

Federal Court



Cour fédérale

**Date: 20221201**

**Docket: IMM-3207-21**

**Citation: 2022 FC 1663**

**Ottawa, Ontario, December 1, 2022**

**PRESENT: The Honourable Mr. Justice Ahmed**

**BETWEEN:**

**ABOUZAID MOHAMED ABDELHAMID IBRAHEM  
ASMAA MOHAMED ZEIN ALI  
MOHAMED ABOUZAID MOHAMED ABDELHAMID IBRAHEM  
BYSLAM ABOUZAID MOHAMED ABDELHAMID IBRAHEM**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The Applicants seeks judicial review of a decision of the Refugee Protection Division (“RPD”) dated May 4, 2021, determining that the Applicants are neither Convention refugees

nor persons in need of protection pursuant to sections 96 and 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (“*IRPA*”).

[2] The Applicants submit that the RPD’s decision is unreasonable because the RPD erred in its credibility assessment.

[3] For the reasons that follow, I find that the RPD’s decision is reasonable. I therefore dismiss this application for judicial review.

## **II. Facts**

### **A. *The Applicants***

[4] The Applicants are a family of four. The Principal Applicant, Abouzaid Mohamed Abdelhamid Ibrahim, is a 38-year-old citizen of Egypt. The Principal Applicant’s spouse, Asmaa Mohamed Zein Ali (the “Associate Applicant”), is 29 years old and also a citizen of Egypt. They have two Egyptian-born children, ages 11 and 5. The Applicants have a third child, age 2, who was born after their arrival in Canada.

[5] The Principal Applicant’s Basis of Claim (“BOC”) narrative indicates that following his enrollment in university in 2003, he became involved in student protests and, beginning in 2005, the movement demanding political reform in Egypt. The Principal Applicant left Egypt in 2008 and moved to Saudi Arabia, where he lived until 2015. While in Saudi Arabia, he continued to advocate against the Egyptian regime through social media, by attending demonstrations during

visits to Egypt, by gathering funds and resources to send back to Egypt, and by encouraging others to get involved in political action.

[6] In 2015, the Principal Applicant returned to Egypt to pursue work in real estate. The Principal Applicant's BOC form indicates that in 2016, he purchased farming land in Ismailia city. He continued with his political activities while working on the farm. He claims that in 2019, his neighbour Mostafa, a high-ranking military officer, offered to buy the land. He declined the offer, but Mostafa remained persistent and made threatening phone calls to the Principal Applicant.

[7] On June 9, 2019, the Principal Applicant alleges that he received a threatening call from Mostafa, telling him that this was the last chance to sell the land to him, or he would "destroy" his life. The Principal Applicant filed a complaint with the police the following day. A week later, the Principal Applicant followed up with the police, but was told to drop the matter and that nothing further would be done.

[8] In the following week, the Principal Applicant claims he began experiencing issues with his land, including broken trees and damages to the watering system. He believed that Mostafa was damaging his land, since he had called the Principal Applicant again and threatened him for refusing to sell the land.

[9] On July 19, 2019, the Applicants allege that four men from national security raided their home and physically assaulted the Principal Applicant and the Associate Applicant. The

Principal Applicant was then blindfolded, put into a vehicle and driven to an unknown location, where he states he was interrogated by officers about his political activities, his hatred for the regime and the reasons he had such attachment to his land. The Principal Applicant was allegedly detained, subjected to physical violence and insults, and ordered to agree to the sale of the land.

[10] The Principal Applicant claims he was released with the help of a bribe paid by his brother-in-law, and that he then went into hiding. The BOC narrative states that he was released on August 20, 2019, yet the transcript of the RPD hearing indicates that he testified that he was released on August 28, 2019.

[11] On August 28, 2019, the Applicants further allege that, when the Principal Applicant was in hiding, state security agents came to the Associate Applicant's home, threatened her and her children, and asked for the Principal Applicant's whereabouts, accusing him of being a member of the Muslim Brotherhood.

[12] On September 12, 2019, the police allegedly visited the Principal Applicant's mother's home searching for the Applicants and caused damage to the home.

[13] On September 22, 2019, the Applicants left Egypt. The Principal Applicant was issued a multi-entry visitor visa to Canada on July 13, 2015, valid until October 25, 2021.

