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16/LAW01/196

LAND LAW II

LPB 402

The legal quagmire for determination in this question is whether the revocation of Chief Ajah’s right of occupancy and the demolition of his property was constitutional.

According to *Section 28 of the Land Use Act* it is lawful for the Governor to revoke a right of occupancy for overriding public interest. By virtue of *Section 28(6) of the Land Use Act* a notice of the revocation must be given to the holder.

According to *Section 44 of the Land Use Act*, any notice required to be served on must be served by delivering to the person on whom it was served or by sending it to the person last named addressed or known abode.

According to *Section 29 of the Land Use Act* a person whose right of occupancy is revoked in any manner outside the scope of what is stated in *The Land Use Act*, the holder or occupier is entitled to compensation.

*Section 5 of the Quarantine Law* states that fines and imprisonment were the penalties for defaulting to obey the order to close hotels.

Applying the above principles of law to the scenario in question the Governor had the legal right to revoke Chief Ajah’s right of occupancy because he was in operating his hotel in defiance of the Executive Order, which was made in the public interest.

In Nigeria, an executive order is only valid when the person giving the order is acting within the boundaries of their constitutional and statutory authorities. It is not within the Governor’s powers under the *Land Use Act*  or even the *Quarantine Law* to order the demolition of property.

There was no service of notice of the revocation of the right of occupancy on Chief Ajah himself. It is not stated that a notice was served on Chief Ajah in accordance with the provisions of the *Land Use Act.* So therefore proper procedure was not followed and he is entitled to compensation.

In conclusion, I will thereby inform Chief Ajah that the demolition of his property was unconstitutional and therefore he has a right to sue the Governor because the Governor was acting outside the scope of his authority by demolishing his property. I will also advice him to request compensation for his land becausethe revocation of his right of occupancy was not according to due process because no notice was served on him in accordance with the provisions of the *Land Use Act.*