



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: IA/04314/2014

**THE IMMIGRATION ACTS**

Heard at Manchester  
On 15<sup>th</sup> August 2014

Determination Promulgated  
On 20<sup>th</sup> August 2014

Before

DEPUTY UPPER TRIBUNAL JUDGE LEVER

Between

MRS COMFORT GYABAAH

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

**Representation:**

For the Appellant: Mr Ikhlak  
For the Respondent: Mr McVeety

**DETERMINATION AND REASONS**

**Introduction**

1. The Appellant born on 31<sup>st</sup> January 1965 is a citizen of Ghana. The Appellant who was present was represented by Mr Ikhlak. The Respondent was represented by Mr McVeety.

### **Substantive Issues under Appeal**

2. The Appellant had made application for a residence card as the spouse of an EEA national under Regulation 7 of the 2006 Regulations. The Respondent had refused that application on 4<sup>th</sup> January 2014. The Appellant had appealed that decision and her appeal was heard by First-tier Tribunal Judge Ransley sitting at Manchester on 20<sup>th</sup> May 2014. The judge had dismissed the appeal under both the 2006 Regulations and Article 8 of the ECHR.
3. Application for permission to appeal had been made and was granted on 17<sup>th</sup> June 2014. It was said that there was arguably an error of law in the judge failing to recognise signatures of the Appellant and her husband on the Ghanaian customary marriage certificate were not those of the Appellant and her husband but of the mother and father of the couple because this was a proxy marriage. The Respondent had opposed the application. Directions have been issued directing the Upper Tribunal firstly to consider whether an error of law had been made or not. The matter comes before me in accordance with those directions.

### **Submissions on behalf of the Appellant**

4. Mr Ikhlok referred to the determination and said that an error had been made by the judge essentially repeating the error made by the Respondent and that **Kareem** was not relevant because there were no doubts concerning that certificate.

### **Submissions on behalf of the Respondent**

5. Mr McVeety referred me to the marriage certificate contained within the bundle of documents together with the other two relevant documents which were certifying documents contained within pages 3 and 4 of the Appellant's bundle.
6. At the conclusion of the hearing I reserved my decision which I now provide with reasons.

### **Decision and Reasons**

7. There was in my view no initial error made by the Respondent or indeed by the judge in terms of the relevant signatures. It is agreed that this is a proxy marriage where neither the Appellant nor her EEA Sponsor (an Italian) were present in Ghana for the marriage. It is further the case that the form of register of customary marriages part A and part B requires the name and signature or thumbprint of a witness for both the husband and a separate witness for the wife. Those places within part A and part B of the form of register have been signed and may well represent the signatures of the mother and father of the parties. However it is also clear that the form of register also requires the signature or thumbprint of both the husband and of the wife. There is nothing suggesting that such is unnecessary or is something that can be dispensed with completely. Indeed there are obvious and compelling reasons why the signature of husband and wife would be required. Without their signatures theoretically parents or others could marry by proxy two individuals without those individuals' consent or knowledge. There could be any

number of reasons why such would be done. The concept of a proxy marriage inherently carries some degree of risk but the requirement for husband and wife both to sign the form of register is a partial safeguard to demonstrate the parties are both aware of the proxy marriage and consent to it having taken place. There is a name or signature endorsed in each of the parts of the form of register ostensibly being the signature of the Appellant and Sponsor. The Respondent noted that those signatures did not match the signatures on their passports and understandably raised doubts as to the validity of this form of register where someone had signed purporting to be someone they were not. Indeed the evidence of the Appellant and the Sponsor confirms they did not sign that form of register confirming the doubts that were raised by the Respondent.

8. The documents at pages 3 to 4 of the Appellant's bundle seek to confirm as genuine certain signatures. However it is noteworthy that they do not seek to confirm as genuine the signatures of the husband and wife but simply other individuals.
9. The judge was therefore correct to identify the doubts raised by the Respondent in the refusal letter and it is quite clear that the Respondent had legitimately raised concerns about the form of register in terms of its validity or authenticity.
10. Accordingly contrary to submissions made the case of **Kareem** which has recently been restated and affirmed in the case of **TA** was relevant. To that extent it was necessary for evidence to have been provided to the judge to demonstrate that the alleged marriage contracted was in accordance with the law of the EEA country of the qualified person's nationality i.e. Italy. There was no such evidence provided.
11. The judge was therefore entitled to dismiss this appeal on the basis that was done.

### **Decision**

12. There was no material error of law made by the judge in the First-tier Tribunal.

Signed

Date

Deputy Upper Tribunal Judge Lever