

Date: 20081104

Docket: IMM-2310-08

Citation: 2008 FC 1231

Toronto, Ontario, November 4, 2008

PRESENT: The Honourable Mr. Justice Hughes

BETWEEN:

SO CHI "MICHELLE" LEE

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] The Applicant is an adult female resident of Hong Kong. She applied in Hong Kong for permanent residence in Canada on the basis that she was a member of the investor class as provided for in subsection 88(1) of the *Regulations* made under the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, as periodically amended (IRPA). That application was denied by a Designated Immigration Officer at the Canadian Consulate in Hong Kong in a written decision dated March 10, 2008. This is a judicial review of that decision.

[2] For the reasons that follow, I find that the application is dismissed.

[3] The Applicant applied for permanent residence in Canada as an investor. As such, her application was governed by section 12(2) of the *IRPA*, and sections 88 and 90 of the *Regulations* passed under *IRPA*. A number of criteria are thereby established such that a foreign national must demonstrate that they have experience of at least two years in managing a business of at least a modest size and having certain income.

[4] The Record, including CAIPS notes kept by the Officer demonstrates that there was a good deal of communication with the Applicant respecting these criteria and the Applicant's failure to provide satisfactory information and documentation particularly as to her employment with Floata Seafood Restaurant Ltd. It appears that the Applicant worked at least part-time for Floata in some capacity from 1998 to 2002 and appears to have been unemployed thereafter. Other criteria such as the amount of money in the Applicant's bank account and where it came from, questions as to the Applicant's two children, and whether she was ever married, remained. Without detailing every event, the CAIPS notes demonstrate that the Applicant and her advisors were told on several occasions what the deficiencies were in her application and the concerns that the consular officer had in that regard. A last opportunity to attend an interview on March 4, 2008 was extended. The Applicant was advised that if she could not attend at the appointed time that the officer should be advised at least two weeks in advance with a full explanation as to why she could not be there otherwise the matter would be considered based on the material on the file. Less than a week before the appointed time the lawyer for the Applicant wrote a letter to the officer stating that the Applicant would not attend because she could not rearrange her schedule. She failed to attend. The officer decided the matter on the basis of what was in the file.

[5] In this present judicial review application, the Applicant herself provided no evidence. The only evidence beyond the Tribunal Record that this Court has is an affidavit from an immigration consultant Yuk Fai “Ricky” Lee. All that Ricky Lee does is attach as exhibits selected pieces of correspondence with the Canadian Consular Office and the Applicant’s solicitor. He does not testify as to the truth of any statement made in any document.

[6] The Applicant raises three issues:

1. Did the Officer improperly fail to assess the Applicant’s qualifications;
2. Should the Officer have brought concerns that the Officer may have had to the Applicant’s attention;
3. Should the Officer have afforded the Applicant an opportunity to attend an interview?

[7] The Applicant bore the burden of satisfying the Officer that she met the investor category criteria. The Officer correctly addressed the criteria that a person must meet when seeking permanent residence under the investor category. The concerns that the Officer had were on several occasions expressed to the Applicant who had ample opportunity herself and through her advisors, to address these concerns. The Applicant was given an opportunity to attend an interview and failed to show up.

[8] I find that the Applicant has failed to demonstrate any basis upon which the Officer’s decision could be set aside. The application is dismissed. There is no question for certification. No Order as to costs.

JUDGMENT

For the Reasons given:

THE COURT ADJUDGES that:

1. The application is dismissed;
2. There is no question for certification;
3. No Order as to costs.

“Roger T. Hughes”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2310-08

STYLE OF CAUSE: SO CHI "MICHELLE" LEE v. THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: NOVEMBER 4, 2008

**REASONS FOR JUDGMENT
AND JUDGMENT:** HUGHES J.

DATED: NOVEMBER 4, 2008

APPEARANCES:

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