[14] On September 26, 2019, the Applicants made refugee claims at the Fort Erie Refugee Processing Unit. The Applicants fall under an exception to the Safe Third Country Agreement.

B. *Decision Under Review*

[15] In a decision dated May 4, 2021, the RPD found that the Applicants had not established that they face a serious possibility of persecution on a Convention ground, or that, on a balance of probabilities, they would personally be subjected to a risk to life, cruel and unusual treatment or punishment or torture in Egypt.

[16] The determinative issue was credibility. The RPD acknowledged the many difficulties faced by refugee claimants in establishing a claim, including nervousness, educational level and cultural factors. However, it found that the Applicants' claim lacked credibility overall and failed to establish core elements of their claim, on the basis of several inconsistencies and contradictions in the Applicants' evidence.

(1) Applicants' Farmland

[17] The Principal Applicant's BOC narrative indicates that the farm was purchased in 2016; he testified before the RPD that it was purchased in 2015 and that he paid premiums for two years until the farm was paid in full in 2017. The preliminary sale contract on record, dated May 15, 2015, was inconsistent with the Principal Applicant's testimony. When asked about these inconsistencies, the Principal Applicant explained that a new contract is issued once the full payment is made, but the new contract contains the date the first contract signed. To support

this, the Applicants provided two letters from lawyers in Egypt. The RPD found that the Principal Applicant's explanation did not resolve the contradictory evidence, nor did the lawyers' letters establish that the contract corroborates his testimony. The RPD gave the letters little weight and drew a negative inference from the inconsistencies.

[18] The RPD also drew a negative inference from the Principal Applicant's evolving testimony regarding the number of trees on the farmland. The police report on the record states that there were 6,000 trees, while the Principal Applicant's testimony before the RPD and BOC form state that there were 50,000 trees. He failed to provide a reasonable explanation for his evolving testimony regarding the farm.

[19] The RPD granted the Applicants' photographs of the land little weight because they did not indicate where or when they were taken and failed to establish that the land was owned by the Applicants. Based on these inconsistencies, the RPD determined that the Applicants failed to establish that they owned the farmland that is the root of their alleged problems in Egypt.

(2) Agent of Persecution

[20] The RPD also found that the Principal Applicant's testimony regarding the agent of persecution was evolving and evasive, and failed to clearly articulate whom the agent of persecution is. The RPD noted that the Applicants did not provide any evidence or make any efforts to establish that the agent of persecution is an officer in the Egyptian military, as alleged, and therefore failed to establish this element of their claim.

(3) Police Interactions

[21] The RPD found that the Principal Applicant's testimony regarding his interactions with police lacked credibility. The RPD noted that his description of the police uniforms worn by individuals who arrested him on July 19, 2019 was not in line with the objective country condition evidence, which indicates that in most cases, officers of the national security wear civilian clothing. The RPD drew a negative inference from this inconsistency.

[22] The RPD also found irregularities and lack of detail in the Associate Applicant's testimony regarding the individuals who came to her home, allegedly threatening her and her children. The Associate Applicant first testified that they were in a civil outfit, and then stated that they were in police uniforms. The Applicants then stated the individuals were members of state security and that they were dressed in full black gear. The RPD found that this inconsistent evidence and lack of detail undermined the Associate Applicant's credibility.

[23] The RPD also drew a negative inference from the Applicants' failure to provide corroborating evidence of the incident that occurred at the Principal Applicant's mother's home on September 12, 2019.

(4) Political Activism

[24] The Principal Applicant stated that he is also at risk due to his ongoing political activism. However, the RPD found that the Principal Applicant's testimony indicates that he has not spoken out against the current regime in Egypt, nor has he provided any evidence of speaking

out against the current regime or any previous regime. The RPD determined that the Principal Applicant had not established that he or his family would be at risk in Egypt due to his political opinion.

[25] The RPD ultimately found that on the basis of the evidence, the Applicants are not Convention refugees or persons in need of protection under sections 96 and 97(1) of *IRPA*.

### **III. Issue and Standard of Review**

[26] The sole issue in this application for judicial review is whether the RPD's decision is reasonable.

[27] Both parties concur that the standard of review to the RPD's decision is reasonableness. I agree (*Adelani v Canada (Citizenship and Immigration)*, 2021 FC 23 at paras 13-15; *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (“*Vavilov*”) at paras 10, 16-17).

