Federal Court  Cour fédérale

Date: 20190809

Docket: IMM-1135-19

Citation: 2019 FC 1068

Vancouver, British Columbia, August 9, 2019

PRESENT: Mr. Justice Gascon

BETWEEN:

PARAMJIT SINGH BASANTI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] For the last 20 years, the applicant, Mr. Paramjit Sing Basanti, has been trying to sponsor his wife, Mrs. Charanjit Kaur Basanti, for permanent residence in Canada as a member of the family class. In January 2019, the Immigration Appeal Division [IAD] dismissed Mr. Basanti's appeal of the decision of an immigration officer refusing his fifth and most recent sponsorship application [Decision]. After a three-day hearing, an IAD panel again concluded, as other panels

and visa officers had done before it, that Mr. and Mrs. Basanti had entered into their marriage primarily for the purpose of acquiring a status or privilege under the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], contrary to subsection 4(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRP Regulations].

[2] Mr. Basanti has applied to this Court for judicial review of the Decision. He submits that the IAD (i) misapplied or failed to apply the evidence he submitted, thus conducting an incorrect analysis of "primary purpose" pursuant to paragraph 4(1)(a) of the IRP Regulations, (ii) erred in failing to assess if the marriage is genuine pursuant to paragraph 4(1)(b) of the IRP Regulations, and (iii) provided inadequate reasons that lacked justification, transparency and intelligibility. Mr. Basanti asks the Court to quash the Decision and to send it back to the IAD for redetermination by a differently constituted panel.

[3] For the reasons that follow, I will dismiss this application. Having considered the evidence before the IAD, the reasons for the Decision and the applicable law, I can find no basis for overturning the IAD's Decision. The Decision was responsive to the evidence and the outcome is defensible based on the facts and the law. It falls within the range of possible, acceptable outcomes. Furthermore, even though they are succinct and not as detailed as Mr. Basanti would have hoped, the reasons for the Decision adequately explain how the IAD concluded that Mr. Basanti's marriage was entered into primarily for the purpose of obtaining immigration status in Canada. There are therefore no grounds to justify this Court's intervention.

II. Background

A. *The factual context*

[4] Mr. Basanti is a Canadian citizen. In 1994, he arrived in Canada from India and was sponsored by his brother. In 1995, Mr. Basanti got married for the first time. He sponsored his first wife, who became a permanent resident of Canada in 1996. Mr. Basanti and his first wife separated later in 1996 and divorced in 1998.

[5] After the divorce, Mr. Basanti's family placed an ad for a spouse in an Indian newspaper. The families of Mr. Basanti and his current wife met in January 1999. Mr. and Mrs. Basanti met for the first time in early February 1999. Their families agreed to their arranged marriage two days later, and the marriage took place before the end of that same month. Following the marriage, Mr. and Mrs. Basanti lived together in India until April 1999, when Mr. Basanti returned to Canada.

[6] Over the following 20 years, Mr. Basanti applied five times, unsuccessfully, to sponsor Mrs. Basanti into Canada. His first application was refused on appeal by the IAD in March 2001. In this decision, the IAD noted that Mr. Basanti's counsel had conceded that the primary purpose of their marriage was for Mrs. Basanti to gain admission to Canada. The IAD further found that, based on their respective testimonies, Mr. and Mrs. Basanti did not intend to reside permanently together. After that decision, Mr. Basanti returned to India from April to June 2001 and then from September to October 2002.

[7] Mr. Basanti filed a second sponsorship application, which was refused by a visa officer in November 2002. On appeal of that refusal, the IAD found, in a detailed decision issued in August 2004, that Mr. and Mrs. Basanti lacked credibility and that they had provided insufficient

reliable evidence that their marriage was genuine and was not primarily for an immigration purpose. A third and fourth sponsorship applications were filed, and were refused by visa officers.

[8] The fifth spousal sponsorship application, which is the object of the present judicial review, was filed by Mr. Basanti in January 2013, and an immigration officer refused it in January 2014. In the appeal of this decision before the IAD, both parties argued on whether *res judicata* applied. In April 2018, an IAD member decided that *res judicata* did not apply in the circumstances, and the case proceeded on the merits.

