Federal Court  Cour fédérale

Date: 20140709

Docket: IMM-970-14

Citation: 2014 FC 666

Ottawa, Ontario, July 9, 2014

PRESENT: The Honourable Mr. Justice Mosley

BETWEEN:

CHUN KONG HUI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT

UPON an application, pursuant to s 72 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*], and s 18.1 of the *Federal Courts Act*, RSC 1985, c F-7, for judicial review and a writ of *mandamus* in relation to the applicant's application under the Federal Immigration Investor Program;

AND UPON reading the material filed and hearing the oral representations of counsel for the parties at Vancouver, British Columbia on June 4, 2014 and reserving judgment;

AND UPON considering that Bill C-31, An Act to Implement Certain Provisions of the Budget Tabled in Parliament on February 11, 2014 and Other Measures, 2nd Sess, 41st Parl, 2014, also known as the Economic Action Plan 2014 Act, No.1 or the Budget Implementation Act 2014, received Royal Assent on Thursday June 19, 2014 and that section 303 of Bill C-31 which came into force on Royal Assent amends the IRPA to terminate any application by a foreign national for a permanent resident visa as a member of the prescribed class of investors or of entrepreneurs if, before February 11, 2014, it has not been established by an officer whether the applicant meets the selection criteria and other requirements applicable to the class in question;

AND UPON considering the Reasons for Judgment of Madam Justice Gleason in *Jia v Canada (Minister of Citizenship and Immigration)*, 2014 FC 596 [*Jia*] issued on June 23, 2014 respecting 95 similar applications for permanent residence as members of the investor class provided for in section 90 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227.

The coming into force of Bill C-31 has rendered the application for judicial review and for mandamus in this matter moot as the underlying application for permanent residence in Canada has been terminated by the statute. While the Court may exercise its discretion to hear and determine a matter that is moot applying the principles set out by the Supreme Court of Canada in *Borowski v Canada (Attorney General)*, [1989] 1 SCR 342 [*Borowski*], I am not satisfied that this is such a case. The issues have been thoroughly canvassed by Justice Gleason in her reasons in *Jia*, above. Other than with respect to the constitutional issues, which were not

argued before me and on which I express no opinion, I substantially agree with Justice Gleason's reasons.

I have recently expressed views on the question of delays in relation to investor class applications in relation to a similar case: *Mersad v Canada (Minister of Citizenship and Immigration)*, 2014 FC 543. Having regard to the concern for judicial economy discussed in *Borowski*, I do not consider that there is anything useful that I might add to those views in this case. No questions were proposed for certification in this matter.

IT IS THE JUDGMENT OF THIS COURT that:

1. the application is dismissed; and

2. no question is certified.

"Richard G. Mosley"
Judge