

Federal Court



Cour fédérale

Date: 20220222

Docket: IMM-1293-21

Citation: 2022 FC 233

[ENGLISH TRANSLATION]

Ottawa, Ontario, February 22, 2022

PRESENT: Madam Justice Walker

BETWEEN:

**PATRICIA REGINA B. PASCOAL MANENGA,
CHELSEA ISABEL PASCOAL MANENGA,
HANDRINA REGINA PASCOAL MANENGA**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The principal applicant, Patricia Manenga, and her two minor daughters are citizens of Angola. They are seeking judicial review of a decision rendered by the Refugee Appeal Division (“RAD”) on February 2, 2021 (“Decision”), rejecting their claim for refugee protection. Like the Refugee Protection Division (“RPD”), the RAD found that the principal applicant failed to

establish, on a balance of probabilities, that she had disclosed an overpriced computer contract to a newspaper. The principal applicant and her allegations that she suffered serious consequences as a result of this disclosure were therefore not credible.

[2] For the reasons that follow, the application for judicial review is dismissed. The RAD carefully analyzed the applicants' arguments and evidence. The RAD's analysis of the inconsistencies and omissions that undermine the credibility of the principal applicant's story is internally coherent and rational under the framework set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (*Vavilov*). I therefore conclude that it was open to the RAD to confirm the RPD's decision.

I. Background

[3] The principal applicant worked for the Court of Auditors in Angola. In August 2018, she allegedly disclosed information to an online newspaper, *Club-K*, regarding a problematic and apparently fraudulent court contract. The applicant was then allegedly fired in September 2018.

[4] On November 20, 2018, the newspaper reportedly published news of the contract on its website. Two days later, the applicant allegedly started receiving death threats. The applicant also alleges that her house was vandalized in January 2019 and that she had to hide in another city.

[5] On March 5, 2019, the applicants left Angola for the United States. They came to Canada on March 9, 2019, and claimed refugee protection a few days after their arrival. The principal applicant fears ex-colleagues who were involved in the fraud around the contract.

[6] The RPD rejected the applicants' refugee protection claim on the grounds that the principal applicant was not credible. The panel identified a number of omissions and inconsistencies between her testimony at the hearing and her Basis of Claim Form (BOC Form) that undermine the core elements of her story. In fact, the RPD rejected the principal applicant's testimony in its entirety. Consequently, the RPD did not believe the applicant's allegations regarding her fear of persecution or the risk to her life from the disclosure of the confidential information.

II. Decision

[7] The applicants appealed the RPD's decision. The RAD confirmed the RPD's finding that omissions and inconsistencies between the principal applicant's testimony and her BOC Form significantly undermined her credibility. The RAD considered inconsistencies in the identity of the agent of persecution, significant errors in the timing of key events, and contradictions raised by the documentary evidence the applicants provided. In the RAD's opinion, submissions that the principal applicant experienced stress and trauma at the RPD hearing did not make the applicant's testimony any more credible. The RAD therefore dismissed the appeal.

III. Analysis

[8] The applicants submit that the RAD's decision dismissing their appeal was unreasonable. Specifically, they challenge the RAD's findings as to the credibility of the principal applicant, including negative conclusions relating to the timing of events central to the applicants' fear of persecution.

[9] The standard of review applicable to RAD decisions on credibility and assessment of evidence is reasonableness (*Vavilov* at paras 10, 23; *Zamor v Canada (Citizenship and Immigration)*, 2021 FC 672 at para 6). In reviewing a decision on a standard of reasonableness, the Court must decide whether the decision is justified, transparent and intelligible. To be reasonable, the decision must be "based on an internally coherent and rational chain of analysis" and be "justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85).

[10] Before I turn to the RAD's findings and the applicants' arguments, it may be useful to note the timing of relevant events in 2018 and 2019, as set out in the principal applicant's story in her BOC Form:

- August 2018: The principal applicant received a copy of a problematic and fraudulent contract from her employer, the Court of Auditors. She passed on confidential information about the contract to the newspaper *Club-K*.
- September 2018: The principal applicant was fired from her position at the Court of Auditors.
- November 2018: The newspaper published news of the contract on November 20, 2018, which led to death threats being made to the principal applicant.