B. *The IAD Decision*

[9] After a *de novo* hearing, the IAD determined that, similarly to the previous decisions regarding Mr. Basanti's sponsorship applications, Mr. and Mrs. Basanti's marriage was entered into primarily for the purpose of gaining entry and permanent resident status in Canada. The IAD noted that, in order to determine the primary purpose of the marriage, it must look at the parties' intention at the time of the marriage.

[10] The IAD first considered the concession that the marriage was entered into primarily to gain admission into Canada, made by Mr. Basanti's counsel at the IAD hearing on his first sponsorship application. The IAD rejected Mr. Basanti's arguments that such an admission was common practice at that time, since only one of the two elements of subsection 4(1) of the IRP Regulations, as it then read, had to be established to be found to be a member of the family class. The IAD observed that it was open to Mr. Basanti not to make such a concession if the primary purpose of his marriage was not to gain admission to Canada, and that no evidence or statistics

supported his contention that the concession of this element was a common practice. It was thus retained as "a factor" in the IAD's assessment of the primary purpose of the marriage.

[11] The IAD then reviewed the decisions of the IAD regarding Mr. Basanti's first and second sponsorship applications issued in 2001 and 2004, and noted that Mr. Basanti did not file an application for leave and judicial review of those decisions. The IAD acknowledged that it was not bound by those decisions, but found that they provided insight as to the intentions of Mr. and Mrs. Basanti with respect to the primary purpose of their relationship. The IAD gave significant weight to those decisions, since they both relied extensively on the evidence submitted by Mr. and Mrs. Basanti and on their testimonies, and provided a thorough analysis of the marriage and its primary purpose.

[12] The IAD finally turned to the evidence submitted by Mr. and Mrs. Basanti in the application before it, including the testimonies heard and the affidavits filed. The IAD recognized the on-going contacts between Mr. and Mrs. Basanti for almost 20 years, Mr. Basanti's trips back to India, his continued financial support, and the fertility treatment sought out by the couple. However, the IAD concluded that there was insufficient credible or trustworthy evidence demonstrating that immigration was not the marriage's primary purpose. Having found that the primary purpose of the marriage was Mrs. Basanti's immigration to Canada, the IAD did not analyze whether the marriage was genuine under paragraph 4(1)(b) of the IRP Regulations, since both dimensions of subsection 4(1) must now be satisfied in order to be granted permanent resident status as a member of the family class. The finding that Mr. and Mrs. Basanti had entered into their marriage for immigration purposes was sufficient to deny the sponsorship application.

C. *The standard of review*

[13] The Court has consistently held that a large degree of deference is owed to the decision-makers of Immigration, Refugee and Citizenship Canada given the immigration officers' expertise and experience in immigration matters. As such, it is well established that the IAD's Decision must be examined under the standard of reasonableness (*Shahzad v Canada (Citizenship and Immigration)*, 2017 FC 999 at para 14; *Truong v Canada (Citizenship and Immigration)*, 2017 FC 422 at para 12; *Burton v Canada (Citizenship and Immigration)*, 2016 FC 345 [*Burton*] at para 13). More specifically, whether a marriage is genuine or is entered into for the primary purpose of immigration is a question of mixed fact and law and a highly factual determination, subject to review on a reasonableness standard (*Burton* at para 15; *Bercasio v Canada (Citizenship and Immigration)*, 2016 FC 244 at para 17).

[14] When reviewing a decision on the standard of reasonableness, the analysis is concerned "with the existence of justification, transparency and intelligibility within the decision-making process", and the IAD's findings should not be disturbed as long as the decision "falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law" (*Dunsmuir v New Brunswick*, 2008 SCC 9 [*Dunsmuir*] at para 47). In other words, the reasons behind a decision are reasonable if they "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 [*Newfoundland Nurses*] at para 16). In conducting a reasonableness review of factual findings, it is not the role of the Court to reweigh the evidence or the relative importance given by the decision-maker to any relevant factor (*Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 at para 112).

