



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

Appeal Number: PA/07617/2017

THE IMMIGRATION ACTS

**Heard at Field House
On 20th February 2018**

**Decision & Reasons
Promulgated
On 21st March 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE J G MACDONALD

Between

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MISS DAJ
(ANONYMITY ORDER MADE)**

Respondent

Representation:

For the Appellant: Ms A Everett, Senior Home Office Presenting Officer

For the Respondent: Mr K Scott, Solicitor instructed by Pickup Scott Solicitors

DECISION AND REASONS

- 1.** For ease of reference I shall continue to refer to Miss DAJ as the Appellant. She is a citizen of Nigeria who applied for asylum in the United Kingdom and her application was refused by the Secretary of State but her appeal to the First-tier Tribunal Judge Thomas was successful in that her appeal was allowed in a decision promulgated on 16th October 2017.
- 2.** The Secretary of State appealed indicating it was not clear whether the judge had allowed the appeal on asylum grounds or just on human rights grounds. It was said that the judge gave inadequate reasoning for finding

that there was not a sufficiency of protection for the Appellant in Nigeria and the Respondent's refusal letter dealt with this at length at paragraphs 56 to 65, with reference to the background material. The judge had failed to engage with this evidence. Furthermore, the judge had found that if he was wrong and there was a sufficiency of protection, then it was necessary to consider internal relocation. The grounds observe that if there is a sufficiency of protection then there is no need to relocate. It was also said that the judge in any event gave inadequate reasons for the Appellant's inability to relocate within Nigeria.

3. The grounds of application were found to be arguable and permission to appeal was therefore granted. A Rule 24 notice was lodged, indicating that the judge had acted appropriately and had stated in paragraph 28 of the decision that Kano state had not adopted child protection laws and the abuse suffered by the Appellant was seen as family matters.
4. It was therefore submitted that the judge did consider the background evidence and had concluded that it would not be reasonable for the Respondent to relocate because she was a lone female girl without family support.
5. Thus, the appeal came before me on the above date. For the Secretary of State Ms Everett relied on her grounds. The issue of sufficiency of protection had not been properly addressed. The facts had therefore not been properly considered. The judge's findings did not go far enough.
6. For the Appellant Mr Scott submitted that the judge had given adequate reasons. In particular, the judge had explained why there was not a sufficiency of protection for the Appellant and the appeal had been allowed on asylum as well as human rights grounds.
7. I reserved my decision.

Conclusions

8. The judge found that the Appellant was a credible witness. In particular in paragraph 26 he found the Appellant's evidence that her stepfather had sexually assaulted her by touching and attempting to touch her to be credible and not exaggerated. She had given a detailed account of the various incidences in her interview. The judge accepted the evidence of the witness that the Appellant had confided in her. In terms of whether the judge considered the background material the judge found that whilst there were laws against sexual gender violence it continued to prevail in Nigeria. The judge noted that Kano had not adopted child protection laws and that such abuse is also seen as family matters and therefore concluded that "it is reasonably likely that the authorities in Kano would not be willing to protect the Appellant against her paternal uncles". It therefore seems apparent that while not specifically referring to paragraphs 56 - 65 of the refusal letter the judge did consider whether or

not there would be a sufficiency of protection for the Appellant and decided there would not be – for clear and adequate reasons given.

9. The judge went on to say that if he was wrong in that and there was a sufficiency of protection in Nigeria, then it was necessary to consider whether the Appellant could relocate. As the grounds point out, this was an error because if there was a sufficiency of protection for the Appellant then there was no need for the Appellant to relocate. However it does not seem to me that this error is a material one. The judge had already found that there would not be a sufficiency of protection for the Appellant in her home area and therefore did properly go on to consider whether it was reasonable or unduly harsh to expect the Appellant to relocate. In my view the judge's reasoning for concluding that the Appellant could not relocate is sound. In particular, in paragraph 28 the judge noted that the Appellant was still a child. As he put it, she was a lone female girl, without family support or a home elsewhere in Nigeria and it would therefore be unduly harsh and unreasonable for her to relocate there.
10. The judge's reasoning on this issue is clear and coherent and particularly given that the Appellant was still a child without family support cannot be considered to be an error in law. It is safe to conclude that he was allowing the appeal on asylum grounds (category particular social group) and human rights grounds.
11. There is therefore no material error of law in the judge's decision which must stand.

Notice of Decision

12. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.
13. I do not set aside the decision.
14. I shall continue the anonymity order as requested by Mr Scott.

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

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

Signed *JG Macdonald*

Date 20th March 2018

Deputy Upper Tribunal Judge J G Macdonald