



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

Appeal Number: EA/04887/2019 (P)

THE IMMIGRATION ACTS

**Heard at Cardiff Civil Justice Decision & Reasons Promulgated
Centre**

Decided under Rule 34

On 28 April 2021

On 2 June 2021

Before

UPPER TRIBUNAL JUDGE GRUBB

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

AGATHA CHRISTINE IBEAWUCHU

Respondent

Representation:

For the Appellant: Mr P Deller, Senior Home Office Presenting officer (written representations)

For the Respondent: Mr A Sesay of Freemans Solicitors (written representations)

DECISION AND REASONS

The claimant is a citizen of Nigeria who was born on 9 October 1971. On 29 October 2018, she applied for a residence card as an 'extended family member' of her EEA partner (claiming to be in a durable relationship) under reg 18(4) (read with reg 8(5)) of the Immigration (EEA) Regulations 2016 (SI 2016/1052).

On 2 September 2019, the Secretary of State refused the claimant's application. The Secretary of State was not satisfied that the claimant was in a durable relationship with her EEA national, partner.

The appellant appealed to the First-tier Tribunal. In a decision sent on 12 March 2020, Judge S Meah accepted that the relationship between her and her partner was a "durable relationship" and allowed the claimant's appeal under the EEA Regulations 2016.

The Secretary of State sought permission to appeal to the Upper Tribunal. On 30 May 2020, the First-tier Tribunal (Judge Foudy) refused the Secretary of State permission to appeal. On a renewed application, UTJ Allen granted permission on 23 July 2020.

The claimant filed a rule 24 response on 8 December 2020.

The appeal was listed for hearing before me on 29 April 2021. However, in advance of the hearing, the parties agreed a "Consent Order" in the following terms:

"UPON the Appellant (SSHD) accepting the finding of First Tier Tribunal Judge Meah in the determination of 12 March 2020 that the Respondent (Ms Ibeawuchi) is in a durable relationship with the sponsor, Mr Franci Sangalli Korletey, pursuant to Regulation 8 of the Immigration (European Economic Area) Regulations 2016

AND UPON it being noted that the Appellant (SSHD) did not appeal the determination in respect of the finding that Ms Ibeawuchi is in a durable relationship

BY CONSENT IT IS ASKED THAT THE TRIBUNAL:

1. Finds no error in law and dismisses the Secretary of State's appeal.
2. The hearing currently listed on 29 April 2021, for the Secretary of State's appeal, shall be vacated.
3. The Secretary of State shall use best endeavours, by 4 pm on 07 June 2021, to Ibeawuchi is entitled to a residence card under Regulation 18 of the 2016 Regulations in light of the determination of 12 March 2020.
4. Subject to the outcome of the Secretary of State's consideration in paragraph 2 above, the Secretary of State shall thereafter promptly, determine Ms Ibeawuchi's application, made on 14 December 2020, under the EU Settlement Scheme."

In an e-mail dated 27 April 2021, Mr Deller, on behalf of the Secretary of State, explicitly agreed the order which including an invitation to the UT to dismiss the Secretary of State's appeal to the UT on the basis that there was no error of law in the FtT's decision.

In the light of this, I consider it just and fair to determine the error of law issue without a hearing under rule 34 of the Tribunal Procedure (Upper Tribunal) Rules 2008. I directed that the hearing on 29 April 2021 be vacated.

In line with the agreed position of the parties set out in para 1 of the “Order”, I have concluded that the FtT did not err in law in allowing the claimant’s appeal under the EEA Regulations 2016. That decision, therefore, stands.

Decision

The decision of the First-tier Tribunal to allow the claimant’s appeal did not involve making of an error of law. The First-tier’s decision stands.

The Secretary of State’s appeal to the Upper Tribunal is, accordingly, dismissed.

Signed

Date 29 April 2021

Andrew Grubb

Judge of the Upper Tribunal