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TEST

The legal issue is whether the governor had the right to revoke chief Ajah’s right of occupancy and whether Chief Ajah has a chance of success in court in an action contesting the legality of the governor’s action in demolishing his hotel through an executive order. It is trite law that by virtue of section 1 of the land use act, all land comprised in the territory of each state is vested in the governor of that state.

 From the foregoing, by virtue of sec 28 of the land use act, a Governor can revoke a right of occupancy for overriding public interest. However before a right of occupancy can be revoked if it meets the underlying three criteria which includes that it must include a) purpose b) notice and c) compensation.

Applying this principle of law to the facts of the case, the governor actually issued out a notice to the public in general for the purpose of protecting the interest of the public against the covid-19 pandemic which includes the closing down of the public places to curtail the spread of the virus. However Chief Ajah flouted the lock down orders and went ahead to open his hotel contrary to the purpose of revoking a right of occupancy for overriding public interest. Although the notice was not personally delivered to which is a requirement as established in sec 44 of the land use act and in the case of Goldmark (Nig) ltd v ibafon co. ltd and Obi v Minister of Fct and also the case of Lagos state Dev & property corporation v Foreign Finance Corporation and Onanuju v AG of Anambra State.

In furtherance of the above point, the governor has only the right to revoke Chief Ajah’s right of occupancy for the purpose of overriding public interest according to section 28 of land use act. However the governor didn’t have the right to demolish Chief Ajah’s hotel as it is unconstitutional and ultra vires because according to section 36 of the constitution of the Federal Republic of Nigeria, a person has a right to fair hearing. The governor alone cannot act as the executive, legislative and judiciary arm of government. So therefore resolving the second legal issue in the affirmative, chief Ajah has a right to successfully contest the legality of the governor’s action for demolishing his hotel. The governor’s also had the option of exercising the power under section 5 of the quarantine law which is to make Chief Ajah pay a fine or be imprisoned as penalty for default.

In conclusion, the governor only had a right to revoke his statutory right of occupancy. Also Chief Ajah has a right to successfully institute an action against the governor for demolishing his hotel. As such, the State High Court OR High Court of FCT has the exclusive jurisdiction to entertain such a matter. He can successfully institute an action contesting the legality of Governor’s action in the light of the Quarantine law, the Executive Order, the Constitution and the Land Use ACT.