

Federal Court



Cour fédérale

**Date: 20121218**

**Docket: IMM-1731-12**

**Citation: 2012 FC 1492**

**Edmonton, Alberta, December 18, 2012**

**PRESENT: The Honourable Mr. Justice O'Reilly**

**BETWEEN:**

**KOW DOY CHOW**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

**I. Overview**

[1] In 2007, Mr Kow Doy Chow, a citizen of Canada, applied to sponsor his spouse, Ms Yi Juan Hu, a citizen of China, for permanent residence. In 2008, the couple was interviewed by a visa officer in Hong Kong. Ms Hu explained that she first met Mr Chow on October 28, 2006, but they had previously spoken on the phone. They married on November 8, 2006. She could not explain

why the marriage was arranged so quickly. They planned for her to live in Canada to take care of Mr Chow.

[2] Because her house register, issued in 1999, indicated that she was married, the officer asked Ms Hu about her marital status. She said she had never been previously married. The officer advised her that persons who submit fraudulent documents can be banned from Canada for two years.

[3] The officer found that the marriage was not genuine and that Ms Hu had misrepresented her marital status.

[4] Mr Chow appealed. A panel of the Immigration Appeal Division (IAD) dismissed the appeal for the same reasons as the officer had given. Mr Chow submits that the IAD's decision was unreasonable considering the evidence before it. He asks me to quash the decision and order another panel of the IAD to reconsider his appeal.

[5] I can find no basis to overturn the IAD's decision and must, therefore, dismiss this application for judicial review.

[6] The sole issue is whether the IAD's decision was reasonable.

## II. The IAD's Decision

[7] The IAD first considered the issue of misrepresentation. It noted that Ms Hu's house register, issued in 1999, showed that she was married. Ms Hu stated that she asked authorities on November 10, 2006 to amend the register to add a reference to her marriage. Still, the IAD was concerned that the amendment, if it had indeed been made, was not reflected on the register itself – there was no signature, date, or seal.

[8] In addition, a notarial certificate dated November 16, 2006 stated that a copy of Ms Hu's house register conformed to the original. In other words, the certificate suggested that there had been no amendment on November 10, 2006.

[9] Ms Hu also provided a further certificate dated October 15, 2009. It stated that the house register was amended in 2006 to make reference to her marriage. However, the IAD was still concerned that there was no indication on the register itself that it had been amended.

[10] Therefore, the IAD upheld the officer's conclusion that Ms Hu had misrepresented her marital status and was inadmissible to Canada according to s 40 of the *Immigration and Refugee Protection Act*, SC 2001, c 27.

[11] The IAD then considered the evidence relating to the genuineness of the marriage. It noted the following:

- The couple could not explain the haste with which they wed;

- Ms Hu gave conflicting evidence about when she met Mr Chow and when he proposed;
- Mr Chow (age 80) is 22 years older than Ms Hu (age 58);
- Mr Chow's will (dated January 22, 2010) appointed Ms Hu as executor and gave her a 25% interest in his estate. Mr Chow seemed to be unfamiliar with his will, and explained that it was prepared by his immigration lawyer after the visa officer refused the sponsorship application.
- Other evidence showing the couple's occasional visits, phone calls and money transfers did not carry much weight.

### III. Was the IAD's Decision Unreasonable?

[12] There are two aspects to this question. The first involves the IAD's finding that Ms Hu had misrepresented her marital status and, therefore, was inadmissible to Canada. The second relates to the IAD's conclusion that the couple's marriage was not genuine.

#### 1. The alleged misrepresentation

[13] Mr Chow argues that the IAD erred by misunderstanding the significance of the November 16, 2006 certificate. The certificate compared a copy of Ms Hu's house register with the amended

version, the one Ms Hu says was changed on November 10, 2006, not the unamended version.

Therefore, the certificate supported Ms Hu's testimony about her house register and her corresponding marital status.

[14] Mr Chow presents a possible alternative interpretation of the significance of that certificate. However, that is not a sufficient basis to find the IAD's conclusion unreasonable. The IAD had to interpret that evidence, and its conclusion cannot be considered unreasonable simply because there was another possible interpretation of it. In addition, there were other reasons for the IAD's finding that Ms Hu had misrepresented her marital status.

## 2. The genuineness of the marriage

[15] Mr Chow argues that the IAD's conclusion on misrepresentation unduly affected its findings about the genuineness of the marriage. In addition, the IAD did not take account of the fact that the couple is unsophisticated, or consider their conduct within the milieu of Chinese culture.

[16] In my view, the IAD was entitled to consider the issue of misrepresentation in the context of its overall credibility findings. Misrepresentation is obviously relevant to credibility.

[17] Further, the couple did not present any evidence or testimony indicating that their conduct was accepted or commonplace within their families or their culture. Evidence along those lines might have helped explain their lack of knowledge about each other, the haste of their wedding, and

the absence of future plans together. However, the IAD cannot be faulted for arriving at its decision based on the evidence that was actually presented to it.

IV. Conclusion and Disposition

[18] The IAD's conclusions that Ms Hu had misrepresented her marital status and that the couple's marriage was not genuine were not unreasonable on the evidence before it. Those findings fell within the range of defensible outcomes based on the facts and the law. I must, therefore, dismiss this application for judicial review. Neither party proposed a question of general importance for me to certify, and none is stated.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that:**

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

"James W. O'Reilly"

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Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** IMM-1731-12

**STYLE OF CAUSE:** KOW DOY CHOW  
v  
THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** December 12, 2012

**REASONS FOR JUDGMENT  
AND JUDGMENT:** O'REILLY J.

**DATED:** December 18, 2012

**APPEARANCES:**

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