[15] The standard of reasonableness requires to show deference to the decision-maker as it is "grounded in the legislature's choice to give a specialized tribunal responsibility for administering the statutory provisions, and the expertise of the tribunal in so doing" (*Edmonton (City) v Edmonton East (Capilano) Shopping Centres Ltd*, 2016 SCC 47 [*City of Edmonton*] at para 33; *Dunsmuir* at paras 48-49). Under a reasonableness review, when a question of mixed fact and law falls squarely within the expertise of a decision-maker, "the reviewing court's task is to supervise the tribunal's approach in the context of the decision as a whole. Its role is not to impose an approach of its own choosing" (*Canada (Canadian Human Rights Commission) v Canada (Attorney General)*, 2018 SCC 31 at para 57; *Newfoundland Nurses* at para 17).

III. Analysis

[16] Mr. Basanti argues that the Decision is unreasonable because (i) the IAD misapplied or failed to apply the evidence he submitted, (ii) it omitted to assess if the marriage is "genuine", and (iii) it provided insufficient reasons. I do not agree and find that none of the grounds invoked by Mr. Basanti has any merit.

A. *Failure to consider the evidence*

[17] Mr. Basanti first claims that the IAD erred in various ways in its assessment of the evidence. He starts by alleging that the IAD put undue weight on the concession made by counsel in 2001 regarding the primary purpose of the marriage. He also contends that the IAD disregarded corroborative and consistent testimonies in this appeal and new evidence on the on-going relationship between the two spouses, sufficient to overcome the previous adverse

credibility findings. He further submits that the IAD ignored the cultural context of this arranged marriage. He finally adds that the evidence on the genuineness of the marriage was sufficient to support a positive determination under paragraph 4(1)(a) of the IRP Regulations.

[18] In my view, none of these arguments stands up to analysis.

[19] The test for reasonableness dictates that the reviewing court must start from the decision itself and the recognition that the administrative decision-maker has the primary responsibility for making factual determinations. The reviewing court shall look at the reasons, the record and the outcome and, if there is a justifiable explanation for the outcome reached, it shall refrain from intervening. No matter how eloquent the representations by counsel may be, they cannot turn a blind eye to what the decision-maker actually says it has done.

[20] Here, I am satisfied that the Decision allows me to know why the IAD was not convinced by the evidence submitted by Mr. Basanti. The essence of the IAD's reasons is found at paragraph 16 of the Decision. It is useful to reproduce in its entirety:

> [16] This panel has considered the evidence of the Appellant and the Applicant as well as the testimony of the other witnesses and supporting affidavits. The panel finds that although the Appellant and Applicant have maintained contact for close to 20 years and that the Appellant has returned to India on a number of occasions, there is insufficient credible or trustworthy evidence to find that the primary purpose of the marriage was not the Applicant's immigration to Canada to become a PR. As noted previously, the panel is not bound by the previous IAD decisions but the panel has given them significant weight as they conducted a thorough analysis of the marriage and its primary purpose. The panel finds that the Appellant and Applicant have not presented sufficient credible and trustworthy evidence for the panel to come to a different conclusion than the previous IAD Members who dealt with the first and second appeal. The panel acknowledges that on-going contact between the Appellant and the Applicant, the

> continued financial support, the trips back to India and the fertility treatment sought out by them but this is insufficient to establish that the primary purpose of the marriage was not the Applicant's immigration to Canada to become a PR. The panel finds that the evidence presented by the Appellant and the Applicant establish an on-going relationship but it does not overcome the previous findings that the primary purpose of the marriage was the Applicant's immigration to Canada.

[21] This paragraph, along with those that immediately precede it, clearly describes the process followed by the IAD. The IAD conducted a lengthy oral hearing, had the advantage of hearing and seeing the witnesses and observed their demeanour. It considered the decisions of previous IAD panels, affirmed it was not bound by them, but gave them substantial weight given their extensive review of the evidence offered by Mr. and Mrs. Basanti at the time, in the years that closely followed the conclusion of their marriage. It noted the concession made by counsel at the first hearing before the IAD and expressly stated that, while a factor in its assessment, it was not determinative of Mr. Basanti's current appeal. The IAD repeatedly mentioned that it did consider the new evidence submitted by Mr. Basanti, but was not convinced by it. After reviewing all the materials before it, the IAD found that Mr. and Mrs. Basanti had not presented sufficient credible and trustworthy evidence for the panel to come to a different conclusion than the previous IAD panels which had dealt with Mr. Basanti's first and second appeal.

