



**Upper Tribunal
(Immigration and Asylum Chamber)** Appeal Number: PA/10947/2018

THE IMMIGRATION ACTS

**Heard at Glasgow
on 12th July 2019**

**Decision & Reasons
Promulgated
on 2nd August 2019**

Before

DEPUTY UPPER TRIBUNAL JUDGE DEANS

Between

**H G
(Anonymity direction made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

For the Appellant: Ms J McCallum, Latta & Co, Solicitors
For the Respondent: Mr M Diwnycz, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This appeal is brought against a decision by Judge of the First-tier Tribunal Lucas dismissing an appeal on protection grounds.
2. The appellant was aged 18 at the date of the hearing before the First-tier Tribunal in January 2019. She is a national of Ethiopia. She has been recognised as a victim of trafficking. She was brought to

the UK from Calais in November 2016 under section 67 of the Immigration Act 2016. She has leave to remain until August 2023.

3. Permission to appeal was granted principally on the ground that the Judge of the First-tier Tribunal arguably erred in several ways in finding the appellant's account implausible and, in particular, in making his credibility findings failed to consider evidence in the form of country information.
4. To understand the basis on which permission to appeal was granted, it is necessary to look at the appellant's account and the judge's findings in respect of it. According to the appellant, she and her older sister lived with their parents in Addis Ababa. The appellant had a close relationship with her maternal uncle. Some time before the appellant left Ethiopia her parents arranged a marriage between her sister and an older man. When the appellant was aged 13, her uncle told her that her parents had arranged a marriage for her but he disapproved of it. He arranged for the appellant to leave Ethiopia and travel to Sudan in order to avoid this forced marriage. Once in Sudan the appellant lived with a family in a state of domestic servitude. She was forced to move to Beirut, where she was enslaved for 3 years to a family who mistreated her. This family had a home in France, to which they took the appellant and from which she escaped and made her way to Calais. The appellant did not believe that her uncle knew he was sending her into a harmful situation in Sudan. She trusted him and believed that he knew the family he was sending her to in Sudan. She last had contact with her uncle when she was in Beirut. He was worried about her but told her everything would be all right "tomorrow". The appellant has not had contact with her parents or sister since she left Ethiopia.
5. At paragraph 26 of his decision the Judge of the First-tier Tribunal stated that he did not regard the appellant's account "as in any way credible." She stated that she never had any discussions with her parents about her arranged marriage although she also said she had a good relationship with them. Implausibly it was her uncle who told her about the proposed marriage and arranged for her to travel to a family in Sudan, supposedly for her welfare. According to the judge, at paragraph 28, it made no sense for the appellant's uncle to arrange for her to leave her parents, country and education at the age of 13 for an unknown fate in Sudan and then Beirut. At paragraph 29 the judge found that the appellant's uncle had acquiesced in her domestic servitude and this was not the action of someone who had the best interests of the appellant at heart. At paragraph 30 the judge indicated that he did not believe that at the age of 13 the appellant would have left Ethiopia without speaking to her parents.

6. The application for permission to appeal contends, first, that because the Judge of the First-tier Tribunal did not find the appellant's account "inherently implausible" it could not be found implausible. Something seemingly implausible might be seen as plausible "in another light". It was not implausible that the appellant did not have a discussion with her parents where a proposed marriage was an arranged one. The appellant's uncle might have seen escape as preferable to a forced marriage. It was contended, secondly, that the judge looked at the evidence "in a one dimensional way" and, thirdly, that the judge characterised the risk to the appellant according to his own perception of reasonableness. Fourthly, although the judge recognised that the appellant was a vulnerable witness this was not taken into account when assessing the evidence. Fifthly the judge paid only lip service to the finding that the appellant was a victim of trafficking and did not assess how this affected the appeal. Finally the judge failed to assess adequately any of the country information. Reliance was placed in particular on the authority of KB & AH (credibility-structured approach) [2017] UKUT 00491.

Submissions

7. At the hearing before me Ms McCallum referred to a consolidated bundle she had provided of the evidence which was before the First-tier Tribunal. This was of considerable assistance to me and I would like to record my appreciation of this.
8. Ms McCallum submitted that the appellant was entitled to refugee status not only because she was a victim of human trafficking but also because she had fled from a forced marriage. There was considerable evidence before the First-tier Tribunal of forced marriage in Ethiopia. The First-tier Tribunal failed to take a structured approach to credibility, in accordance with KB & AH. The Judge of the First-tier Tribunal did not believe that the appellant did not discuss the proposed marriage with her parents. The judge assessed this through a western standard but should have asked if parents in Ethiopia would have discussed a proposed marriage with their child. It was known that even children living in Scotland were taken abroad in the school holidays to marry without their prior knowledge.
9. It was suggested to Ms McCallum that the judge's finding was to the effect that the appellant's uncle had lied to her. Ms McCallum responded that the appellant's evidence was that her uncle did not know he was sending her somewhere worse. Ms McCallum submitted either that there would be no support for the appellant from her family on return to Ethiopia or that her family would have harmful intentions towards her. There was also an issue of illegal exit from Ethiopia. The appellant would be forced back into the

same situation from which she had fled – facing either forced marriage or servitude.

10. For the respondent, Mr Diwnycz relied upon a rule 24 response dated 24th May 2019. This states that the Judge of the First-tier Tribunal found the appellant's evidence implausible and lacking in credibility having considered the evidence holistically. The judge's findings were open to him and, in particular, the judge was entitled to find it was unlikely that the appellant's uncle who acted in the interests of her welfare would effectively place her in an unknown and arguably worse position in Sudan. The judge identified that the trafficking aspect had little impact on the appeal since it related to events after the appellant left Ethiopia and did not relate to the core of the appellant's claim.