January 2019: The principal applicant's house was vandalized.

March 2019: The applicants left Angola.

[11] The applicants submit that the credibility findings of the RPD and the RAD are insufficient to rebut the presumption that the principal applicant's testimony is true. They allege that the RAD conducted a microscopic analysis of the evidence and that the inconsistencies between the principal applicant's story in her BOC Form and her testimony at the RPD hearing are not significant. The applicants state that the principal applicant's disclosing the problematic contract anonymously rather than directly to *Club-K* and her errors as to the dates of relevant events do not materially undermine her story. They state that the disclosure by the principal applicant was the sole reason she was fired and that the RAD failed to consider undisputed facts in the evidence.

[12] I cannot agree with the applicants' arguments. Their main argument, that the contradictions identified by the RPD and the RAD do not create confusion as to the timing of the events triggering their departure from Angola, is not persuasive. The principal applicant's testimony presents a version different from the story in her BOC Form and does not establish a clear causal relationship between her actions and the alleged acts of persecution. While it can be argued, as the applicants have tried to do, that the inconsistencies and contradictions raised by the RAD are individually insufficient to lead to a negative credibility finding, they are of significant probative value when considered in combination (*Obinna v Canada (Citizenship and Immigration)*, 2018 FC 1152 at para 18).

[13] In her BOC Form, the principal applicant presents a linear narrative. In August 2018, she became aware of and acquired a copy of the problematic contract while working at the Court of Auditors, and she disclosed it to *Club-K*. As a result, she was fired from her position on September 18, 2018. The newspaper published news of the contract on November 20, 2018, and two days later, on November 22, the principal applicant began receiving death threats. In January 2019, her house was vandalized, and the applicants fled.

[14] However, the RAD identified inconsistencies in the principal applicant's testimony that appear to describe a significantly different timeline:

- A. The principal applicant testified that she disclosed the information about the problematic contract to her neighbour, a journalist, in August 2018 and that her neighbour informed *Club-K*, but according to her BOC Form, she herself made a complaint directly to *Club-K*. The RAD confirmed the RPD's analysis that, if the principal applicant did not complain to the newspaper in August 2018, the allegation that her dismissal in September was the result of that disclosure is not credible.
- B. The principal applicant testified that she sent a copy of the contract to her neighbour in November 2018. However, she wrote in her BOC Form that the newspaper published news of the contract on November 20, 2018. Like the RPD, the RAD noted that, if the newspaper did not publish the news on November 20, 2018, the allegation in the BOC Form that the applicant received death threats on November 22, 2018, is not credible.
- C. The principal applicant testified that, 15 days before the hearing, she heard from her mother, who still lives in Angola, that influential people were monitoring the traffic in and out of her house. This information was not included in her BOC Form. The RPD rejected her explanation that she had completed her BOC Form a long time ago, as the panel had asked her at the beginning of the hearing whether she wanted to update her BOC Form and she had declined. The RAD noted that it was unclear from the evidence of the principal applicant as to who would have been monitoring access to her house in early 2020.

[15] In its decision, the RAD transparently and intelligibly summarized the significance and implications of the contradictions in the principal applicant's evidence:

[18] The Principal Appellant's story changed considerably at the hearing. Her testimony raised a series of serious credibility issues. These issues include : [sic] why was she fired in September 2018 if she made an anonymous declaration to the newspaper through her neighbour and if she only provided evidence to the newspaper in November 2018, why did she omit any mention of her journalist neighbour's role in the situation from her BOC, why did she start receiving threats on November 22 if the story was not published on November 20 and was only published in January 2019?

