



**IN THE NAURU COURT OF APPEAL
CIVIL APPELLATE JURISDICTION
AT YAREN**

Civil Appeal Number 09 of 2025
Supreme Court Civil Case Number
07 of 2025

BETWEEN: AG25 Appellant

AND: Republic of Nauru Respondent

BEFORE: Khan P
 Palmer JA
 Coates JA

Date of Hearing: 12 May 2026
Date of Judgment: 28 May 2026

Case may be cited as: AG25 v The Republic

CATCHWORDS: APPEAL - Refugees — Refugee Status Review Tribunal whether the Tribunal failed to complete its review function whether the Tribunal failed to consider the actual evidence led by the Appellant — Tribunal found not to have misunderstood or misconstrued the evidence — Whether the Tribunal's reasoning was illogical, irrational or legally unreasonable — Tribunal's reasoning not nonsensical nor involved a want of rationality or logicity amounting to a legal error — No error of law is made out

APPEARANCES:

Counsel for the appellant: A. Aleksov (instructed by International Crossover Pty Ltd)
Counsel for the respondent: R. O'Shannessy (instructed by the Republic of Nauru)

JUDGMENT

1. **BY THE COURT:** This is an appeal from the judgment of Brady J delivered on 8 August 2025 dismissing the appellant's appeal from a decision of the Refugee Status Review Tribunal ("the Tribunal").
2. The Tribunal affirmed a decision of the Secretary of the Department of Multicultural Affairs refusing to recognise the appellant as a refugee under the *Refugees Convention Act 2012* ("the Act") and further finding that the appellant was not owed complementary protection under the Act.
3. The appellant is a national of Bangladesh. His claims for protection arose substantially from allegations that he had engaged in a secret relationship with a woman identified as [B], the wife of one [K], said to be associated with influential and violent individuals connected to the Awami League political party in Bangladesh. The appellant claimed that, following discovery of the relationship, false allegations of rape were made against him and that he feared persecution and serious harm if returned to Bangladesh.
4. The Tribunal rejected the appellant's account of the alleged affair and, consequently, rejected the claim that the rape allegations were fabricated for the reasons advanced by the appellant.
5. Before the Supreme Court, the appellant challenged the Tribunal's decision on a point of law pursuant to s 43 of the Act. Brady J rejected the challenge and affirmed the Tribunal's decision pursuant to s 44 of the Act.
6. The appellant now appeals to this Court.

The Nature of Appeal

7. The appeal was brought under ss 43–44 of the Refugees Convention Act 2012, which confined the appeal to a "point of law".
8. The appellant contended that the Tribunal failed to complete its review function by:
 - (i) Failing to consider the actual evidence led before it; and/or
 - (ii) Reasoning in an illogical, irrational or legally unreasonable manner.
9. Although framed as a single ground of appeal, Brady J observed that the challenge in substance concerned four alleged legal errors arising from paragraph [86] of the Tribunal's reasons. These are set out in detail at paragraph 30 of the judgment of Brady J as follows:

"30. The ground of appeal identified above relates to four contended errors that are said to arise from paragraph [86] of the Tribunal Decision. To give context to that paragraph, I set out below paragraphs [85] to [89] of the Tribunal Decision:

[85] At hearing, the [appellant] confirmed the basic elements of his relationship with [B] and said that he loved her.

[86] Drawing on his written statement and the supporting documents, the Tribunal asked a range of questions about the relationship, including how it was conducted and other observational details.