[22] In light of the foregoing, I cannot agree with Mr. Basanti's suggestion that the IAD simply adopted the findings from the previous appeals, and failed to conduct an assessment of how the new evidence and testimonies proffered in this *de novo* appeal did not overcome the previous findings. With respect, this contention flies in the face of the express wording of the Decision. This is clearly not what transpires from the Decision.

[23] In fact, Mr. Basanti is arguing that the IAD did not do what it says it has done in its reasons. At the hearing, the Court invited counsel for Mr. Basanti to single out specific evidence in the record that might have been overlooked or ignored by the IAD. No such evidence was identified. In particular, Mr. Basanti was unable to direct the Court to omitted new evidence or testimonies regarding the *purpose of the marriage at the time it was entered into*, that could have tilted the balance in Mr. Basanti's favor. In particular, I observe that the seven affidavits from family and friends filed by Mr. Basanti, and attached to his application record before this Court, essentially spoke to the genuineness of the marriage and to the time spent by the couple together in recent years, not to the issue of what *was the primary purpose* of the marriage at the time it was concluded. In his submissions, Mr. Basanti generally alluded to *viva voce* evidence and to sworn affidavit evidence that was allegedly not properly considered and analyzed by the IAD, but he was unable to point the Court to any persuasive evidence in that respect.

[24] It is well recognized that a decision-maker is presumed to have weighed and considered all the evidence presented to it unless the contrary is shown (*Florea v Canada (Minister of Employment and Immigration)*, [1993] FCJ No 598 (FCA) at para 1). A failure to mention a particular piece of evidence does not mean that it was ignored (*Newfoundland Nurses* at para 16), and a decision-maker is not required to refer to each and every piece of evidence supporting its conclusions. It is only when a tribunal is silent on evidence clearly pointing to an opposite conclusion that the Court may intervene and infer that the tribunal overlooked the contradictory evidence when making its finding of fact (*Ozdemir v Canada (Minister of Citizenship and Immigration)*, 2001 FCA 331 at paras 9-10; *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, [1998] FCJ No 1425 (QL) [*Cepeda-Gutierrez*] at paras 16-17). However, *Cepeda-Gutierrez* does not stand for the proposition that the mere failure of a tribunal to refer to an

important piece of evidence that runs contrary to the tribunal's conclusion necessarily renders a decision unreasonable and results in the decision being overturned. To the contrary, *Cepeda-Gutierrez* says that it is only where the non-mentioned evidence is critical and squarely contradicts the tribunal's conclusion that the reviewing court may decide that its omission means that the tribunal did not have regard to the material before it.

[25] In this case, Mr. Basanti has not identified or given examples of evidence that was not assessed by the IAD, or of evidence that squarely contradicted the findings made by the IAD. It was his burden to do so in order to demonstrate the unreasonableness of the Decision, but he has not done so.

[26] I am also of the view that it was open to the IAD to consider the prior decisions by the IAD in this matter and to assess whether there was any new evidence demonstrably capable of modifying the outcome of these earlier findings (*Ping v Canada (Citizenship and Immigration)*, 2013 FC 1121 at para 28). This is especially true in this case since the prior decisions of the IAD in 2001 and 2004 contained a detailed analysis of the evidence and of the testimonies given by Mr. and Mrs. Basanti regarding the primary purpose of their marriage, at a time which was much closer and more contemporaneous to the time of the marriage. In the circumstances, I detect nothing unreasonable in the IAD's decision to rely on such findings.

[27] Mr. Basanti further complains about the IAD's treatment of the new evidence on the genuineness of the relationship between Mr. and Mrs. Basanti. With respect, I do not agree with Mr. Basanti's reading and interpretation of this Court's decisions in *Sami v Canada (Citizenship and Immigration)*, 2012 FC 539 [*Sami*] and *Sandhu v Canada (Citizenship and Immigration)*, 2014 FC 834 [*Sandhu*]. I am aware of no precedent standing for the proposition that evidence of

a continuing long-term relationship is sufficient to alter a finding that the marriage had primarily been entered into for immigration purposes. Neither *Sami* nor *Sandhu* state that a determination that a marriage is genuine is sufficient to be determinative of a paragraph 4(1)(a) analysis.

