



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

Appeal Nos: EA/07940/2016
EA/07943/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 8 January 2019**

**Decision and Reasons
Promulgated
On 23 January 2019**

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

**MUHAMMAD ZAHEER
IRZAM QAYYUM
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Ms Sandra Akinbolu, Counsel instructed by MKK Solicitors
For the Respondent: Mr Nigel Bramble, a Senior Home Office Presenting Officer

DECISION OF THE UPPER TRIBUNAL

**PURSUANT TO RULE 40(3)(a) OF
THE TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008**

1. The appellants have permission to appeal against the decision of the First-tier Tribunal dismissing their appeal against the respondent's decision to refuse them a residence card as the extended family members of the principal applicant's brother, the brother-in-law of the second appellants,

who is said to be exercising EEA Treaty rights in the United Kingdom. The application was made under the Immigration (European Economic Area) Regulations 2006.

2. Mr Bramble accepted at the hearing that the decision of the First-tier Tribunal was legally erroneous as to the test applicable for extended family members and that there was no alternative but to remit the appeal to the First-tier Tribunal. Ms Akinbolu concurred.
3. The parties agree that this is a case where the decision of the First-tier Tribunal must be set aside, and that no written reasons are required. The requirements of sub-paragraphs 40(3)(a) and 40(3)(b) of the Rules are met. I am satisfied that the decision of the First-tier Tribunal can properly be set aside without a reasoned decision notice and that the parties have consented to that course of action.
4. I therefore set aside the decision of the First-tier Tribunal, with no findings of fact or credibility preserved. The appeal will now proceed to the stage in which the First-tier Tribunal will remake the decision to allow or dismiss the appeal on the basis described in the grant of permission.

Signed: [Judith A J C Gleeson](#)
January 2019
Upper Tribunal Judge Gleeson

Date: 10