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MATRIC NUMBER: 16/LAW01/097

LAND LAW TEST

ANSWER:

The question bothers on the revocation of right of occupancy for overriding public interest. The legal issue is whether the act of the Governor to demolish Tarzan hotels based on the defiance of the order is unlawful. The answer will be in the affirmative.

The general rule according to ***section 28 of the Land Use Act*** is that “ a right of occupancy may be revoked by the governor for overriding public interest”. It is important that the right of occupancy that is revoked is based on the provisions of the Land Use Act. Although not expressed stated by the Act it is essential that the specific grounds for revocation are stated in a notice to be given to the occupier or holder of the land. ***Section 28(6)*** goes further to state that” any revocation of a right of occupancy shall be signified under the hand of a public officer duly authorized in that behalf by the Governor and notice thereof shall be given to the holder.

Based on the scenario, the Governor according to the Executive Order has the right to demolish any hotel, however, under the Quarantine law, it is fines and imprisonment that are the penalty for default. Under the Land Use Act before the right of a holder can be revoke due notice has to be served. In the case of ***Goldmark Ltd v. Ibafon co. ltd***, The Supreme Court held that publication in the gazette does not constitute sufficient notice, there must be personal service to the person.

Under the Executive Order, the Governor has the right to demolish the hotel, but under the Quarantine law the penalty for default is fine and imprisonment. So the question is which law supercedes the other? And in my opinion, the Constitution will prevail here because in as much as the order put in place is for the good of the people, the people still have the constitutional right to own property and as such the Quarantine law should supercede because defaulters will still be given punishment.

In conclusion, The Governor’s act of demolishing the hotel is wrong because he didn’t not give notice to Chief Ajah based on ***section 28(6)*** and as such Chief is advised to take the matter to a High Court and he may be compensated for the damage of his building.