[28] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified (*Vavilov* at para 15). A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker (*Vavilov* at para 85). Whether a decision is reasonable depends on the relevant administrative setting, the record



before the decision-maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).

[29] For a decision to be unreasonable, the applicant must establish the decision contains flaws that are sufficiently central or significant (*Vavilov* at para 100). Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing evidence before the decision-maker, and it should not interfere with factual findings absent exceptional circumstances (*Vavilov* at para 125). Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a “minor misstep” (*Vavilov* at para 100; *Canada (Citizenship and Immigration) v Mason*, 2021 FCA 156 at para 36).

#### **IV. Analysis**

[30] The Applicants submit that the RPD unreasonably found that their claim lacked credibility, and that their evidence was insufficient to overcome any inconsistencies. The RPD must assess the evidence presented as a whole, and not become fixated on details of an applicant’s testimony, or search for inconsistencies for evidence that an applicant lacks credibility, while ignoring other aspects of the claim. The Applicants submit that the RPD’s negative credibility inference with respect to one aspect of their claim caused the RPD to erroneously reject the credibility of all other aspects of their claim. The Applicants rely on *Chen v Canada (Citizenship and Immigration)*, 2013 FC 311 (“*Chen*”), where this Court found that “a decision to reject certain aspects of the evidence does not constitute, absent a negative credibility finding, *carte blanche* to reject all of the remaining evidence,” and “each aspect of the evidence must be assessed on its own merits” (at para 24).

[31] I do not find the Applicants' reliance on *Chen* to be helpful. In *Chen*, the RPD doubted the veracity of the applicant's claim based on a fear of religious persecution in China because it found that the substance of the claim was inconsistent with the evidence. Here, the RPD did not decide the merits of the Applicants' claim solely on documentary evidence, but rather took into account the objective country condition evidence, as well as the Applicants' evidence, including their oral testimonies.

(1) Applicants' Farmland

[32] The Principal Applicant's BOC form states that he purchased his farm in 2016, but he testified that he did not pay for the farm in full until 2017. The preliminary sales contract on record, dated May 15, 2015, indicates that the full sum was paid. The Applicants submit that the inconsistencies regarding the purchase date of the farm property are immaterial and that the RPD erred in its assessment of the sale contract. The Applicants argue that despite providing a legitimate and authentic sales contract, the RPD raised unreasonable concerns regarding whether real estate contracts are conducted in the way described by the Principal Applicant in his testimony. The Applicants assert that both letters from the lawyers confirm that the final registration of the contract is made only after the full payment is made by the buyer, which is consistent with the Principal Applicant's testimony and addresses the RPD's question regarding whether land sales are conducted in this manner.

[33] The Applicants further submit that the RPD's request for evidence that land sales in Egypt are conducted in the way described by the Principal Applicant was general and vague. As

such, it was unreasonable for the RPD to give the lawyers' letters no weight, since it did not specify what it was looking for with respect to the sales contract.

[34] The Applicants further submit that it was unreasonable of the RPD to give little weight to the photographs of the farm. The RPD had the opportunity to question the Applicants during the hearing about the photographs to obtain the information it sought, but failed to do so. The RPD's finding places an impossible burden on the Applicants as it is unclear what evidence the Applicants could have obtained to prove the photographs depict the land that belongs to them. The Applicants also take issue with the RPD's negative inference regarding the number of trees on the farm, as the transcript of the hearing reveals a confusing exchange.

[35] The Respondent maintains that it was reasonable of the RPD to draw a negative inference from the inconsistencies between the contract of sale and the testimony. The Respondent submits that it is clear from the transcript that the troubling discrepancy was the Applicant's claim that the contract was signed and finalized in 2017, even though it was dated in May 2015. The Respondent argues that there was nothing vague about the RPD's suggestion that corroborating evidence would be needed to substantiate the Principal Applicant's explanation.

[36] The Respondent further points to the inconsistencies regarding the olive trees on the farm. While the Principal Applicant's BOC states that the farm contained over 50,000 olive trees when it was purchased, the Principal Applicant testified that he purchased desolate farmland. The police report submitted by the Applicants also indicates that the farm has 6,000 trees, not 50,000. It was reasonable of the RPD to draw a negative inference from the

inconsistent evidence and evolving testimony. In response to the Applicants' argument that the RPD should have sought further clarification, the Respondent affirms that the RPD gave the Principal Applicant many opportunities to explain the discrepancy, yet he could not adequately do so. Overall, the Respondent maintains that the inconsistencies related to the farm are central to the claim and it was thus reasonable for the RPD to draw an adverse inference from them.

