

UK Supreme Court convenes in Edinburgh – Sadovska and another v Secretary of State for the Home Department

It used to be called the House of Lords but is now called the UK Supreme Court and it usually sits in London, but this week for three days only the Court convened in Edinburgh.



The five Supreme Court judges with the Lord Provost and Lord Carloway the Lord President of the Court of Session on the balustrade at the City Chambers.

Using the technology available in the City Chambers to webcast proceedings the five judges sat to hear the case of Sadovska and another v Secretary of State for the Home Department

This appeal from a Decision of three judges at the Court of Session last June relates to the evidential burden on the state when disrupting 'sham marriages'. There have already been two hearings in 2014 and 2015, with permission for appeal to the Supreme Court only being granted on 1 March 2017.

The marriage took place at Leith Registry Office on 17 April 2014 when immigration officers interrupted the wedding to establish whether they had committed any offences under the Immigration Acts.

Violeta Sadovska and Saleem Malik were accused of entering into a marriage of convenience and there was an order from a lower tribunal to order them to be expelled from the United Kingdom. They contended that they had been in a genuine relationship since October 2012, but both tribunals decided

there was insufficient evidence to show that the marriage was genuine.

The First Tier Tribunal (FTT) held that “neither appellant demonstrated a knowledge of each other, which was consistent with a lifelong commitment to marriage or an intense romantic relationship for over a year. The tribunal also decided that there was no evidence of any planning for the marriage. The FTT held that the appellants were not in a relationship, and certainly not a durable one. Since the first appellant was a party to a marriage of convenience, the respondent had been justified in revoking her residence card and ordering her removal. There was no family life involving the second appellant to be protected and no argument was presented on the basis of a private life.”

The case was then referred to the Upper Tribunal and the appellants claimed that the tribunal had made a mistake by only examining the evidence in the interviews and not all of the evidence available. The couple also claimed that the interviews were conducted unfairly and that neither of them had good enough English to be questioned in that language.

That appeal was refused and the case then came before the five Supreme Court judges heard the appeal from the Court of Session yesterday in Edinburgh.

Mr Bovey QC for the appellants argued that Ms Sadovska did live in Scotland as a worker which is one of the requirements of permanent residency. Her statement set out an employment history from three months after her arrival.

He further argued that there was some misapprehension of her status by the lower courts and after about 90 minutes of further argument invited the court to allow the appeal. The case was last heard in the Court of Session by Lord Carloway, Lady Paton and Lord Menzies who decided that the couple should be extradited from the UK. The case against Ms Sadovska rested

on the fact that she had residency rights which she abused, and against Mr Malik on the basis of his right to a family life in terms of human rights legislation.

✘ Lord Keene of Elie QC Advocate General for Scotland, on behalf of the Secretary of State for the Home Department, addressed the court as to whether the FTT was correct in deciding that the first appellant abused her rights of living in the U.K. by entering into a sham marriage.

He argued that the decision relating to Ms Sadovska was entirely made within the applicable 2006 legislation, but noted that had the notice been given earlier than the first appellant, Ms Sadovska, would have been detained and the marriage would not have taken place.

The couple who were in court to hear the legal arguments had initially been interviewed separately and it was said displayed little knowledge of each other's families. Their families and friends were not at the wedding, even though Ms Sadovska's two sisters lived in Edinburgh.

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The court will issue their decision at a later date, but the case is already historic as it was the first Supreme Court case to be heard outside London.

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As the court assembled Lord Neuberger, President of the UK Supreme Court said :

"Before we begin, it is right to record that this is a historic occasion: it is the first time that the Supreme Court, or our predecessor the Appellate Committee of the House of Lords, has sat outside London.

"We are delighted to be here, as it enables us to underline

the role of the Court in serving the people and communities of every part of the United Kingdom.

“We are very grateful to the Lord President – who will sit with us later in the week – and his colleagues, as well as to Edinburgh City Council and to Police Scotland, for all that they have done to accommodate our visit and make us feel welcome.

“We are very pleased to see those of you who have taken the time to come and watch us in this courtroom today, which reflects much of the point of our taking this initiative. Thank you for participating in this historic occasion.”



Lord Neuberger, President of the UK Supreme Court addresses the court