[28] I accept that the genuineness or longevity of a relationship is one factor that may be considered in assessing whether a marriage had primarily been entered into for immigration purposes. Evidence about matters that occurred subsequently to a marriage can indeed shed light on the primary purpose of a marriage and on whether the marriage was entered into primarily for the purpose of acquiring any status or privilege under the IRPA. But a finding that a marriage is genuine is not necessarily determinative of primary purpose (*Sandhu* at para 12); and it is not necessarily unreasonable for the IAD to fail to explicitly consider and discuss such evidence (*Gill v Canada (Citizenship and Immigration)*, 2012 FC 1522 [*Gill*] at para 32). What was the primary purpose at the time of the marriage remains the matter to be established under paragraph 4(1)(a) of the IRP Regulations. In assessing whether this test is satisfied, the focus must be upon the intentions of both parties to the marriage at the time of the marriage, and the testimonies by the spouses regarding what they were thinking at that time typically will be the most probative evidence regarding their primary purpose for entering into the marriage.

[29] The suggestion that evidence on the genuineness of a relationship could be clear and convincing enough to render the analysis of primary purpose unnecessary would turn subsection 4(1) on its head. Such an interpretation would conflate the requirements of paragraphs 4(1)(a) and (b) and in fact return to the situation that prevailed before the amendments of 2010, when demonstrating the genuineness of a marriage was sufficient to support a sponsorship application as a member of the family class. This is not what the law says anymore. Subsection 4(1) was

amended by Parliament in 2010 to make it a disjunctive test, as opposed to a conjunctive test. Evidence of an on-going relationship does not trump the requirement that the primary purpose of the marriage was not for immigration purposes.

[30] In other words, the passage of time may be material, but the passage of time alone is not enough to establish that the primary purpose test is met. The evidence as a whole has to be considered. And this is what the IAD did here. It decided not to give to the new evidence submitted by Mr. Basanti on their on-going communications, the fertility treatment or his returns to India the significant weight that Mr. Basanti thought they deserved. This is not a ground to justify the Court's intervention. To echo what the Court stated in *Sandhu* at paragraph 15, where the facts on which previous decisions were decided very strongly support the finding that the primary purpose of a marriage was to acquire status under the IRPA, it is less likely that new evidence on the on-going relationship will be sufficient to modify the earlier findings. In order to be decisive, the new evidence would have to genuinely affect the analysis or evaluation of the intention of the spouses at the time of the marriage. I have not been persuaded by Mr. Basanti that this is the case here. Contrary to the situation in *Sandhu*, I do not find that the IAD had before it clear and convincing evidence that might have altered the outcome, when properly considered in its totality.

[31] There is therefore no merit to Mr. Basanti's argument that the IAD ignored the second part of the test under subsection 4(1) and the genuineness aspect. The IAD expressly stated that it was mindful of this element and acknowledged that the evidence supported the existence of an on-going relationship between Mr. and Mrs. Basanti. But it found this evidence unconvincing on the issue of the primary purpose of the marriage. The IAD committed no error in doing so.

[32] Even if I were left with some doubt regarding some factual determination made by the IAD, my role in a judicial review is not to make the determinations that I might have made had I been in the shoes of the IAD. Rather, it is to determine whether the determinations of the IAD were reasonable and fall within the range of possible, acceptable outcomes (*Dunsmuir* at para 47). Many questions that come before administrative tribunals such as the IAD do not lend themselves to one specific, particular result. Instead, they often give rise to a number of possible, reasonable conclusions. But reasonableness is a deferential standard and tribunals "have a margin of appreciation within the range of acceptable and rational solutions" (*Dunsmuir* at para 47; *Newfoundland Nurses* at para 13). The issue is not whether the IAD's decision meets the standard or the level of detail that Mr. Basanti wished it would have contained; the issue is whether the decision meets the requirements of reasonableness. The fact that there could have been other plausible or reasonable options, and that one of them could be more favourable to Mr. Basanti, does not imply that the interpretation retained by the IAD was unreasonable.