- The [appellant] said that he and [B] used to talk to each other about their feelings, their wish to marry and live together, and (increasingly) the pressure that [B] was experiencing at home. He emphasised that [B] had married young and that [K] was abusive towards her. He described being conflicted about it. On the one hand, he loved her; but he also had the feeling that she was using him to escape the marriage.
- The Tribunal was unable to elicit more meaningful information about their attraction to each other, any common interests or their topics of discussion. The Tribunal takes into account the representative's comments about the [appellant's] youth, his nerves and the possibility that he finds it difficult to describe the relationship. Even so, it found his responses to its questions unpersuasive.
- Among the questions that the Tribunal explored with the [appellant] were:
 - How in the initial stages he managed to keep returning to the area around [K's] house without arousing suspicion, given his evidence that [K] and the other brothers all lived close to each other, some 1 to 1.5 km from his home, in an AL stronghold area.
- Given the brothers' notoriety, what led him to "assume" that [B] must have been [K's] female relative, and to flirt and later meet up with her without making enquiries. The [appellant] did not address why he failed to make such enquiries, both as a precaution and also because the brothers' (claimed) profiles suggest that there would be a fair degree of public knowledge about them.
- What enquiries he made about [B's] living arrangements, and how (particularly after he found out about [K] and their son) she managed to steal away from her home late at night. The [appellant] reiterated that he found out about [B's] marriage and her son only later, implying that there had been no discussion between the two about their family situation or living arrangements at all. Even after his claimed discovery of her family situation, it appears he had only the vaguest idea of [K's] work and could not recall whether or not [B] had mentioned her son's name. The first of these is significant. The Tribunal expects that, after learning that [B] was married, a natural follow-up question would be what her husband does and how she leaves the family home late at night, undetected. As noted above, the charge sheet records [K] as a farm worker and a night guard at [F]. Although the [appellant] knew that [K] was involved in [F], it is striking that he did not appear to link this work with [B's] claimed ability to visit him late at night.

- Whether [B], aged about 18 years old at the time, had security concerns or aroused attention, when she went from her place to his around midnight. The [appellant] confirmed his claim that it was about 1.5 km from her home to his (although the hand-drawn map he provided suggested that it was a much shorter distance, with some houses and pond between the two). He thought it might have taken her some 20 to 30 minutes to travel; she might have walked half the way (and implicitly, taken some other form of transport for the rest). The Tribunal formed the impression that the [appellant] was improvising, and had not, in fact, turned his mind to these practical matters.

[87] The Tribunal also enquired, in an open-ended way, whether the [appellant] had updated information, keepsakes, or other evidence that would support his claims about the nature of his and [B's] relationship. These enquiries yielded little. The [appellant] said that while in Malaysia, a friend had obtained for him [B's] new telephone number. They spoke a few times in person, the last time being some 18 months before the hearing (i.e. in about late 2022). He had not made any recent enquiries. In response to questions about other evidence, he said that he had some photographs of her in Malaysia, but these had somehow been deleted. He believed, however, that she was still in an unhappy relationship and subject to abuse.

[88] In some, the [appellant] was able to speak to the basic integers of his claim about the relationship. However, he struggled to provide meaningful information beyond this, about such basic matters as the couple's common interests and his knowledge of [B's] personal and family circumstances. Even taking into account the [appellant's] youth, his cultural background and the possibility that he finds it awkward to about [sic] personal feelings, the Tribunal found his evidence about the relationship to be limited and unpersuasive.

[89] The above concerns, taken together, lead the Tribunal to find that the [appellant] did not have an affair with [B] during 2016 to 2018.

10. The appeal focused principally upon the Tribunal's rejection of the appellant's claim that he had an adulterous relationship with [B], the wife of one of four allegedly powerful brothers connected with the Awami League in Bangladesh. The Tribunal considered that alleged relationship central to the credibility of the appellant's claim that false rape allegations had been fabricated against him.
11. The factual background to this appeal is set out also in paragraphs 9 – 13 of the learned Judge's judgment as follows:

“9. The appellant makes the following claims in support of his application.

10. The appellant claims that four powerful brothers living in his village in Bangladesh are pursuing him. In September 2018, he contends that they filed false rape charges against him. He fears that they will target him if he returns to Bangladesh by continuing to press the rape charges, making more false accusations against him and/or carrying out their threats to harm or kill him.

11. The appellant contends that deficiencies in the Bangladesh judicial system, and the risk of the appellant facing persecutory harm or proscribed treatment during any criminal proceedings, lead him to fear harm. In addition, he claims to fear harm from the social stigma linked with the sexual assault charges.

12. In his original application, the appellant claimed that the four brothers targeted him, in part, for political reasons, due to their links to the (then) ruling AL and the appellant's support for the BNP. The appellant contended that his intervention in a dispute between an uncle and one of the brothers also acted as a trigger for them to pursue him and make false rape charges relating to a woman unknown to him.

