

NAME: DAOPUYE-OKUCHABA TREASURE

MATRIC NUMBER: 16/LAW01/059

COURSE: LAND LAW II

LECTURER: MRS IFEOLUWA OLUBIYI

COURSE CODE: LPB402

DATE: 15TH MAY, 2020

**ANSWER TO TEST QUESTION**

**ISSUES:**

1. Whether the Governor had the power to revoke Mr Ajah’s right of occupancy?
2. Whether the Governor followed due process of revocation?
3. Whether Mr Ajah can succeed in court for his claim?

**RULES**

 The land use Act is the principal convention that regulates contemporary land tenure system right of occupancy can be terminated by effluxion of time, surrender, forfeiture or Revocation. This discuss is centered on revocation it is stipulated in Section 28 of the Land use Act it states that it shall be lawful for the governor in respect of land to revoke right of occupancy for overriding public interest. Before a right of occupancy can be properly revoked, it must meet 3 criteria,s that is**, public purpose, a valid notice, adequate compensation** failure to carry out the due process will render the revocation invalid. This power can be exercised by virtue of statutory right of occupancy and customary right of occupancy. **Overriding public interest** in relation to statutory right of occupancy, is stated in section 28(2)a,b,c in addition public interest according to section 51 of the Land use Act defines public interest as interest exclusively for government use or public use section 28(5) states conditions where the Governor can revoke a right, in the case of Obi v Minister of FCT this conditions were reinstated, in the case of Executors and Administrators of the Estate of Sani Abacha v Samuel David Eke spiff the court held that the action of Sani Abacha to take over the Land of Eke spiff for his public interest was decalred void. Notice which is the second requirement. It is stated in section 28(6) it was stated in S.O Adole v Boniface B Gwar that before a right is revoked, the holder must be served a notice it was also stated in the case of Obi v Minister Fct that notice and service of notice are condition precedent to a valid revocation also in Onwoniyin v Anambra state Governement. Compensation is expressly stated in section 29 of the Land use Act in the case of Horn v Sunderland cooperation, it was held that a holder must be fuly satisfied for his loss. Any dispute as regards the amount of compensation will be determined by the Land use and Allocation committee section 30. Section 44 of the Constitution ensure prompt payment. The three requirements must coexist before revocation can be valid. Any dispute arising from it should be settled by **the Land use and Allocation committee.**

 In applying the hypothetical scenario to the rules, The governor did not demolish Tarzan hotels in compliance of section 28. In addition, he failed to issue a notice to Mr Ajah who is the holder of the statutory right of occupancy as held in the case of Obi v Minister of Fct. It is notice that empowers a Governor to carry out his power. In S.O Adole v Boniface B Gwar the notice must be served failure to do this will not be make the revocation valid in the eyes of the Law. From the aforementioned it is evident that the 3 criteria’s were not made as sepecified in the Land use Act. The Governor failed to give notice, the Right was not revoked for overriding public interest and an adequate compensation was not given. Mr Ajah will succeed in court as his right was revoked in an unlawful manner and in contraction with the provision of the Act

 In conclusion, the Governor did not exercise his power in accordance with the provisions of the act thereby making his act of revocation unlawful. In my opinion, the Land use Act has transformed from a magic wand to a destructive monster as the Act vest a lot of powers on the Governor as regards revocation of right of occupancy.