[37] I agree with the Respondent. The RPD reasonably drew a negative inference from the inconsistencies regarding the purchase of the farm property, as well as from the Principal Applicant's testimony. When the RPD confronted the Principal Applicant about the inconsistencies related to the purchase of the farm, he stated that the farm property was in fact purchased in 2015 as an investment, but then he decided to keep the land in 2016, and paid for the land in full in 2017. However, a preliminary sales contract, dated May 15, 2015, indicates that the full sum was paid. The Principal Applicant explained that when he paid the full amount in 2017, a new contract was generated containing the initial purchase date, but indicating that the sum was fully paid. The RPD's decision notes:

The principal claimant was asked if he had any evidence to establish that this is how real estate transactions are completed in Egypt. The panel notes that the claimants provided two documents from lawyers in Egypt for the second sitting of their claim. One letter indicates that real estate transactions are not registered until the full payment is received. The second letter is from a different lawyer in Egypt. This letter indicates that a power of attorney document would not be issued until the full sale price had been paid and that the power of sale document provided corresponds to the plot of land that the claimants allege to have purchased. The panel notes that no information was provided to indicate that a new contract would be issued once the full payment is made or that this new contract would still contain the date of 2015 if the full payment was made in 2017. As such, the panel gives the letters little weight they do not establish that the contract and power of attorney

corroborate the principal claimant's testimony. The panel also draws a negative inference from the discrepancies between the documents and the principal claimant's testimony.

[38] In my view, it was reasonable of the RPD to draw a negative inference from the discrepancies between the documents in evidence and the testimony. I also find it was reasonable of the RPD to give the two lawyers' letters little weight and to find that they did not support the Applicants' assertion that real estate transactions in Egypt are completed in the manner described by the Principal Applicant. The two lawyers' letters do not corroborate the process outlined by the Principal Applicant: that after the full sum is paid; a new contract is generated, containing initial purchase date, but indicating that the sum was paid. The letters do not indicate that a new contract would still contain the date of 2015, if the payment was made in 2017. Even if the preliminary contract or power of attorney was re-issued in 2017, once payment was made in full, it was reasonable of the RPD to determine that the Applicants failed to submit evidence demonstrating that real estate transactions are conducted in this way.

[39] I also find it was reasonable of the RPD to find the photographs to be of little probative value since there was nothing to establish when or where they were taken, or whether the Applicants owned the land depicted in the photographs.

[40] While I do find that that the RPD erred in drawing a negative inference from inconsistent evidence about the number of trees on the farm, which appears to have arisen from a confusing exchange during the hearing and a translation error in the police report stating an incorrect number of trees on the farm, I do not find that this minor error renders the RPD's decision

unreasonable as a whole. Overall, I find it was reasonable of the RPD to draw negative credibility inferences from the multiple inconsistencies in the evidence regarding the farm.

(2) Agent of Persecution

[41] The RPD found that the Applicants have not established that their agent of persecution is a high-ranking military officer. The RPD based its conclusion on the Principal Applicant's evolving and evasive testimony regarding the agent of persecution, and the fact that he was unable to clearly articulate whom the agent of persecution is, what branch of military he occupies, or how the Principal Applicant came to know the information he provided to the RPD.

[42] The Applicants submit that from the outset, the Principal Applicant was clear that the agent of persecution was his neighbour Mostafa and the Egyptian security forces, and clearly stated that he did not know what branch of government his neighbour belonged to, yet he learned about Mostafa over time by virtue of being neighbours. It is unclear why the RPD found this recognition to not have been articulated clearly. The Applicants also argue that the RPD unreasonably dismissed the Principal Applicant's testimony regarding Mostafa's threats and the police's inaction, and failed to reconcile the Applicants' credible evidence with its negative credibility concerns. The RPD should not have faulted them for not trying to obtain evidence that Mostafa is a high-ranking officer in the military, since no such evidence could reasonably have been obtained.