13. The situation, as described by the appellant, had changed significantly by the time of the hearing before the Tribunal. The appellant claimed to the Tribunal that, in fact, the alleged rape victim was [B], the wife of [K] one of the brothers. The appellant contended that he had been in a secret relationship with [K] made the false rape allegations after discovering the "adulterous" relationship between the appellant and [B]. The appellant and his representative raised further concerns about his dealings with agents involved in human trafficking and people smuggling and the information which the appellant gave to the Australian authorities about their activities."

12. He fears persecution as a supporter of the Bangladesh Nationalists Party (BNP) and because of his political opinions coupled with the fake rape charges, claims that he should be given refugee status or complementary protection.

Ground of Appeal

13. The ground of appeal is set out as follows:

"The primary judge erred by failing to find that:

1. The Tribunal failed to complete its review function by committing four errors of law, which either constituted:

- (a) Failing to consider the actual evidence led by the appellant at the hearing held by the Tribunal on 1 October 2024; or

- (b) Reasoning in an illogical, irrational or legally unreasonable manner.

14. The notice of appeal repeats substantially the same ground advanced before the Supreme Court, namely that the primary judge erred in failing to find that the Tribunal:

- (a) failed to consider the actual evidence led by the appellant at the Tribunal hearing; and/or

- (b) reasoned in an illogical, irrational or legally unreasonable manner.

15. As before the primary judge, the appellant's submissions divide the complaint into four asserted errors arising from paragraph [86] of the Tribunal's reasons.
16. Although the appellant's written submissions describe these as four "grounds", in substance they constitute four aspects of the single ground of appeal.

Appellant's Submissions.

17. The appellant submitted that the learned trial judge erred in dismissing the appeal from the decision of the Refugee Status Review Tribunal because each of the four matters relied upon by the Tribunal involved legal error amounting either to a failure to take account of the actual evidence given at the hearing or irrational reasoning.
18. The appellant argued that the Tribunal's adverse credibility findings concerning the alleged affair with [B], the wife of [K], were founded upon matters which had either never been put to him or were unsupported by the hearing transcript.
19. As to the first alleged error of law, the appellant submitted that the Tribunal wrongly stated at paragraph [86] of its reasons that it had "explored" with the appellant how, in the early stages of the relationship, he managed to return repeatedly to the area around [K]'s house without arousing suspicion. Counsel submitted that no such question was in fact asked during the hearing and no similar question was put to the appellant. It was argued that the Tribunal therefore incorrectly assumed that the appellant had been unable to provide details on this issue when he had never been invited to do so. The appellant further contended that the exchange identified by the primary judge at paragraph [52] of the judgment did not amount to an exploration of how suspicion was avoided, but merely concerned whether the appellant felt apprehensive about being in the area. Accordingly, the Tribunal's reasoning was said to involve a failure to engage with the actual evidence and irrational reasoning.
20. In relation to the second alleged error of law, the appellant challenged the Tribunal's finding that he "did not address" why he failed to make enquiries about the relationship between [B] and [K]. The appellant accepted that he had stated he made no such enquiries, but submitted that he was never asked to explain why he had failed to do so. It was argued that the Tribunal impermissibly drew an adverse inference from his failure to address a matter which had never been raised with him during the hearing. The appellant submitted that this again constituted a failure to consider the actual evidence and irrational reasoning.
21. As to the third alleged error of law, the appellant submitted that the Tribunal mischaracterised his evidence concerning [K]'s employment and the circumstances of [B]'s late-night visits. The Tribunal had described the appellant as having only the "vague idea" of [K]'s work, whereas the appellant contended that he had in fact given clear evidence that [K] worked at a fish farm. The appellant further argued that the Tribunal considered it "striking" that he did not "link" [K]'s employment with [B]'s ability to visit him late at night, despite the Tribunal never asking him to explain any such connection. Counsel submitted that the Tribunal failed to identify what "link" it expected the appellant to make and that it was irrational to rely adversely upon a matter never put to him for explanation. It was therefore argued that the Tribunal's reasoning again involved a failure properly to engage with the evidence actually given and irrational reasoning.

