

**IN THE CROWN COURT IN NORTHERN IRELAND**

**SITTING AT BELFAST**

---

**THE QUEEN**

**v**

**HO LING MO**

---

**HORNER J**

**The Background - Sham Marriages**

[1] The law at the time of these matters under consideration was that the right of a non-EEA citizen to reside in the United Kingdom on the basis of marriage to an EEA citizen was as follows. EEA nationals and their families have extensive rights to enter and reside in the United Kingdom. Portugal and United Kingdom and the Republic of Ireland are all EEA Member States. Their citizens are EEA nationals. Bangladesh is not a member of the EEA. It is a non-EEA State. Its citizens are non-EEA members. The citizens of one EEA State will have a right to reside in another EEA State, beyond the initial period of three months, if he or she is a worker, a job seeker, a self-employed person, a student or a self-sufficient person. So, for example, a citizen of Portugal has a right to reside in the United Kingdom if he or she is able to support themselves. A non-EEA citizen who is in Northern Ireland or in the United Kingdom, in order to take part in a legally recognized civil marriage needs to apply to the United Kingdom Border Agency for a Certificate of Approval. No Certificate of Approval is required in the Republic of Ireland, nor is there any need for that person to be resident in the Republic of Ireland. A person who is an illegal immigrant in the United Kingdom will not get a Certificate of Approval. Where a non-EEA national marries an EEA national who is exercising European resident rights in the United Kingdom, the non-EEA citizen can apply for a Residence Card. The application form is EEA 2. If the non-EEA national is successful, then he or she will receive a Residence Card. However, no right of residence for a non-EEA national arises from a marriage or civil partnership of

convenience - a sham marriage. This is defined as one that is entered into for the sole purpose of gaining an immigration advantage for either or both parties. Accordingly, proof of the other non-EEA national's marriage to an EEA national is essential if the non-EEA national is to persuade the Secretary of State that he/she is entitled to reside in the United Kingdom, and thus obtain a Residence Certificate.

[2] The background relating to the offences of Ho Ling Mo is not contentious and, by agreement, can be outlined as follows. I should, first of all, mention Wilfred and Henry Immigration Services, WHIS. This was a business providing immigration advice, based in Dublin Road. It was regulated by the Officer of the Immigration Service Services Commissioner. Its advisory staff were Wilfred and Henry Ng, and Wilfred Ng had day-to-day control of the business.

[3] In the middle of September a search was conducted at the offices of WHIS. Immigration files were seized where applications were being made for residence by non-EEA citizens on the basis of marriage to an EEA citizen. In the course of the resulting investigation, thirty-six marriages were identified as suspicious. Most of the marriages involved Portuguese brides of West African extraction marrying Bangladeshi grooms. They shared no mother tongue but conversed, where possible, through English, although their command of this language, in many cases, was poor.

[4] Correspondence from Ho Ling Mo Solicitors shows that Miss Mo referred the following four sham couples to Bishop Buckley, Razib and Varela, Real and Ghosh, Rodrigues and Uddin, Borges Dos Santos and Ali Ahmed. All were later the subject of WHIS files. Correspondence shows Ho Ling Mo liaising with Bishop Buckley in relation to the organization of, and attendance at meetings with him and the respective couple, and the organization of the proposed date and venue of the marriage in question. Mo is also linked, by documentary evidence, to five further marriages: Pires Varela and Rana, Da Luz and Islam, Batalha and Khan, Ramires Semedo and Kamal Hossain and Sandra Borges and Azad Miah. Mo arranged, in addition, the marriage of Mary Tinsley and Amin Rashid. This was not a sham marriage, but it was the Prosecution's case that Mo treated it as such and, that it is indicative of her involvement in sham marriages generally. Tinsley's father paid between £4,000 and £5,000 in cash for her services. In all, the defendant is connected through evidence discovered at various addresses related to her, and that obtained from the Registrar, to nine sham marriages.

[5] Miss Mo pleaded guilty on the first day of the trial. A number of points were agreed between the Prosecution and the Defence, and these are as follows. The investigation into her money laundering case, and this matter (the sham marriages) were essentially contemporaneous. The file for all offences went into the PPS as one. The sham marriages aspect of the matter expanded, and the manageability of the trials led to matters being separated, and not tried as one. The police view is that in the early stages of the matter she was acting as a conduit, or route to an already existing scheme. In the later stages, she went into the business for herself, on a limited number of occasions. On any analysis of the number of instances of

criminality, she has significantly fewer than others involved in the wider conspiracy. This conspiracy has four necessary actors for its execution:

- (i) a vehicle for the applications to the immigration services;
- (ii) a procurer of Bangladeshi males;
- (iii) a procurer of willing brides; and
- (iv) a solemnizer.

[6] Miss Mo was not a necessary part of the conspiracy, and can be placed initially as a cog in the machine, and latterly as an opportunist cashing in on the scheme.

[7] Miss Mo was interviewed on the 7th of September 2010. She said that she would advise certain clients that they could not marry in the United Kingdom. She denied any professional relationship with Bishop Buckley claiming, in stark contrast to the evidence, that she would merely gave clients his details for them to approach him. When asked whether she had been present when couples met Bishop Buckley, or she had taken couples to him, she made no comment. And it is fair to say that this is a pattern that continued when she was asked questions which might implicate her. She also denied being involved in making payments to Carrickdale Hotel, though there was a reference in a letter from her to Miah about paying a deposit, when she asked that he attend at her office to collect the deposit receipt from Carrickdale Hotel.

