



HIGH COURT OF AUSTRALIA

13 June 2018

CRI028 v THE REPUBLIC OF NAURU [2018] HCA 24

Today the High Court unanimously allowed an appeal from the Supreme Court of Nauru. The High Court held that the Supreme Court was wrong to uphold the approach adopted by the Refugee Status Review Tribunal ("the Tribunal") to the "internal relocation principle". That principle provides that a person is not a refugee if there is an area in the country of their nationality where the person would not have a well-founded fear of persecution and to which the person could, in all the circumstances, reasonably be expected to relocate.

The appellant was born in a district in the province of Punjab, Pakistan ("K District"). In 2004, the appellant moved to Karachi, where his wife and child remain. In 2013, the appellant arrived in Australia at Christmas Island and was transferred to Nauru. The appellant applied under the *Refugees Convention Act 2012* (Nr) to be recognised as a refugee. The Secretary of the Department of Justice and Border Control ("the Secretary") refused that application.

The appellant applied to the Tribunal for review of the Secretary's decision. The Tribunal found that the appellant had a well-founded fear of persecution in Karachi. However, the Tribunal affirmed the Secretary's determination on the basis that the appellant could relocate to K District. The Tribunal's principal thread of reasoning focused on whether K District was a "home area" of the appellant. In the alternative, based on "ordinary relocation principles", the Tribunal purported to consider whether relocation by the appellant was reasonable. No reference was made to issues that might arise, in relation to relocation, from the fact that the appellant had a wife and child. The Supreme Court dismissed the appellant's appeal, upholding the reasoning of the Tribunal in relation to the appellant's relocation to K District.

The appellant appealed as of right to the High Court. The High Court held that the Supreme Court erred in affirming the Tribunal's decision. The Tribunal was distracted by an inquiry into whether K District was a "home area" of the appellant and did not properly consider whether K District was an area to which the appellant could reasonably be expected to relocate, having regard to all the circumstances particular to the appellant. The Tribunal failed to take into account the appellant's wife and child. The High Court set aside the order of the Supreme Court, quashed the decision of the Tribunal, and remitted the matter to the Tribunal for redetermination according to law.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*