



**Upper Tribunal
(Immigration and Asylum Chamber)
EA/03841/2015**

Appeal Numbers:

THE IMMIGRATION ACTS

Heard at Manchester

**Decision &
Promulgated
On 5 July 2017**

Reasons

On 4 July 2017

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

DINA OWUSU

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the appellant: Mr Moksud, International Immigration Advice

For the respondent: Mr McVeety, Senior Home Office Presenting Officer

DECISION

1. The appellant is a citizen of Ghana. She made an application on 13 August 2015 for an EEA residence card, on the basis of her marriage to an EEA national. The appellant claims to have entered into a marriage by proxy in Ghana on 7 May 2011. This application was refused by the respondent in a detailed decision letter dated 1 December 2015. The respondent recounted the relevant chronology and noted that similar applications were refused in 2013 and 2014. The respondent then concluded that the instant application failed because the marriage was not contracted in accordance with the law and the evidence of the claimed relationship was unsatisfactory. A home visit found the appellant and her spouse were not resident on 7 November 2015.

2. After hearing evidence from the appellant and her spouse, the First-tier Tribunal dismissed the appellant's appeal in a decision dated 1 November 2016. The First-tier Tribunal was satisfied that the marriage was valid according to the law of Ghana but in accordance with Kareem (Proxy marriages - EU law) [2014] UKUT 00024 found that the marriage was not recognised in the law of the Netherlands. The First-tier Tribunal did not make any findings regarding the genuineness of the relationship.
3. In a decision dated 26 April 2017 First-tier Tribunal Judge Kelly granted permission to appeal in light of Awuku v SSHD [2017] EWCA Civ 178. In a rule 24 notice dated 11 May 2017 the respondent indicated that she did not oppose the appeal and that it should be redetermined.
4. At the hearing before me, Mr McVeety accepted the following matters:
 - (i) The First-tier Tribunal was entitled to accept that the marriage was valid in accordance with the law of Ghana;
 - (ii) There was no requirement to consider the law in the Netherlands for the reasons outlined in Awuku;
 - (iii) At the hearing the appellant and her spouse gave evidence regarding their marriage and this evidence was not disputed by the respondent's representative;
 - (iv) There had never been any suggestion that the marriage was a sham and it was now accepted that the relationship and marriage are genuine;
 - (v) It follows that the appeal must be allowed because the appellant meets the requirements of to be granted a residence card.
5. As Mr McVeety did not dispute that the relevant requirements are met and the appellant has provided evidence that is now accepted to establish that she is validly married as claimed and is in a genuine relationship, it follows that the appeal must be allowed.
6. The decision of the First-tier Tribunal involved the making of a material error of law. Its decision cannot stand and is set aside.
7. I have remade the decision and allow the appeal under the EEA Regulations 2006 (as amended).

Signed:

Ms M. Plimmer
Judge of the Upper Tribunal

Date:
5 July 2017