[8] On the 8th of March 2010 the defendant provided information against Henry and Wilfred Ng, claiming that she had been approached by a client who had admitted taking part in a sham marriage arranged by the Ngs for a cost of £10,000. It is, however, clear that participants in the marriages arranged by Miss Mo subsequently used the services of WHIS for their immigration application. It is likely that the allegation made against WHIS may be a consequence of the breakdown in the relationship between Mo and the Ngs.

[9] So those are the background details to the conspiracy. I want to make a number of general remarks. Firstly, there can be no doubt that there has been an increase in the number of breaches of immigration law in Northern Ireland, as Northern Ireland has opened up and become more attractive for settlement to other nationalities looking for a better life, as "the Troubles" are forgotten and normality is restored. The same phenomenon of increasing illegal immigration has been noticed in England and Wales. Parliament's response has been to increase the penalty for breach of Section 25 of the Immigration Act (that is facilitating a breach of immigration law) initially from seven years maximum in prison, to ten years, and then to fourteen years. These are difficult crimes to detect and prosecute. They are not victimless crimes. Everyone potentially suffers if immigration law is ignored.

This is why the Court of Appeal in England and Wales (who deals with many more cases than here) has said that:

"Such breaches of Section 25 for example call, except in very rare circumstances, for an immediate custodial sentence."

Then I refer to R v Oliviera & Others (2013) 2 CrApp Rep, at paragraph 19, where the CA said that:

"Such sentences should be stern and deterrent."

And also to the case of R v Lacko & Husar (2012) 2 CrAppR(S) 102, at paragraph 29.

[10] Secondly, it is also right and proper to recognize that the defendants here and, in particular this defendant, are almost to a man and woman, not feckless layabouts depending on the State's largesse for their existence. There is very much to admire in their 'can-do' attitude. They worked hard, they have studied, they have achieved qualifications, they are ambitious, they are industrious and they are eager to provide a better life for themselves/their families, and when they run businesses (as Miss Mo did) for their employees. They have contributed to society by their involvement in charity and by helping others less well placed than themselves. They have almost exclusively clear records. They have enjoyed the respect of their contemporaries, and many have produced glowing references, including Miss Mo. These are people who are struggling to improve their lot and the lot of their families. Miss Mo had every right to be proud of her achievements before she became involved in criminal behaviour.

[11] Thirdly, I have read the Pre-Sentence Report in respect of the defendant, all the glowing references and testimonials, and I have listened to all that counsel has said. I acknowledge (unless I draw attention to the contrary) that she has, or had not only a clear record up until becoming involved in this criminal behaviour, but also a good character. I also take into account that there has been delay, which was not of her making, and the effect it must have had on her life while these proceedings held over her.

[12] Fourthly, I have been reminded of the principle of totality, expressly, on a number of occasions. I accept that I need to look at the totality of the sentence to ensure that the overall effect is proportionate. It would be quite wrong, for example, if Ho Ling Mo received a greater punishment because she was involved in two trials, instead of one, purely because two trials were more administratively convenient than one. Equally, it would be unjust if she received a lesser sentence because of the administrative decision to have two trials, instead of one. I have, in this case, where there are a number of offences, stood back and looked at the overall effect of the sentence to ensure that the overall result reflects the total criminality, and is fair and just.

[13] Lastly, I have taken into account the sentencing remarks made in the case of R v Le & Stark (1999) 1 CrAppRep 422, secondly R v Oliviera (2013, R v lusanya (2013) CrAppR(S) 4, R v Kugbeadzor(2010) EWCA Crim 2685, R v Lacko & Husar and R v Shittu 2008 NICC 49.

[14] Before I begin, I should echo the comments made at paragraph 14 of Mr Justice Weir's remarks of sentencing, when he said (and I slightly amend this):

"You have (as he said) lost your good name, your good character, and the respect of your legal colleagues and your community. Whether in future you will again be admitted to practice as a solicitor will be for others to judge. These were mean offences that you had no need to commit, for you had a thriving and lucrative practice. Greed has been your undoing. The need for a sharp deterrent sentence is inescapable."

[15] Now, in relation to that last sentence, it was clear that Mr Justice Weir was passing a sharp deterrent sentence, and I will come back and deal with that shortly.

[16] There are a number of aggravating factors in this case. First of all, Miss Mo was a solicitor. Secondly, she was involved in nine sham marriages. Thirdly, it was for commercial gain. Fourthly, these were committed over a period of time. Fifthly, they were well organized, although not sophisticated and, sixthly, she was not fully co-operative, which shows that she is not completely remorseful.

[17] The mitigating factors are, firstly, her role (this is clearly set out in the Statement of Agreed Facts). She was not a key player, she was an opportunist. Secondly, she has already had a sentence passed, which contained deterrent elements at the earlier trial. Thirdly, she has shown some degree of remorse, as is evidenced by her plea of guilty. Fourthly, there is the huge effect on her as a solicitor, and her standing in the community. Fifthly, there is the delay. Lastly, there is her good character, which she enjoyed before straying from the straight and narrow.

[18] I do not accept that the fact that her present sentence is shortly to end should affect the sentence I impose. I must, as I have said, have regard to the totality principle, and having done that and considered all those matters and factors, I consider that the appropriate sentence is two and a half years for conspiracy. I reduce this by one fifth to take account of the mitigating factors and the plea of guilty. There is authority for the proposition that the proper discount is one tenth for a plea made so late in the day. However, I have considered it is appropriate, given the matters highlighted by Mr Milliken-Smith, to make a reduction of one fifth. That gives a sentence of two years. The defendant will spend one year in

prison, and one year on licence. I stand back and look at the overall sentence, which is six years without a plea, and five and a half years with a plea for the total criminality. I consider that such a sentence is fair and just punishment for her total involvement in these criminal offences.