

Federal Court



Cour fédérale

Date: 20151026

Docket: IMM-1696-15

Citation: 2015 FC 1212

Ottawa, Ontario, October 26, 2015

PRESENT: The Honourable Mr. Justice Martineau

BETWEEN:

**HRATCH BAJAKIAN
SONIA BAJAKIAN
ARMANOUHIE GHASARIAN**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] This is an application for judicial review of the March 17, 2015 decision of the Refugee Protection Division [RPD] of the Immigration and Refugee Board, which found that the applicants are neither Convention refugees nor persons in need of protection under sections 96 or 97(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c 27 [Act].

[2] The applicants are all dual citizens of Lebanon and Syria, as well as Christians and members of the Armenian Orthodox church. Their claims are based on grounds of nationality, imputed political opinion, religion, and membership in a particular social group (family). The applicants allege that if they return to Lebanon, their neighbour, Mr. Samir Al-Akh [the neighbour] will kill them. In their Personal Information Forms [PIFs], the applicants allege that the latter harassed them for being “Syrian traitors”. The harassment and threats escalated in March 2012, after the principal claimant, in the course of repairing the neighbour’s camera, saw photos of the neighbour surrounded by a group of armed men in front of a Lebanese forces flag. The applicants allege that if the Lebanese authorities learned of these photos, the neighbour would face imprisonment for illegally bearing arms. Following the incident, two men, who the principal claimant initially believed to be Lebanese Intelligence agents, visited the principal claimant’s place of work on July 1, 2012 and tricked him into admitting that he had seen the compromising photos. During the following week, the two men returned to the store along with the neighbour, at which point the principal claimant realized that the men were in fact the neighbour’s friends. The men accused the principal claimant of being a spy for the Syrian secret service, and threatened him with death. They also went to the claimants’ family residence, accusing the co-claimants of being Syrian spies, and stating that they would work to revoke their Lebanese citizenship.

[3] The RPD did not believe the claimants’ story to be true and did not consider that the applicants’ subjective fear of having their Lebanese citizenship revoked was objectively founded since the revocations of citizenship by the Lebanese government cited by the applicants were limited to 176 people in October 2011, and “the main reason behind all the revocations is that the

granting of citizenship is based on falsified documents”. The applicants, who were granted Lebanese citizenship under Decree 5247, confirm they received their citizenship officially and legally. While there is some evidence to suggest that a number of ethnic groups, including Syrians, had their citizenship revoked on the basis of ethnicity, the RPD was of the view that since revocations have not occurred since October 2011, it is unlikely that the applicants’ citizenship would be revoked in the future. The RPD also found that the co-claimants’ submissions with respect to gender-related persecution were not credible for the reason that they failed to demonstrate how such persecution applied to their own personal circumstances.

[4] The sole issue today is whether the various findings made by the RPD are supported by the evidence and by a reasonable decision-making process. The applicants generally submit to the Court that the Board’s main conclusion of non-credibility was based on erroneous findings of fact, while they do not challenge the reasonableness of the Board’s conclusion with respect to their fear of having their citizenship revoked. In particular, at the hearing of this application, applicants’ counsel submitted that the RPD erred in discarding the principal claimant’s testimony that the two associates of his neighbour were Lebanese Intelligence/Secret Service agents.

[5] The standard of review when reviewing the RPD’s credibility findings is reasonableness (*Dunsmuir v New Brunswick*, [2008] 1 RCS 190 at para 51 [*Dunsmuir*]). I see no reviewable error on the part of the RPD as the impugned decision “falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law” [*Dunsmuir* at para 47].

[6] The RPD's reasons for dismissing the claim of fear of persecution on the part of the applicants' neighbour and the Lebanese Secret Services are clear and intelligible:

- (a) The applicants did not provide credible evidence that the neighbour would actually be imprisoned by Lebanese authorities because of his ties with the Lebanese forces militia and/or weapons possession. This conclusion is supported by the documentary evidence which establishes that the laws relating to weapons possession are not enforced in Lebanon.
- (b) It is not plausible that the neighbour would have brought the principal claimant his camera containing the incriminating photographs. The RPD was allowed to reject the principal claimant's suggestion that the neighbour brought the camera into his shop in order to cause more problems for the principal claimant.
- (c) The principal claimant testified that the applicants were targeted by members of the Lebanese Intelligence/Secret Service [spies] is also marred with inconsistencies. The principal claimant wrote in his PIF that the two men who came to his place of work claiming to be government agents were in fact friends of his neighbour or members of the Lebanese forces militia. During oral testimony, the principal claimant insisted the men were government agents because they showed him their identity cards (although he admitted not having had the time to read what the identity cards said, only that they had the Lebanese republic logo) and introduced themselves as government agents. The applicants reassert today that the principal claimant's account is true and that the latter had reasons to believe that the two associates of his neighbour were Lebanese spies.

- (d) The applicants omitted significant allegations in their PIFs. The applicants should have mentioned that they were threatened by the neighbour and other neighbours during the period from 1976 to 2012, since these claims could constitute persecution on a cumulative basis. The RPD did not accept the principal claimant's explanation that the PIFs focused on the more serious incidents occurring in 2012, since the RPD did not believe the 2012 incidents actually occurred. No serious argument has been brought to the attention of the Court that could disturb this finding.

- (e) The applicants' claims are undermined by the testimony regarding the brother of the principal claimant and first co-claimant to the effect that he has not been involved in any incidents with the neighbour or the alleged Lebanese Intelligence/Secret Service agents, despite the fact that the brother is a similarly-situated person, is known to the neighbour, and would presumably be traceable by the Lebanese Intelligence/Secret Service agents. Again, this finding is not seriously challenged by the applicants.

[7] There is no reason to disturb the credibility findings of the RPD with respect to the allegations concerning the incidents involving the neighbour and his two associates. In the case at bar, the principal claimant contradicted himself several times during oral testimony, and was unable to name one example where a person was imprisoned for carrying arms in Lebanon despite having stated that he knew of many such cases. Furthermore, the principal claimant's account during oral testimony that the neighbour's two associates were Lebanese spies contradicted his PIF, which stated that these men were merely the neighbour's friends and also

members of the Lebanese forces. The applicants' credibility was further put into question since neither the neighbour nor his associates threatened the brother of the principal claimant and first co-claimant, although he is a similarly situated person, undermining the claimants' assertions that they are being targeted by the neighbour and by the alleged Lebanese Intelligence/Secret Service agents. It was also reasonable for the RPD to find that the applicants should have indicated in their PIFs that they had suffered abusive threats from Mr. Al-Akh and other neighbours over a period of more than 30 years. The RPD also concluded that the fact that the applicants still pay \$20.00 a year to rent their residence in Lebanon demonstrates a lack of subjective fear of the neighbour or the Lebanese Intelligence/Secret Service agents – a finding that was not unreasonable.

[8] In conclusion, I do not find any grounds to grant the application. Counsel agree that this case does not raise any question of general importance.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review be dismissed.

No question of general importance is certified.

"Luc Martineau"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1696-15

STYLE OF CAUSE: HRATCH BAJAKIAN, SONIA BAJAKIAN,
ARMANOUHIE GHASARIAN v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: OCTOBER 21, 2015

JUDGMENT AND REASONS: MARTINEAU J.

DATED: OCTOBER 26, 2015

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