



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

Appeal Number: HU/07039/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 02 December 2019**

**Decision & Reasons Promulgated
On 05 December 2019**

Before

UPPER TRIBUNAL JUDGE CANAVAN

Between

**CART KENT DELA CRUZ
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the appellant: Mr A. Slatter, instructed by Douglass Simon Solicitors

For the respondent: Mr T. Lindsay, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appealed the respondent's decision dated 27 February 2018 to refuse a human rights claim in the context of an application for entry clearance as a dependent child.
2. First-tier Tribunal Judge Cohen ("the judge") dismissed the appeal in a decision promulgated on 22 July 2019.

3. Rule 40 of The Tribunal Procedure (Upper Tribunal) Rules 2008 allows the Upper Tribunal to give a decision orally at a hearing. Rule 40(3) states that the Upper Tribunal must provide written reasons with a decision notice to each party as soon as reasonably practicable after making a decision which finally disposes of all issues in the proceedings. Rule 40(3) provides exceptions to the rule if the decision is made with the consent of the parties or the parties have consented to the Upper Tribunal not giving written reasons. In this case both parties consented to the decision at the hearing so it is not necessary to give detailed reasons.
4. In summary, it is agreed that the judge failed to consider the issue of 'sole responsibility' with reference to the principles outlined in relevant case law, failed to give adequate reasons for his credibility findings, failed to take into account relevant evidence and had regard to irrelevant matters.
5. The First-tier Tribunal decision must be set aside. None of the findings can stand. The nature and extent of judicial fact finding necessary to remake the decision is such that, having regard to the overriding objective, it is appropriate to remit the case to the First-tier Tribunal for a fresh hearing.

DECISION

The First-tier Tribunal decision involved the making of an error on a point of law

The case is remitted to the First-tier Tribunal for a fresh hearing

Signed  Date 02 December 2019
Upper Tribunal Judge Canavan