NAME: ASIBONG NSIDIBE IME

MATRICULATION NUMBER: 16/LAW01/039

COURSE TITLE: LAND LAW II

LEVEL: 400

TEST

ANSWER

The legal issue is whether the governor had the right to revoke chief ajah right of occupancy. Another legal issue is if chief Ajah can successfully contest the legality of the governor’s action.

I answer the first legal issue in the affirmative. The governor has the right to revoke the chief’s right of occupancy. By virtue of section 28 of the land use act, the governor has the right to revoke a right of occupancy for overriding public interest. The governor has the right to revoke it as an executive order was given that any public place that was still in business will be demolished. However, before a right of occupancy can be revoked, criterias must be met such as; purpose, notice( Obi v Minister of FCT) and compensation. Seeing that a notice was given as an executive order, although it was not personal in accordance with section 44 of the land use act, and the purpose of that order was to protect the people from covid-19 and control the spread, the governor had the right to revoke his(chief ajah) right of occupancy.

Concerning the second legal issue if chief Ajah can successfully contest the legality of the governor’s action. I answer this in affirmative. Chief Ajah can sue the governor under section 36 of the CFRN which deals with right to fair hearing. The actions of the governor is considered illegal as Chief Ajah has a right to contest in court. A person is innocent until proven guilty in the court of law. The governor took the position of the legislative and the judiciary to make and interpret laws. He could only revoke the right of occupancy but had no right to demolish. He does not have the right to be the legislature, judiciary and executive at the same time. The act of the governor of demolishing the hotel can be said to be ultra vires as it is beyond his power. The judiciary is the only arm of government to order for the demolition of the hotel. Section 5 of the quarantine law had the option of fine and imprisonment which would have been a more suitable as penalty than the demolition of the hotel.

In conclusion, the governor had a right to revoke chief ajah’s right of occupancy but did not have the right to demolish the hotel. Chief ajah can successfully contest the legality of the governor’s action. He can contest the legality of the governor’s actions in the state high court or high court of the FCT as they have exclusive jurisdiction to entertain such a matter.