[43] The Applicants further submit that it was unreasonable of the RPD to discount the Principal Applicant's testimony about his arrest and to place a significant weight on the objective

country condition evidence. The RPD's undermining of the Principal Applicant's arrest was entirely based on a single reference to country condition documentation describing the clothing worn by security forces during arrests, which states: "[...] arresting officers rarely wore identifying uniforms, except sometimes the black-clothed members of the Central Security Forces, and none wore insignia or name badges." The RPD also erroneously fixated on the lack of specificity in the Associate Applicant's testimony regarding the visit from security forces.

[44] The Respondent submits that the Principal Applicant's testimony about the agent of persecution was vague and evolving; particularly with respect to Mostafa's rank in the military and how he knew Mostafa was in the military. The Applicants provided no evidence to support the allegation that Mostafa was a high-ranking member of the military, and have failed to point to anything that contradicts the RPD's understanding of the Principal Applicant's testimony. Their arguments therefore amount to a disagreement with the RPD's weighing of the evidence. It was thus reasonable of the RPD to draw an adverse inference from the Applicants' failure to even attempt to obtain evidence to corroborate their allegation that their agent of persecution is a high-ranking military officer.

[45] The Respondent stresses that the RPD drew an adverse inference from the Applicants' lack of effort to obtain such evidence, not the absence of the evidence. The same can be said of the Applicants' lack of evidence to corroborate the damage to the Principal Applicant's mother's home following the police visit. Finally, the Respondent submits that it was reasonable for the RPD to find that the Applicant's description of the police was inconsistent with the documentary

evidence, and to draw a negative inference from the Associate Applicant's inconsistent testimony about the clothing worn by state security agents when they came to her home.

[46] Again, I agree with the Respondent. The RPD sought corroborating evidence from the Applicants to support their claim, and to establish that their neighbour Mostafa is a high-ranking officer in the Egyptian military. The Principal Applicant testified that it would be difficult to obtain such information, and when asked if he had attempted to obtain the information, the Principal Applicant responded that it would be "impossible even if he tried." Given that the burden lies with the Applicants to establish the elements of their claim, it was reasonable of the RPD to draw an adverse inference from their lack of effort to obtain evidence to establish the identity of their agent of persecution. I also disagree with the Applicants that the RPD failed to reconcile "credible evidence" with its negative credibility concerns. It was reasonable of the RPD to find that the Applicants could have submitted evidence to corroborate their account of the attack on the Principal Applicant's mother's house, and the alleged damage caused by police.

[47] I find that it was reasonable of the RPD to draw a negative inference from the inconsistencies in the Principal Applicant's testimony and Associate Applicant's evolving testimony regarding what the police were wearing when they came to the Applicants' home. I do not find that the RPD ignored the Principal Applicant's testimony regarding his arrest. It was also reasonable of the RPD to point out inconsistencies between the Principal Applicant's account of what the arresting officers were wearing, and the country condition evidence that indicates arresting officers rarely wear identifying uniforms.



[48] Many of the Applicants' arguments amount to a disagreement with the RPD's weighing of the evidence. The onus remained on the Applicants to provide sufficient evidence to support their claim. As noted by the Respondent, nearly all of the inconsistencies and contradictions identified by the RPD relate to matters central to the Applicants claim: the Applicant's ownership of the farm, the identity of the agent of persecution, and the alleged threats and raids by state authorities. Based on the evidence before the RPD and the inconsistencies and contradictions it identified, I find that the RPD's decision is justified in relation to the facts and the law and is thus reasonable (*Vavilov* at para 85).

**V. Conclusion**

[49] For the reasons above, I find the RPD's decision is reasonable. This application for judicial review is dismissed. No questions for certification were raised, and I agree that none arise.

**JUDGMENT in IMM-3207-21**

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

1. The application for judicial review is dismissed.
2. There is no question to certify.

“Shirzad A.”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-3207-21

**STYLE OF CAUSE:** ABOUZAID MOHAMED ABDELHAMID IBRAHEM,  
ASMAA MOHAMED ZEIN ALI, MOHAMED  
ABOUZAID MOHAMED ABDELHAMID IBRAHEM  
AND BYSLAM ABOUZAID MOHAMED  
ABDELHAMID IBRAHEM v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** BY VIDEOCONFERENCE

**DATE OF HEARING:** OCTOBER 19, 2022

**JUDGMENT AND REASONS:** AHMED J.

**DATED:** DECEMBER 1, 2022

**APPEARANCES:**

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