

HONG KONG / JUDGMENT

RE EVA MASFUFAH

Source: legalref.judiciary.hk · Research copy typeset by Esheria. Not court-issued or certified.

CACV 291/2026, [2026] HKCA 1070 On Appeal From

[2026] HKCFI 1505 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE
REGION COURT OF APPEAL CIVIL APPEAL NO 291 OF 2026 (ON APPEAL FROM HCAL NO
88 OF 2022)

RE: EVA MASFUFAH Applicant

Before: Hon Au JA and Eugene Fung J in Court Date of Hearing: 27 May 2026 Date of Judgment: 12
June 2026

J U D G M E N T

Hon Au JA (giving the Judgment of the Court): 1. This is the applicant's appeal against the order of
Deputy High Court Judge (Non-refoulement Claims) Calvin Cheuk (" the Judge ") dated 17 March
2026 (

[2026] HKCFI 1505) (" the Leave Decision ") dismissing her application for leave to apply for
judicial review (" the Leave Application ") pursuant to her own request for cancellation.
Her intended judicial review is to challenge against the decision of the Torture Claims
Appeal Board/Non-refoulement Claims Petition Office (" the Board ") dated 7 December
2021 (" the Board's Decision "), whereby the Board dismissed her appeal against the
decision of the Director of Immigration dated 31 May 2021, refusing her non-refoulement
claim. 2. The applicant is a national of Indonesia. The applicant last entered Hong Kong
on 21 January 2018 as a foreign domestic helper. Her employment contract was
terminated prematurely and she overstayed since 3 December 2018. On 10 March 2021,
she surrendered herself to the Immigration Department and raised a non-refoulement by
way of a written representation on 8 April 2021. The basis of her non-refoulement claim is,
if refouled, she would be harmed or killed by her father's creditor owing to unpaid debts
and her refusal to marry the creditor. 3. By the Director's Decision, the Director found her
non-refoulement claim unsubstantiated. She then appealed to the Board on 10 June 2021.

After hearing her appeal on 10 September 2021, by the Board's Decision, the Board found that the creditor was only making empty threats and that her non-refoulement failed on all applicable grounds. In any event, the Board also found that reasonable internal relocation would be available to her upon refoulement. See [33] - [53] of the Board's Decision. 4. The applicant then filed her application for leave to apply for judicial review against the Board's Decision on 26 January 2022. The Judge heard the matter on 4 February 2026, however the applicant filed an affirmation requesting cancellation of her application on 2 March 2026. By the Leave Decision, the Judge found that the application for cancellation was made by the applicant's own free will and the application was thus dismissed pursuant to her request. See [4] of the Leave Decision. 5. By the Notice of Appeal filed on 23 March 2026, the applicant claimed: "I would like to reject and review the decision made by the Court and the TCAB. They disregard my dangerous situation." (sic) 6. In support of her appeal, the applicant also lodged written submissions on 12 May 2026. In those submissions, she reiterated the procedural history and factual background of her non-refoulement claim, and that she could not pay her debt and wished to stay in Hong Kong for her own safety. 7. Pursuant to the directions of the Registrar of Civil Appeals made on 23 March 2026 (" the Directions "), the hearing of her appeal is scheduled to be heard before this Court on 27 May 2026. Paragraph 12 of the Directions also states that if the applicant fails to attend the oral hearing, she will be deemed to have waived her right to the requested oral hearing, and the Court will proceed to consider the appeal on its merits on the basis of the materials before it. The applicant confirmed in writing her receipt of the Directions on 23 March 2026. 8. However, she failed to attend the oral hearing on 27 May 2026. In the circumstances, pursuant to paragraph 12 of the Directions, we will proceed to consider and determine her appeal on paper. DISCUSSION 9. The relevant legal principles governing appeals in non-refoulement cases are set out in *Nupur Mst v Director of Immigration*

[2018] HKCA 524 at [14]. 10. In particular, in an appeal against refusal of leave to apply for judicial review in non-refoulement cases, the Court of Appeal will only examine the decision of the judge in light of the grounds advanced by the applicant. If no viable ground is put forward to reverse the judge's decision, the appeal should be dismissed. The Court's role is not to examine the decision maker's decision afresh as if it were a fresh application for judicial review. See *Nupur Mst v Director of Immigration*

[2018] HKCA 524 at [14(6)]. 11. We see no merit in her contentions. Nowhere in her Notice of Appeal did the applicant identify any error committed by the Judge with specific particulars or give any ground in support of her appeal. Her assertions are mainly directed at the Board's Decision, and are in any event general and bare allegations unsupported by specific particulars or evidence. General assertions of her fear if refouled do not constitute proper grounds of appeal: *Re Saldua Dorothy Trifalgar*

[2022] HKCA 627 at [6]. They are not viable grounds of appeal. 12. For the above reasons, the applicant's appeal against the Leave Decision has no merit and is hereby dismissed. (Thomas Au) Justice of Appeal (Eugene Fung) Judge of the Court of First Instance The applicant acting in person

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=182026

CASE PAGE <https://chat.esheria.ai/case-law/hong-kong/re-eva-masfufah-2026>

Prepared on 28 October 2026 · Esheria