22. Finally, concerning the fourth alleged error of law, the appellant challenged the Tribunal's conclusion that he was "improvising" when giving evidence about the practical arrangements by which [B] travelled to his home. The appellant submitted that neither the Tribunal nor the primary judge identified any contradiction, inconsistency, implausibility, or other evidentiary basis capable of supporting such an impression. The appellant further noted that the primary judge rejected the suggestion that the finding was based upon demeanour. Counsel therefore argued that there was no rational foundation for the conclusion that the appellant was improvising or fabricating his account, and that the Tribunal's reasoning again disclosed a failure to take account of the actual evidence and irrational reasoning amounting to legal error.

The Respondent's Submissions.

23. The respondent submitted that the appeal should be dismissed because the primary judge correctly found that none of the alleged errors of law asserted against the Refugee Status Review Tribunal (the Tribunal) had been established.
24. The respondent first outlined the factual and procedural background to the matter. It was submitted that the appellant, a Bangladeshi national, arrived in Australia in May 2024 and was subsequently transferred to Nauru. The appellant applied for refugee status under the Refugees Convention Act 2012, claiming fear of harm from the Mollah brothers, supporters of the Awami League, arising initially from political tensions and later from allegations that he had an affair with Banya Khatun [B], the wife of Kibir Mollah [K]. The Tribunal ultimately rejected the appellant's claims concerning the alleged affair and fabricated rape allegations and found that there was no real chance of persecution or significant harm upon return to Bangladesh.
25. The respondent submitted that the single ground of appeal before the Court merely repeated the ground advanced before the primary judge, namely that the Tribunal committed four alleged errors of law by either failing to consider the actual evidence before it or reasoning in an illogical, irrational or legally unreasonable manner. The Respondent contended that none of these allegations disclosed reviewable legal error.
26. As to the first alleged error of law, the respondent submitted that the Tribunal did not misunderstand the evidence when it stated that it had explored with the appellant how he repeatedly returned to the vicinity of [K's] house without arousing suspicion. Counsel argued that the Tribunal's reasons should be read fairly and as a whole, and that the reference to "questions" was not intended as a verbatim recital of questions asked during the hearing but rather as a summary of the lines of questioning pursued. The respondent referred to portions of the transcript in which the appellant gave evidence about meeting [B] near [K's] house and was questioned about whether he was comfortable or apprehensive about attending that area and whether he made enquiries concerning the Mollah brothers' family members. The respondent submitted that these exchanges substantively explored the issue identified by the Tribunal, and that the primary judge correctly concluded that no misunderstanding of the evidence arose.
27. In relation to the second alleged error of law, the Respondent submitted that the Tribunal did ask the appellant about enquiries he made concerning [B's] relationship with [K]. Reliance was placed on transcript passages where the Tribunal questioned the appellant about whether he checked [B's] connection to [K] and whether he considered the risks

associated with her proximity to [K's] residence. The appellant answered that he "did not think about it." The respondent argued that the Tribunal was therefore entitled to conclude that the appellant had failed adequately to address why he made no enquiries, and that the Tribunal's reasoning was entirely consistent with the evidence before it. It was submitted that the primary judge was correct to reject this ground.

28. As to the third alleged error of law, the respondent submitted that the Tribunal's reasoning concerning the appellant's knowledge of [K's] work and [B's] late-night visits did not disclose irrationality or legal unreasonableness. Counsel relied upon authorities concerning irrationality review, including the proposition that a decision is not irrational merely because another conclusion might also have been open on the evidence. The respondent argued that it was open to the Tribunal to reason that, if the affair were genuine, the appellant would naturally have sought to understand how [B] was able to leave her home undetected, including by enquiring into [K's] employment and nightly activities. Although the appellant had some awareness that [K] worked at a fish farm, the respondent submitted that the Tribunal's actual concern was the appellant's apparent lack of understanding of how [B] could repeatedly meet him at night without detection. The respondent contended that the Tribunal was entitled to regard this as undermining the plausibility of the alleged affair and that the primary judge correctly found no legal error in this reasoning.
29. In relation to the fourth alleged error of law, the respondent submitted that the Tribunal was entitled to form the impression that the Appellant was "improvising" when giving evidence about the practical arrangements by which [B] travelled to his home late at night. Counsel argued that the appellant's submissions failed to explain how this assessment amounted to a failure to consider the actual evidence. The respondent submitted that the evidence identified by the primary judge was capable of rationally supporting the Tribunal's conclusion. Further, the respondent argued that the Tribunal was entitled to rely upon impressions formed from the appellant's demeanour and manner of giving evidence, and that such impressions need not be tied to any specific contradiction or inconsistency in the evidence itself. It was therefore submitted that there was no irrationality or legal unreasonableness in the Tribunal's conclusion and that the primary judge was correct to reject this ground also.
30. Accordingly, the respondent submitted that none of the four asserted grounds disclosed jurisdictional or legal error on the part of the Tribunal, and that the primary judge correctly affirmed the Tribunal's decision. The Respondent therefore sought orders dismissing the appeal.

