

Name: OYENIYI WURAOLA MARYAM
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ANSWER

ISSUE

The legal issue in the given scenario is whether the governor had a legal right to demolish the property. This writer answers this in the negative.

RULE

This legal issue will be solved by the interpretation of the Land Use Act in conjunction with the Executive order, Quarantine Law and the Constitution.

Section 28 of the Land Use Act says it is lawful for the governor to revoke a right of occupancy for overusing public interest or the reasons stated in Section 28(5) of the act. The act also stated that there must be sufficient notice given and the revocation must be signified under the hand of a public officer authorized by the governor- Section 28(6) of Land Use Act. These cases Ononuju v A.G Anambra State, Obi v. Minister of FCT, Muslims v. Islam, Majiyagbe v. AG and others vividly illustrate the above section. An executive order is notice to the agencies and public of the new course of action the government is taking the executive order cannot be sufficient notice. The notice is to be directly addressed to the person in question.

The governor can impliedly issue executive orders by virtue of Section 315 of CFRN but it needs to be tandem with the laws of the land already existing.

According to Section 43 of the Constitution of the Federal Republic of Nigeria 2011 (as amended), every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria.

Section 44 also states that no moveable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by a law.

APPLICATION

The executive order and subsequent demolition is illegal and inconsistent with constitutional provisions and even the quarantine act. Since sections 5 of the quarantine law also only provides for fines and imprisonment and since the executive order is merely a directive that has to be in tandem with existing laws.

CONCLUSION

In conclusion, this writer advises Mr. Ahah to seek redress in court as he has a good cause of action.