[16] The applicants also filed two articles published on the *Club-K* website in January 2019 regarding the Court of Auditors contract. The RPD concluded that the two contracts had no probative value because the dates indicated, and the lack of any reference to having obtained a copy of the contract in November 2018, did not corroborate the principal applicant's allegations. The RAD confirmed the RPD's conclusion. The articles were dated January 2 and 9, 2019. In addition, the January 9 article reveals that the private party to the contract sent a proposed contract to the president of the court on December 5, 2018. In her BOC Form, the applicant alleges that she received a copy of the contract in August 2018. The RAD noted this inconsistency in the Decision.

[17] I disagree with the applicants' argument that the RAD failed to consider objective documentary evidence of corruption and insecurity in Angola, thereby undermining the rationale for the Decision. Inconsistencies in the principal applicant's story undermine the credibility of her allegations of persecution. In *Gutierrez v Canada (Immigration, Refugees and Citizenship)*, 2018 FC 4 at paragraph 50, the Court paraphrased its finding in *Joseph v Canada (Citizenship and Immigration)*, 2011 FC 548 at paragraph 12: where "the Board's concerns about the credibility or trustworthiness of the claimant's evidence causes [sic] it to doubt the very essence

of the claim... the Board need not look to general country condition evidence to determine whether the claim was well-founded”.

[18] The applicants argue that the RAD erred in criticizing the principal applicant for not clearly identifying the agents of persecution. In her testimony, the principal applicant identified Ms. Gamboa, the president of the Court of Auditors, as her primary agent of persecution. Yet, in her BOC Form, Ms. Gamboa is described as the person to whom she turned for justice after she was fired, not as her agent of persecution. I agree with the applicants that this finding is not determinative, but the RAD could reasonably note the difference in the two descriptions of Ms. Gamboa’s role as an additional issue in its assessment of the principal applicant’s credibility.

[19] The RAD also considered the principal applicant’s argument that she was suffering from stress and had been traumatised at the hearing, and that the RPD should have considered her social position, education and psychological state to better assess her testimony. The RAD concluded, on the contrary, that the applicant’s profile did not explain the omissions and inconsistencies in her testimony, in the story included in the BOC Form and in the timing of the events that prompted the applicants to leave Angola. The RAD’s reasons show a nuanced consideration of the principal applicant’s circumstances. In my opinion, the RAD did not err in its assessment of the principal applicant’s profile or in its conclusion that her profile did not affect her ability to recall the key events or dates at the heart of her allegations of persecution (*Valentin v Canada (Citizenship and Immigration)*, 2019 FC 64 at para 9). A reading of the hearing transcript indicates a thorough and respectful proceeding during which the principal applicant had the opportunity to present and explain her story.

[20] In short, the RAD carried out a thorough analysis of the principal applicant's evidence and story that meets the requirements set out in *Vavilov*. The RAD examined every significant element of the principal applicant's story and testimony and the effects of contradictions and inconsistencies between the two versions of events on the timeline underlying her fear of persecution. The RAD's analysis did not delve into peripheral elements of the principal applicant's story (*Paulo v Canada (Citizenship and Immigration)*, 2020 FC 990 at para 60). The negative inferences drawn by the RAD as to the credibility of the principal applicant are the result of the changes in her story, supporting the panel's conclusion that the principal applicant did not establish that she disclosed a fraudulent contract to *Club-K* during the period in question.

[21] I therefore conclude that the RAD based its credibility findings not on a microscopic examination but rather on an intelligible and transparent analysis that fully supports its rejection of the applicants' refugee protection claim. Consequently, the applicants' application for judicial review is dismissed.

[22] The parties have not proposed any questions for certification, and I agree that there are none.

JUDGMENT in IMM-1293-21

THIS COURT'S ORDER is as follows:

1. The application for judicial review is dismissed.
2. No question of general importance is certified.

“Elizabeth Walker”

Judge

Certified true translation
Johanna Kratz

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1293-21

STYLE OF CAUSE: PATRICIA REGINA B. PASCOAL MANENGA,
CHELSEA ISABEL PASCOAL MANENGA,
HANDRINA REGINA PASCOAL MANENGA v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEO CONFERENCE

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