

Federal Court



Cour fédérale

**Date: 20160318**

**Docket: IMM-3159-15**

**Citation: 2016 FC 330**

**Ottawa, Ontario, March 18, 2016**

**PRESENT: The Honourable Mr. Justice Boswell**

**BETWEEN:**

**LOAN THI THANH LE**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**UPON** hearing this application for judicial review at Toronto, Ontario, on February 11, 2016;

**AND UPON** reviewing the materials filed with the Court, including the certified tribunal record, and hearing the arguments and submissions of the parties;

**AND UPON** reserving a decision with respect to this matter;

**AND UPON** concluding that this application for judicial review brought pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [Act] should be denied for the following reasons:

[1] The Applicant, Loan Thi Tranh Le, is a dual Vietnamese-Canadian citizen who married Trung Van Vu on December 19, 2009, in Vietnam. She first met Mr. Vu in February 2006, when she was visiting her family in Vietnam. They became friends, and the Applicant visited Vietnam regularly to meet with Mr. Vu; they began a romantic relationship in late 2008 or early 2009. After they were married in December 2009, the Applicant submitted a sponsorship application for Mr. Vu in April 2010. Mr. Vu was interviewed in Hanoi on July 20, 2011, and on August 10, 2011, the application was refused on the basis that the marriage was not genuine. The Applicant appealed this refusal to the Immigration Appeal Division [IAD] of the Immigration and Refugee Board of Canada. On June 16, 2015, following 3 days of hearings, the IAD dismissed the appeal.

[2] The IAD defined the issue on the appeal as whether Mr. Vu is excluded from membership in the family class pursuant to subsection 4(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227, on the basis that the marriage was entered into primarily for the purpose of obtaining status or privilege under the *Act* and is not genuine. In assessing the genuineness of the marriage, the IAD looked to numerous factors, including how the relationship developed, its length and the parties' intent. The IAD concluded that there was insufficient and inconsistent evidence about the relationship between 2006 until the marriage in December 2009, stating that the Applicant and Mr. Vu provided vague, imprecise testimony with numerous inconsistencies in their respective testimonies both internally and vis-à-vis each other. It further

found that some of their oral evidence was implausible, and that there was no satisfactory explanation about the inconsistent evidence from either the Applicant or Mr. Vu.

[3] The parties agree, as does the Court, that the appropriate standard for judicial review of the IAD's decision is one of reasonableness. Accordingly, the Court should not interfere if the IAD's decision is intelligible, transparent, justifiable, and defensible in respect of the facts and the law: *Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190 at para 47. Those criteria are met if "the reasons allow the reviewing court to understand why the tribunal made its decision and permit it to determine whether the conclusion is within the range of acceptable outcomes": *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 S.C.R. 708, at para 16. It is not up to this Court to reweigh the evidence before the IAD, and it is not this Court's function to substitute its own view of a preferable outcome: *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12, [2009] 1 S.C.R. 339, at paras 59, 61.

[4] In view of this standard for review, the central question to address therefore is: was the IAD's determination that the Applicant's marriage was not genuine reasonable?

[5] The IAD's decision in this case is reasonable. The numerous inconsistencies found by the IAD, notably around what happened the day the Applicant first met Mr. Vu, when their romantic relationship started, and when the marriage proposal occurred, are not, as argued by the Applicant, inconsequential or extraneous. On the contrary, because of these and other inconsistencies in the evidence, the IAD reasonably found that the Applicant's and Mr. Vu's

testimony was not credible, and therefore that the marriage not to be genuine. It is well-established that deference is to be afforded to the findings of a tribunal such as the IAD in matters of credibility.

[6] Moreover, the IAD did not, as the Applicant asserts, conduct a microscopic examination of facts peripheral to the issue of the genuineness of the marriage and then use inconsistencies in the Applicant's and Mr. Vu's testimony to make unreasonable findings about the genuineness of their relationship. While the IAD did make negative findings with respect to a peripheral issue concerning the Applicant's contact with her cousin in Vietnam, the other negative findings, such as those relating to the genesis of the relationship, were clearly supported by the evidence and related to central aspects of the genuineness of the marriage. Furthermore, the IAD clearly considered and reasonably assessed the limited evidence before it of the financial interdependence between the Applicant and Mr. Vu.

[7] In this case, the IAD's decision is intelligible, transparent, justifiable, and defensible in respect of the facts and the law. The IAD's reasons permit the Court to understand why it made its decision and its determination that the Applicant's marriage with Mr. Vu is not genuine is one well within the range of acceptable outcomes.

[8] The Applicant's application for judicial review is therefore dismissed. Neither party suggested a question for certification; so, no such question is certified.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that:** the application for judicial review is dismissed,  
and no question of general importance is certified.

"Keith M. Boswell"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-3159-15

**STYLE OF CAUSE:** LOAN THI THANH LE v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** FEBRUARY 11, 2016

**JUDGMENT AND REASONS:** BOSWELL J.

**DATED:** MARCH 18, 2016

**APPEARANCES:**

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