Applicable Principles

31. An appeal under s 43 of the Refugees Convention Act 2012 (Nr) lies only on a point of law. The statutory function of an appellate court in such a proceeding is therefore confined. It is not the function of the Court to conduct a merits review, to revisit factual findings merely because another conclusion was available, or to substitute its own view of the evidence for that of the Tribunal.
32. A Tribunal may commit legal error where it:

- (a) fails to consider a substantial, clearly articulated claim or material evidence bearing upon the claim;
 - (b) misunderstands or misconstrues evidence in a manner material to the exercise of its review function; or
 - (c) engages in reasoning that is legally irrational, illogical, or unreasonable.
33. However, not every factual mistake or imperfect expression of reasoning amounts to jurisdictional or legal error. As was explained in *Minister for Immigration and Ethnic Affairs v Wu Shan Liang*¹, reasons of an administrative decision-maker are to be read fairly and as a whole, and not with an eye keenly attuned to the perception of error.
34. Further, irrationality sufficient to constitute legal error is a stringent standard. It is not enough that another decision-maker may have reached a different factual conclusion. Legal irrationality arises only where the reasoning adopted is one that no rational or logical decision-maker could reach on the material before it: *CRI 020 v Republic of Nauru*²; *Minister for Immigration and Citizenship v SZMDS*³.
35. At paragraph 130 - 131, this is what their Honours, Crennan and Bell JJ (stated):

“130. In the context of the Tribunal's decision here, "illogicality" or "irrationality" sufficient to give rise to jurisdictional error must mean the decision to which the Tribunal came, in relation to the state of satisfaction required under s 65, is one at which no rational or logical decision maker could arrive on the same evidence. In other words, accepting, for the sake of argument, that an allegation of illogicality or irrationality provides some distinct basis for seeking judicial review of a decision as to a jurisdictional fact, it is nevertheless an allegation of the same order as a complaint that a decision is "clearly unjust" or "arbitrary" or "capricious" or "unreasonable" in the sense that the state of satisfaction mandated by the statute imports a requirement that the opinion as to the state of satisfaction must be one that could be formed by a reasonable person. The same applies in the case of an opinion that a mandated state of satisfaction has not been reached. Not every lapse in logic will give rise to jurisdictional error. A court should be slow, although not unwilling, to interfere in an appropriate case.

131 What was involved here was an issue of jurisdictional fact upon which different minds might reach different conclusions. The complaint of illegal illogicality or irrationality was said to lie in the process of reasoning. But, the test for illogicality or irrationality must be to ask whether logical or rational or reasonable minds might adopt different reasoning or might differ in any decision or finding to be made on evidence upon which the decision is based. If probative evidence can give rise to different processes of reasoning and if logical or rational or reasonable minds might differ in respect of the conclusions to be drawn from that evidence, a decision cannot be said by a reviewing court to be illogical or irrational or unreasonable, simply because one conclusion has been preferred to another possible conclusion.”

¹ *Minister for Immigration and Ethnic Affairs v Wu Shan Liang* (1996) 185 CLR 259.

² *CRI 020 v Republic of Nauru* [2021] NRSC 23 at [36]

³ (2010) 240 CLR 611 at 131 and 133; [2010] HCA 16.

36. Importantly, where the impugned findings concern the credibility, plausibility, detail, or coherence of oral evidence, substantial weight must be afforded to the Tribunal's position as primary fact-finder. An appellate court exercising jurisdiction confined to legal error must be cautious not to impermissibly recast disagreements about factual evaluation as questions of law.
37. The central question in this appeal is therefore whether the Tribunal's treatment of the Appellant's evidence disclosed a misunderstanding of the case advanced, a failure to consider material evidence, or reasoning of such a character as to exceed the lawful bounds of factual evaluation.
38. The Court must be careful not to permit a statutory appeal confined to questions of law to become, in substance, an impermissible merits review of factual and credibility findings.
39. We will now turn to consider each alleged error of law raised in the appeal herewith.

