Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Numbers: IA/46770/2014
IA/46780/2014
IA/46781/2014

THE IMMIGRATION ACTS

Heard at Field House, London
On 23 February 2016

Decision & Reasons Promulgated
On 9 March 2016

Before

The President, The Hon. Mr Justice McCloskey
and Upper Tribunal Judge Mandalia

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

RANJIT SINGH
NARINDER KAUR
SANDEEP SINGH

Respondents

Representation:

Appellants: Mr Clarke, Home Office Presenting Officer
Respondent: Mr R Sharma, of counsel, instructed by Malik Law Chambers Solicitors

DECISION

1. This is an appeal by the Secretary of State against the decision of the First-tier Tribunal (the "FtT") promulgated on the 29 July 2015. By its decision the FtT allowed the appeals of the three Appellants, who together constitute a family unit. The most important feature of the appeal from the perspective of the legal framework is that the third Appellant, who is the son of the family, satisfied the seven years residence requirement enshrined in paragraph 276ADE(iv) of the rules. Accordingly, the issue to be decided by the Judge in his case was whether the 'reasonableness' requirement enshrined in this rule was to be determined in his favour.

2. We have considered the Secretary of State's challenge by reference to the recently reported decision of this Tribunal in the case of Dabare. It is important to reflect on the core complaint advanced by the Secretary of State, namely, that in applying the reasonableness test the Judge considered the child alone and disregarded the parents. The question of whether that complaint is made good requires an exercise of construing the determination. It is trite that the determination is to be considered as a whole and is to be read fairly, broadly and *in bonam partem*.

3. In a case involving several family members in which the Rules apply only to one or some, but not all, the kind of architecture found in the FtT's decision is unavoidable. As I put to Mr Clarke, every judgment must have a structure and a sequence in the interests of coherence and comprehension. From that perspective this judgment is beyond criticism. The key issue is whether the Judge erred in the respects identified in Dabare, namely by considering the case of the child in a self-sealed compartment and the case of the parents in a further self-sealed compartment.

4. Adopting the approach which I have just outlined we are satisfied that the Judge did examine all three cases in the round. That is the conclusion to be made from a consideration of the determination as a whole. True it is that the reasoning in the final section of the judgment is somewhat bare. It would have been preferable if the Judge had exposed his reasoning more fully and, secondly, made clear the nexus which he recognised between the claims of the parents and the claim of the child. However, we are satisfied that the nexus is unmistakable and must have been present to the Judge's mind. Further, and that the kind of impermissible isolation which Dabare has identified as a vitiating factor did not occur in the event.

5. For these reasons we conclude that the core of the Secretary of State's appeal is not sustained. In the alternative, if we are

wrong in that conclusion it is clear to us that any error which the Judge did commit is immaterial. The reason for that is that a properly arrived at conclusion in favour of the child under paragraph 276ADE(iv) of the rules would in our judgement have been the inevitable outcome in any event and would also be unchallengeable in law. On this second alternative basis, accordingly, we consider that the appeal cannot be allowed. Thus our omnibus conclusion is that the decision of the FtT is not vitiated by error of law in the manner asserted. We affirm the decision of the FtT and we dismiss the Secretary of State's appeal.

THE HON. MR JUSTICE MCCLOSKEY
PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Date: 25 February 2016