



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

Appeal Number: HU/20162/2018

THE IMMIGRATION ACTS

Field House

**Decision & Reasons Promulgated
On 10 March 2021**

Before

UPPER TRIBUNAL JUDGE PITT

Between

**PRISCILLA ANKOMAH
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

ENTRY CLEARANCE OFFICER - UKVS SHEFFIELD

Respondent

SET ASIDE DECISION AND DECISION REMAKING THE APPEAL

Decision to Set Aside

1. The Upper Tribunal issued a decision on 3 March 2021 finding an error of law in the decision of the First-tier Tribunal and re-making the appeal under Article 8 ECHR as refused.
2. On 5 March 2021 Mr Deller of the Senior Home Office Presenting Officer's Unit (SHOPOU) made written submissions to the Upper Tribunal requesting a set aside on the basis that a document relating to the proceedings was not sent to the Upper Tribunal at an appropriate time and submitting that it was in the interests of justice to set aside the part of the decision dated 3 March 2021 which dismissed the appeal. The document that had not been before the Upper Tribunal was a written submission from Ms Isherwood of the SHOPOU dated 1 March 2021 which had conceded the appeal as the respondent had reached the view that the materials

provided by the sponsor showed that the financial requirements of the Immigration Rules were met.

3. The Upper Tribunal finds that the concession made in the submissions of 1 March 2021 was clearly material to the outcome of the remaking of the appeal and should have been provided to the panel before the remaking of the appeal. The Upper Tribunal finds it to be in the interests of justice to set aside the part of the decision of 3 March 2021 re-making the appeal.

Re-making of the Article 8 ECHR Appeal

4. There is no longer a dispute as to the sponsor here having sufficient funds to meet the earnings threshold set down in the Immigration Rules and the respondent has accepted in light of all of the financial evidence provided by the appellant and sponsor that the decision refusing entry clearance amounted to a disproportionate interference with family life such that the appeal should be allowed under Article 8 ECHR.
5. The Upper Tribunal finds that the respondent's concession is appropriate in the context of the earnings threshold being more than met and the sponsor having provided all financial documents he could given the terms of his employment.
6. The Tribunal therefore remakes the appeal under Article 8 ECHR as allowed.
7. The Tribunal is grateful to Mr Whitwell, Ms Isherwood and Mr Deller of the Senior Home Office Presenting Officers Unit for their fair-minded and pragmatic approach to this appeal.

Notice of Decision

8. The decision of the First-tier Tribunal disclosed an error of law and was set aside to be remade.
9. The part of the Upper Tribunal decision issued on 3 March 2021 re-making the appeal as refused is set aside.
10. We remake the appeal under Article 8 ECHR as allowed.

Signed: S Pitt
Upper Tribunal Judge Pitt

Date: 8 March 2021