



THE COURT OF APPEAL

Neutral Citation Number: [2017] IECA 281

[2016 44]

Finlay Geoghegan J.
Irvine J.
Hogan J.

BETWEEN

ALISON FORD AND DAVID NWOKE

APPLICANTS/
RESPONDENTS

- AND -

MINISTER FOR JUSTICE AND EQUALITY

RESPONDENT/
APPELLANT

JUDGMENT of Ms. Justice Finlay Geoghegan delivered on the 27th day of October 2017

1. This appeal is from an order of the High Court (Eagar J.) made on 17th December, 2015 for the reasons set out in a written judgment delivered on 19th November, 2015 *Ford & Anor. v. Minister for Justice and Equality* [2015] IEHC 720.
2. Ms Ford is an Irish citizen and Mr Nwoke a Nigerian national. The order of the High Court quashed the decision of the Minister to refuse to grant a visa to Mr Nwoke to enter and reside in the State. It also remitted the application of Mr Nwoke for reconsideration by or on behalf of the Minister.
3. The appeal was heard at the same hearing as the appeals in *Gorry & Anor. v. Minister for Justice and Equality* and *A.B.M. and B.A. v. Minister for Justice and Equality* in which judgments are being delivered today. At the hearing of the appeal, the Court was informed that this appeal is now moot as further applications had been submitted by Mr Nwoke, one of which had been refused and a third was about to be or had been delivered.
4. The trial judge herein in substance followed the approach of the trial judge in *Gorry*. There is no issue of principle addressed in the High Court judgment herein which is not considered in the judgments delivered in *Gorry* to-day. In those circumstances there is no requirement that the Court deliver a separate judgment on this appeal save to say the following.
5. The decision at issue in this judicial review application expressly stated that the same principles apply in relation to a consideration of rights pursuant to Article 41 of the Constitution as do in relation to Article 8 ECHR. For the reasons fully set out in the judgments in *Gorry* that is not correct and it follows that the decision reached on that issue was not in accordance with law.
6. Accordingly the Court will uphold the order of the High Court that the decision of the Minister be quashed but having regard to the fact that the appeal is moot by reason of the further applications will vacate that part of the High Court order that remitted the application for further consideration on behalf of the Minister.