared to relate to people other than the Appellants, it stood to reason that none of the findings could stand and that the decision should be set aside in its entirety.
7. Mr Collins for the Appellants accepted that this was the appropriate course, although he had initially voiced the hope that the matter could be dealt with before the Upper Tribunal.

Consideration

8. I am satisfied that the decision of the First-tier Tribunal cannot stand. It is difficult to see what has occurred here, bearing in mind that the substantive body of the decision bears no resemblance to the cases set out for the Appellants. What is clear is that the decision must be set aside in its entirety for the reasons given in the grounds seeking permission, which I have set out above.
9. There is no alternative in these appeals but to remit these matters to the First-tier Tribunal for a fresh hearing to take place. That is the appropriate Tribunal in fairness to the Appellants. Nothing can be preserved from the First-tier Tribunal's decision. It is set aside in its entirety.

Decision

The decision of the First-tier Tribunal is set aside. The Appellants' appeals are remitted to that Tribunal for a fresh hearing which should be before a judge other than Judge I Howard.

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

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

Signed

C E Roberts

Date

20 June 2017

Deputy Upper Tribunal Judge Roberts