Discussion

11. It is not entirely clear what is meant at paragraph 26 of the decision where the Judge of the First-tier Tribunal stated: "The Tribunal does not regard her account as in any way credible". Both the application for permission to appeal and the rule 24 response seem to have assumed that what the judge meant was that the appellant had fabricated a story in order to claim protection. There is, however, more to the judge's findings than this. The judge recognised at paragraph 32 that the appellant had been accepted as a victim of trafficking. At paragraph 29 the judge posited that the appellant's uncle acquiesced in her domestic servitude. The inference may be drawn from the judge's findings that it was not the appellant who fabricated a story in order to claim protection but her uncle, whom she trusted, who fabricated a story in order to deliver the appellant into domestic servitude. The appellant's account is implausible not in the sense that she would not have been forced into marriage by her parents but in the sense that her uncle had her best interests at heart in seeking to save her from a forced marriage. The inference to be drawn from the judge's findings is that the appellant's uncle used the fear of a forced marriage to induce the appellant to flee into domestic servitude with a family in Sudan. This family then transferred the appellant, without her consent, to serve a family in Beirut. This accords with the decision that the appellant was a victim of human trafficking but accepts as implausible that her uncle arranged her departure from Ethiopia without knowing what awaited her in Sudan.
12. There are certain issues on which the judge's findings might be open to challenge. At paragraph 30 the judge found that the appellant would not have left Ethiopia at the age of 13 without speaking to her parents, with whom she had a good relationship. In fact the judge recorded contradictory evidence from the appellant about her relationship with her parents. In her witness statement the appellant recorded that she had a good relationship with her

parents. At paragraph 16 the judge records that initially in cross-examination the appellant said her relationship with her parents was good. The judge then records at paragraph 17 that the appellant said she did not have a good relationship with her parents.

13. This is perhaps an issue where the judge should have specifically had regard to the fact that the appellant was a vulnerable witness, who gave contradictory answers in cross-examination. When this is taken into account it is difficult to see how the judge could have made a finding that the appellant would have spoken to her parents before leaving Ethiopia because she had a good relationship with them, particularly where there is an element of speculation about how a 13-year-old Ethiopian girl might behave. For reasons which I will develop, however, I do not think the judge's findings at paragraph 30 are fatal to his decision.
14. Generally, the judges' findings on the lack of plausibility of the appellant's account were open to him, provided it is recognised that it was the appellant's interpretation of her uncle's behaviour which was implausible and it was not necessarily the case that the appellant was giving evidence in which she herself did not believe. When this is recognised most of what is contended in the application for permission to appeal about the structuring of the decision, or about the judge's perspective, falls away. What remains is that the appellant was rightly recognised to be a vulnerable witness, even if the judge did not fully take this into account when making findings, and that she was a victim of trafficking. The one further aspect of the application for permission to appeal is whether the judge took proper account of the country information.
15. During the course of the hearing I was referred to country information which was before the First-tier Tribunal about forced marriage of child brides in Ethiopia. A BBC report from 2006 (Appellant's bundles, p180) referred to the prevalence of this. There was a more recent report from 2015 stating that Ethiopia has one of the highest rates of child marriage in the world (Appellant's bundle, p 172). AN HJT report from 2007 (Appellant's bundle, p 175) indicates that it is in rural regions where child marriages are prevalent. A Home Office report of October 2017 states that early marriage and marriage by abduction are prevalent across Ethiopia, although the incidence has reportedly declined in recent years (Appellant's bundle, p 208). The legal age for marriage is 18 for both genders but the law was not enforced uniformly and families in rural areas were sometimes unaware of it.
16. As already noted, it was part of the appellant's submission that the judge failed to have regard to this country information. I accept that this country information might have been highly relevant if there was any question of returning the appellant to

Ethiopia as a minor but there is none. Any risk to the appellant of forced marriage as a child, if it ever existed, has gone.

17. I understood it to have been suggested that if the appellant were to return to Ethiopia she feared reprisals from her parents for running away, or from the authorities if she had left the country illegally. These fears appear to have been somewhat speculative in the context of this appeal. The appellant does not know whether she left Ethiopia illegally. The Home Office report of October 2017 (Appellant's bundle, p 203) does not suggest that returnees who have left illegally face any particular sanction from the authorities.
18. So far as the appellant's family is concerned, as the appellant has leave until 2023, she would be returning as a woman in her twenties. I was not referred to any country information regarding forced marriage of women over the age of 18, nor to any evidence of a widespread problem of, for example, honour killings. The evidence does not show that the appellant would face a real risk of being trafficked from Ethiopia as an adult. She was tricked into leaving when she was a child.
19. After the appellant left Ethiopia around 2013 she endured almost unimaginable abuse as a domestic slave until she was brought to the UK in November 2016. The abuse she suffered was not in her home country but in Sudan and Lebanon and, finally, in France. The issue in her appeal, however, was whether she is currently at risk of persecution or serious harm in Ethiopia. Even taken at its highest, the evidence does not establish a real risk of persecution or serious harm in Ethiopia. Even if I had found that the findings of the First-tier Tribunal were fatally flawed, I do not perceive how the appellant could succeed in her appeal.

Conclusions

20. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.
21. The decision of the First-tier Tribunal dismissing the appeal shall stand.

Anonymity

The First-tier Tribunal did not make a direction for anonymity (contrary to what is stated on the front sheet of the decision). In view of the fact that the appellant was trafficked as a child and is a vulnerable person I make such a direction in the following terms. Unless or until a court or tribunal directs otherwise no report of these proceedings shall either directly or indirectly identify the appellant or any member of her family. This direction applies to the appellant and the respondent. Failure to comply with this direction may give rise to contempt of court proceedings.

M E Deans
25th July 2019
Deputy Upper Tribunal Judge