First Alleged Error of Law Raised in the Appeal.

40. The first challenge concerns the Tribunal's statement that it explored with the appellant the issue of:

“How in the initial stages he managed to keep returning to the area around [K]'s house without arousing suspicion”.
41. The appellant submits that no such question was ever asked and that the Tribunal therefore proceeded on a mistaken understanding of the evidence.
42. We do not accept the submission.
43. As the primary judge correctly observed, the Tribunal's reasons were not purporting to reproduce verbatim questions from the hearing transcript. Read fairly and in context, paragraph [86] was summarising lines of inquiry explored during the hearing.
44. The transcript demonstrates that the Tribunal questioned the appellant about repeatedly attending the area near [K]'s house, whether he was apprehensive about being there, and whether the area constituted a “stronghold” of [K] and his brothers.
45. The Tribunal also explored how the appellant was able to continue meeting [B] in circumstances where he claimed to fear the influence and notoriety of the brothers.
46. The primary judge was therefore correct to conclude that the matter identified by the Tribunal had, in substance, been explored with the appellant.
47. The complaint advanced by the appellant ultimately amounts to disagreement with the Tribunal's characterisation of the questioning rather than identification of any misunderstanding of evidence amounting to legal error.
48. We are satisfied no error is established in respect of this first alleged ground raised in the appeal.

Second Alleged Error of Law Raised in the Appeal

49. The second complaint concerns the Tribunal's observation that the appellant:
- “did not address why he failed to make such enquiries” regarding the true relationship between [B] and [K].
50. The appellant contends that this involved unfair and irrational reasoning because he was never specifically asked to explain why he had failed to make such enquiries.
51. Again, we are unable to accept the submission.
52. The transcript demonstrates that the Tribunal expressly questioned the appellant regarding whether he had checked [B]'s connection with [K], whether he had scope to make such enquiries, and whether it crossed his mind to investigate further given the notoriety of the brothers.
53. In response, the appellant stated relevantly that he “did not think about it”.
54. In our view, it was plainly open to the Tribunal to conclude from that evidence that the appellant had not meaningfully addressed why he failed to pursue further enquiries.
55. The Tribunal's reasoning neither misstated the evidence nor overlooked a material aspect of the appellant's case.
56. The primary judge correctly held that the Tribunal's summary was consistent with the substance of the evidence actually given.
57. We are satisfied no legal error is demonstrated.

Third Alleged Error of Law Raised in the Appeal.

58. The third challenge concerns the Tribunal's reasoning regarding the appellant's knowledge of [K]'s work and the circumstances in which [B] allegedly visited the appellant late at night.
59. The appellant submits that the Tribunal acted irrationally in concluding that he had only the “vague idea” of [K]'s work because the evidence showed that the appellant knew [K] worked at a fish farm.
60. It may readily be accepted that the appellant gave some evidence regarding [K]'s employment.
61. However, the primary judge correctly identified that the Tribunal's reasoning was directed not simply to whether the appellant knew the general nature of [K]'s work, but rather to the appellant's lack of understanding as to how the alleged relationship functioned in practice.

62. The Tribunal considered it significant that, if the affair genuinely existed, one might reasonably expect the appellant to have made enquiries as to how [B] was able to leave the family home late at night without detection, particularly after learning she was married to [K].
63. The Tribunal further regarded it as notable that the appellant did not connect [K]’s work obligations with [B]’s claimed ability to visit him.
64. Whether another decision-maker may or may not have drawn the same inference is not the question before this Court.
65. The question is whether the reasoning adopted by the Tribunal was one that no rational or logical decision-maker could reach.
66. In our view, the reasoning adopted by the Tribunal was plainly open on the material before it.
67. The Tribunal was entitled to regard the absence of practical detail concerning the relationship and the surrounding circumstances as bearing adversely upon credibility.
68. The Tribunal’s reasoning cannot properly be characterised as illogical, irrational, or legally unreasonable.
69. Nor do we accept that the Tribunal materially misunderstood the evidence.
70. We are satisfied the third alleged error of law raised in the appeal therefore fails.