[33] In the end, the arguments put forward by Mr. Basanti simply express his disagreement with the IAD's assessment of the evidence and ask the Court to prefer his own assessment and reading to that of the panel. In essence, Mr. Basanti is inviting the Court to reweigh the evidence that he has presented before the IAD. However, in conducting a reasonableness review of factual findings, it is not the role of the Court to do so or to reassess the relative importance given by the decision-maker to any relevant factor or piece of evidence. It suffices to conclude that the reasoning process of the IAD is not flawed and is supported by the evidence. I am satisfied that Mr. Basanti's explanations and contentions were all dealt with and considered by the IAD; they were just not retained by it.

B. ***Paragraph 4(1)(b) of the IRP Regulations***

[34] The second argument put forward by Mr. Basanti relating to the requirement to conduct the analysis under paragraph 4(1)(b) of the IRP Regulations is also without merit.

[35] Since the amendments made to the provision in 2010, it is clear that subsection 4(1) establishes a disjunctive test. Subsection 4(1) of the IRP Regulations now reads as follows:

Bad faith	**Mauvaise foi**
4 (1) For the purposes of these Regulations, a foreign national shall not be considered a spouse, a common-law partner or a conjugal partner of a person if the marriage, common-law partnership or conjugal partnership	**4 (1)** Pour l'application du présent règlement, l'étranger n'est pas considéré comme étant l'époux, le conjoint de fait ou le partenaire conjugal d'une personne si le mariage ou la relation des conjoints de fait ou des partenaires conjugaux, selon le cas :
(a) was entered into primarily for the purpose of acquiring any status or privilege under the Act; or	a) visait principalement l'acquisition d'un statut ou d'un privilège sous le régime de la Loi;
(b) is not genuine.	b) n'est pas authentique.
[…]	[…]

[36] There is no ambiguity in that provision. The two-part test now set out in subsection 4(1) of the IRP Regulations requires an assessment of whether the marriage *was* entered into primarily for the purpose of acquiring any status or privilege under IRPA (the "primary purpose test"), as well as whether the marriage *is* genuine (the "genuineness test"). The two tests focus on different time periods. The primary purpose test is in the past tense and requires an examination of the intention of each spouse at the time of entry into the marriage. For its part, the genuineness of the relationship is in the present tense and is to be assessed at the time of the decision

(*Singh v Canada (Minister of Citizenship and Immigration)*, 2014 FC 1077 at para 20; *Gill* at para 33). However, because it is now a disjunctive test, failure by an applicant in respect to either part of the test will preclude obtaining the necessary visa to come to Canada (*Pabla v Canada (Citizenship and Immigration)*, 2018 FC 1141 at para 18).

[37] As the marriage did not satisfy the primary purpose test, there was just no need for the IAD to analyze whether the marriage between Mr. Basanti and Mrs. Basanti was genuine under paragraph 4(1)(b). Having found that the primary purpose of the marriage was for Mrs. Basanti to acquire a status or privilege under IRPA, it was certainly not unreasonable for the IAD to end its analysis of subsection 4(1) as it was not required to do a genuineness inquiry under paragraph 4(1)(b). In fact, it was the correct reading of the provision. The IAD committed no error in doing so.

C. ***Adequacy of reasons***

[38] Mr. Basanti's last argument deals with the adequacy and sufficiency of the IAD's reasons. Mr. Basanti submits that the lack of a proper analysis of the evidence by the IAD does not allow one to understand how the IAD reached its conclusions, and that the Decision therefore does not have the required attributes of justification, transparency and intelligibility.

[39] I again disagree with Mr. Basanti. As I explained in previous decisions such as *Benko v Canada (Citizenship and Immigration)*, 2017 FC 1032 and *Al-Katanani v Canada (Citizenship and Immigration)*, 2016 FC 1053 [*Al-Katanani*], the law relating to the sufficiency of reasons in administrative decision-making has evolved substantially since *Dunsmuir*. It is now trite law that the inadequacy of reasons is no longer a stand-alone basis for quashing a decision.

