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16/LAW01/075

LAND LAW

Legal issues

1. Whether the governor has the right to demolish Tarzan hotels due to its defiance of the executive order made by him.
2. Whether Chief Ajah will succeed in action against the Governor in court contesting the demolishing his hotel.
3. Whether the governor has the right to demolish tarzan hotels due to its defiance of the executive order made by him.

This issue is resolved in the negative.

An executive order is an order made by a president or governor of a state and it should follow the already existing laws of a state. An executive order should not go outside the scope of the constitution; hence it should not contravene with the provisions of the constitution.

The executive order made by the Governor in Kuzaland which says that all public places that continues any such businesses shall be demolished contravenes the provision of the quarantine laws and the general laws of the land. S. 5 of the quarantine law says that states that any person guilty of that should be liample to imprisonment and fines as penalty for default, demolishing of buildings however would be termed ‘going way over board’. The governor by virtue of s. 1 of the Land Use Act 1978 owns all the lands in Kuzaland and holds it in trust for the people of the land including Chief Ajah. Although the governor has absolute ownership, since he holds the land in trust what he in fact has is a nominal ownership.

The governor also has a right to revoke rights of occupancy of a holder and occupier of land. This is known as overriding public interest and the grounds for such revocation are stipulated in Sections 28(1) to (5). However, such right could not have been said to be in existence here as the reasons for revoking rights set out in the act was not met.

 It is trite to note however that a law supersedes an executive order and in this case S.5 of the quarantine law already provided for a means of handling such a defiance should one occur, to wit, he is liable to fine and imprisonment as penalty.

Hence the governor did not have the right to demolish Tarzan hotel.

1. Whether Chief Ajah will succeed in action against the Governor in court contesting the demolishing his hotel.

This issue is resolved in the positive

Chief Ajah can succeed in an action and can bring an action against the Governor of Kuzaland as what he did was unconstitutional. By virtue of section 39 of the Land Use Act, the High Court has exclusive original jurisdiction over proceedings in respect of any land which is the subject of a statutory right of occupancy granted or deemed to be granted by him. He can also be compensated for the unlawful demolishing of his building.