Fourth Alleged Error of Law Raised in the Appeal.

71. The fourth complaint concerns the Tribunal’s statement that it formed the impression that the appellant was “improvising” when answering questions concerning the practical arrangements by which [B] allegedly travelled to his home late at night.
72. The appellant submits that there was no evidentiary basis for such a conclusion and that the primary judge erred in upholding it.
73. We do not accept that submission.
74. The Tribunal had the benefit of hearing the appellant give oral evidence directly and assessing both the content and manner of his responses.
75. The transcript reveals that the appellant gave uncertain and somewhat speculative answers regarding matters such as the distance travelled, the means by which [B] travelled, and how long the journey took.
76. It was open to the Tribunal to conclude from those answers that the appellant had not genuinely turned his mind to these practical matters and that aspects of the account appeared improvised.

77. Contrary to the appellant's submissions, such an evaluative conclusion need not depend exclusively upon demeanour.
78. A tribunal may form impressions from the content, detail, and coherence of oral evidence as a whole.
79. In any event, credibility findings of this kind are quintessentially matters for the Tribunal, and appellate intervention is warranted only where legal error is demonstrated.
80. None has been shown here.
81. The primary judge was correct to reject this challenge.

Conclusion

82. When analysed closely, each of the appellant's complaints depends upon inviting this Court to re-evaluate the factual significance of answers given before the Tribunal and to prefer competing inferences more favourable to the appellant.
83. That is not the function of an appeal confined to a point of law under s43 of the Act.
84. The authorities⁴ establish that legal error is not demonstrated merely because:
- (a) another factual conclusion was available on the evidence;
 - (b) the Tribunal's reasoning could have been expressed differently;
 - (c) individual aspects of the evidence are capable of alternative interpretation; or
 - (d) an appellate court may itself have placed different weight upon particular answers given by an applicant.
85. Rather, the question is whether the Tribunal misunderstood or failed to engage with the substance of the appellant's case, or whether its reasoning was so devoid of rational foundation that no logical decision-maker could have arrived at the conclusions reached.
86. Read fairly and as a whole, the Tribunal's reasons disclose neither of those errors.
87. The Tribunal identified the central issue in contest, namely whether the appellant had in fact engaged in the claimed relationship with [B]. It tested that account by reference to practical detail, surrounding circumstances, internal coherence, and the appellant's own explanations. The resulting credibility findings were findings reasonably open to the Tribunal on the material before it.
88. The appellant's submissions seek to isolate particular expressions used by the Tribunal and subject them to an unduly literal or fragmented analysis. However, administrative reasons are not to be scrutinised minutely for infelicities of language or semantic

⁴ CRI 020 v Republic of Nauru [2021] NRSC 23 at [36] ; Minister for Immigration and Citizenship v SZMDS (2010) 240 CLR 611 at 130 and 131

imperfection. The Tribunal's reasons must instead be read fairly, contextually, and in light of the function being performed.

89. So read, the Tribunal neither misunderstood the evidence nor failed to consider the appellant's claims. Nor can its reasoning properly be characterised as illogical, irrational, or legally unreasonable in the strict sense required to establish appellate intervention.
90. The primary judge was therefore correct to conclude that no appealable error had been established.
91. We are satisfied the appeal has not demonstrated any error of law on the part of the Tribunal or the primary judge.
92. The primary judge correctly concluded that the appellant's challenge amounted, in substance, to disagreement with factual and credibility findings that were properly open to the Tribunal.

Decision.

93. We are satisfied the appeal has not demonstrated any error of law on the part of the Tribunal or the primary judge.
94. The primary judge correctly concluded that the appellant's challenge amounted, in substance, to disagreement with factual and credibility findings that were properly open to the Tribunal.
95. It follows that the appeal must be dismissed.

ORDER

1. The appeal is dismissed.

DATED this 28 day of May 2026



KHAN P
President of the Nauru Court of Appeal



Palmer JA
Justice of the Nauru Court of Appeal



A handwritten signature in blue ink, appearing to read 'Coates'.

Coates JA
Justice of the Nauru Court of Appeal