[40] In *Newfoundland Nurses*, the Supreme Court of Canada provided guidance on how to address situations where decision-makers provide brief or limited reasons. Reasons need not be fulsome or perfect, and need not address all of the evidence or arguments put forward by a party or in the record (*Newfoundland Nurses* at paras 16, 18). Reasonableness, not perfection, is the standard. An imperfect decision may still be immune from judicial review, as the standard of review is not concerned with the decision's degree of perfection but rather its reasonableness (*Bhatia v Canada (Citizenship and Immigration),* 2017 FC 1000 at para 29). Even when the reasons for the decision are brief, or poorly written, the reviewing court should defer to the decision-maker's weighing of the evidence, as long as it is able to understand why the decision was made (*Al-Katanani* at para 32). Reasons do not need to be lengthy either. Even a sentence or two can be enough to provide adequate reasons (*Vancouver International Airport Authority v Public Service Alliance of Canada*, 2010 FCA 158 at para 25). Short as they may be, reasons will be sufficient if they "allow the reviewing court to assess the validity of the decision" (*Lake v Canada (Minister of Justice)*, 2008 SCC 23 at para 46).

[41] In other words, adequacy and sufficiency of reasons are not measured by the pound. No matter the number of words used by a decision-maker or how concise a decision may be, the test is whether the reasons are justified, transparent and intelligible, and explain to the Court and the parties why the decision was reached. The reasons for a decision need not be comprehensive; they only need to be comprehensible. Reasons are sufficient if they "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 Nurses* at para 16). In order to provide adequate reasons, "the decision maker must set out its findings of fact and the principal evidence upon which those findings were based", as well as "address the major point in issue"

and "reflect consideration of the main relevant factors" (*VIA Rail Canada Inc v Canada (National Transportation Agency)*, [2001] 2 FC 25 (FCA) at para 22).

[42] Reviewing courts may also look to the record for the purpose of assessing the reasonableness of the outcome. In *City of Edmonton*, the Supreme Court has even posited that a tribunal's failure to provide *any reasons* does not, in itself, breach procedural fairness, and a reviewing court may consider the reasons which *could be offered* in support of the decision being reasonable (*City of Edmonton* at paras 36-38). That said, I am mindful that the Supreme Court has also recently cautioned that the requirement that respectful attention be paid to the reasons offered, or that could be offered in light of *City of Edmonton*, does not empower a reviewing court to ignore them altogether and substitute their own: "[w]hile a reviewing court may supplement the reasons given in support of an administrative decision, it cannot ignore or replace the reasons actually provided. Additional reasons must supplement and not supplant the analysis of the administrative body" (*Delta Air Lines Inc v Lukács*, 2018 SCC 2 [*Delta Air Lines*] at para 24 [emphasis added]. It is thus important to maintain the prerequisite that, where decision-makers provide reasons for their decisions, they do so in an intelligible, justified, and transparent way (*Delta Air Lines* at para 27).

[43] I agree that *Newfoundland Nurses* is not an open invitation to the Court to provide reasons that were not given, nor a licence to guess what findings might have been made or to speculate as to what the tribunal might have been thinking (*2251723 Ontario Inc. (VMedia) v Rogers Media Inc*, 2017 FCA 186 at para 24). As this Court stated in *Komolafe v Canada (Citizenship and Immigration)*, 2013 FC 431 at paragraph 11, *Newfoundland Nurses* allows reviewing courts to connect the dots on the page where the lines, and the direction they are

headed, may be readily drawn. I am satisfied that, in the case of Mr. Basanti, there were dots on the IAD's page and that the reasons enable me to understand how the IAD reached its conclusion, and have the proper factual foundation in the record for reaching it. There is therefore no inadequacy of reasons.

IV. Conclusion

[44] For the reasons set forth above, this application for judicial review is dismissed. Although Mr. Basanti would have preferred a different decision, I am satisfied that the IAD reasonably considered the evidence before it and adequately explained why it concluded, on a balance of probabilities, that the primary purpose of the marriage was to acquire a status or privilege under the IRPA. Unfortunately for Mr. Basanti, the passage of time has not convinced the IAD that this primary purpose was different 20 years after the marriage was entered into. On a standard of reasonableness, it suffices if the decision subject to judicial review falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law. This is the case here. Therefore, I cannot overturn the IAD's Decision.

[45] Neither party has proposed a question of general importance for me to certify. I agree there is none.

JUDGMENT in IMM-1135-19

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed, without costs.

2. No question of general importance is certified.

"Denis Gascon"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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