HIGH COURT OF AUSTRALIA

5 December 2018

THE REPUBLIC OF NAURU v WET040
[2018] HCA 60

Today, the High Court unanimously allowed an appeal from a decision of the Supreme Court of Nauru, holding that the Refugee Status Review Tribunal ("the Tribunal") had not erred in dismissing the respondent's application to be recognised as a refugee or as person owed complementary protection by the Republic of Nauru ("Nauru") under the *Refugees Convention Act 2012* (Nr).

The respondent is an Iranian national who arrived in Nauru in January 2014. In his Refugee Status Determination application, he claimed to have married in 2010, and that the first two years of his marriage were relatively problem free. Some five or six months before he left Iran, he discovered, for the first time, that his wife had previously married and divorced. He claimed that his wife's family then took a number of steps to induce him not to divorce his wife, including pouring acid on his car. He claimed that his father-in-law was using his connections to a state paramilitary organisation to have him followed. The respondent claimed to fear that, if returned to Iran, he would be detained, imprisoned, tortured, attacked with acid or killed, either through the justice system at his father-in-law's behest or extra judicially by his brothers-in-law, and that there was no place in Iran where he would be safe.

The Secretary of the Department of Justice and Border Control ("the Secretary") rejected the respondent's application. On his application to the Tribunal for review of the Secretary's determination, the respondent claimed, for the first time, that the main reasons he fled Iran and feared returning were: that he would be perceived as having a political and religious opinion that was anti-government, anti-regime and anti-Islamic; that his status as a failed asylum seeker would further be seen as reflecting his imputed anti-regime sentiments; and that he would be prejudiced because of his lack of religious beliefs and his ethnicity as an Azeri Turk. He also made new claims about his wife's family. The Tribunal rejected the respondent's claims and affirmed the Secretary's determination, holding that there were good reasons to doubt the truth of the respondent's claims concerning the enmity of his wife's family towards him. The respondent appealed to the Supreme Court, which allowed his appeal on the basis that the Tribunal had erred by finding that certain claimed events were "implausible" without any rational basis and without pointing to "basic inconsistencies in the evidence", or "probative material" or "independent country information". The appellant appealed as of right to the High Court, arguing that the Tribunal had not failed to give adequate reasons for their decision.

The High Court unanimously held that the Supreme Court's reasoning was erroneous. The Tribunal had provided sufficient reasons for why it found the respondent's account of events to be implausible. The Tribunal's conclusions were not speculative or matters of conjecture or unsupported by basic inconsistencies but were the result of logical inferences grounded in the inherent improbability of the respondent's account of events and in the fact that his claims had shifted from time to time.

- *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.*

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