NAME: NWACHUKWU ONONYE ABIYE

MATRIC NUMBER: 16/LAW01/134

LAND LAW TEST

LECTURER: MRS OLUBIYI

DATE: 15TH MAY 2020

The issue to be determined in this factual scenario is on whether the Governor has the power to demolish buildings, whether the order of the governor constituted as notice of revocation and then the jurisdiction of the court to actually preside over the issue to determine whether the action of Mr Ajah will be successful in court.

By virtue of the Land Use Act of 1978, Section vests the governor with the power for the administration of land on behalf of all Nigerians and as such he is to deal with land in the best way possible on behalf of the citizens. Section 5 of the Land Use Act provides for the powers of the governor in relation to land in urban areas. The act goes ahead to provide that if any action is carried out in relation to a person’s property most especially revocation, appropriate notice must be given. The power of revocation is given by virtue of Section 28 of the Land Use Act which states that a person’s property can be revoked on the grounds of public interest but Section 28(6) provides that appropriate notice must be issued and Section 44 (a), (b) and (c) provides for the ways which include delivering it to the persons house or leaving it at the persons abode. Again, by virtue of Section 39, the High Court has the jurisdiction to entertain cases that deal with the Statutory right of occupancy.

Applying the rules to the question it can be seen that the Governor has the power of administration of the activities that happen with regard to the land by virtue of the Land Use act, the question then arises whether the Governor has the power to actually demolish the buildings of hotels as a result of the Pandemic. The Land Use Act didn’t provide for the demolish of buildings to be in the interest of public but then the demolishing of the building was an act of final resort to ensure that the virus is contained so I’m of the opinion that the actions of the governor was for public interest but were extreme. The question of whether the executive order was an appropriate notice in my opinion for the act provides various ways in which the notice can be delivered. In the case of *Executors of the Estate of General Sani Abacha V Samuel David Eke Spiff and 3 others*, it was held that it was unconscionable and unconstitutional to take away of piece of land without notice. As for the jurisdiction of the court to handle the matter, it is stated that if the parties to the suit are the Federal Government then they have jurisdiction to entertain the matter. As the legal counsel to Mr Ajah, I’m of the opinion that the actions of the Governor were done in attempt to prevent the spread of the deadly virus by halting all forms of areas that will gather people and even though the executive order was not an appropriate way to give notice, the hotel owner Mr Ajah was still aware of the order of the Governor and by virtue of the act he has the power of the administration of matters concerning land but the demolition of land was not an appropriate action to be taken it would have been more appropriate to arrest the offenders than demolish the building. The State High Court is the court with the jurisdiction to entertain matters regarding land in urban areas since the Federal High court doesn’t have jurisdiction whatsoever. If an action is brought before the State High Court by Mr Ajah regarding the actions of the Governor, damages could be awarded to the Mr Ajah on the basis that the actions of the governor were extreme even though it was done with the intention of ensuring that there was safety of the public.

In conclusion, the factual scenario talks about the powers on the governor and whether his actions were right in the demolition of the property of Mr Ajah. Although, the actions of the Governor were done with the intention of ensuring that there is a containment of the deadly virus, there are alternative measures that could be taken to punish offenders like punishment or the payment of a fine. In the case that an action is brought before the court, damages may be awarded on to Mr Ajah on the grounds that the notice was not appropriate and the Governor is not vested with the power of demolishing buildings just because he is the administrator of matters pertaining to urban land where the hotel is situated.