

Name: Okoro Uka Ifeoma

Matriculation Number: 16/Law01/165

Course Title: Land Law

Date: 15/05/2020

ANSWER

The legal issues for determination are as to whether:

1. The actions of the governor contravenes the provisions of the Constitution and the Land Use Act.
2. The government reason for revoking his statutory right of occupancy is in line with the requirements spelt out in Section 28 of the Land Use Act, 1978
3. The governor has the right to revoke his statutory right of occupancy by force without due serving him a notice of revocation according to Section 28(6) of the Land Use Act, 1978

According to Section 28 of the Land Use Act, 1978, a person's right of occupancy can only be revoked by the governor for overriding public interest. This principle applies to both statutory right of occupancy and customary right of occupancy. It also applies to right of occupancy deemed granted or granted by the governor. A person's statutory right of occupancy cannot be revoked based on a personal interest but on an overriding public interest as seen in the case of *The Administrator/ Executor of the Estate of General Sani Abacha (Deceased) v Samuel David Eke-Spiff*, where the defendant's statutory right of occupancy was revoked by the government and reallocated to General Sani Abacha. The court held that such revocation was null as it was not for an overriding public interest.

Also before a person's right of occupancy is revoked he must have been properly served a notice of revocation. According to Section 28(6) of the Land Use Act, 1978, any revocation of right of occupancy shall be signified under the hand of a public officer duly authorized in that behalf by the governor and notice thereof shall be given to the holder. The Land Use Act does not expressly state that the specific ground(s) of the revocation of a right of occupancy must be stated in the notice, but judicial authorities have stated that a notice of revocation should inform the holder of the right of occupancy the reason why his right of occupancy is being revoked. The mode of service according to Section 44 of the Land Use Act, 1978 states that a notice of revocation can be delivered to the person to whom it is to be served, by leaving it at the usual or last known place of abode of that person and by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode.

Section 44 of the CFRN, 1999 also provides that a person's immovable property cannot be acquired compulsorily anywhere in Nigeria.

In applying this principle to the facts of the case, the governor's action is unconstitutional and contravenes the provisions of the land use Act. The Land Use Act is an existing law in the constitution by virtue of Section 315(5) of the CFRN 1999(as amended) and law that is made and is it contravenes the provision in the constitution, then such a law to the extent of it's inconsistency shall be null and void according to Section 1(1) and (3) of the CFRN 1999(as amended). As stated in Section 5 of the Quarantine law, Chief Ajah should have been fined or imprisoned. Chief Ajah can bring an action for wrongful demolishing of the hotel. In the case of CSS Bookshop Ltd v Registered Trustees of Muslim Community Rivers State & 3 Ors, it was held that the appellant's right of occupancy was to be revoked on the basis of overriding public interest and no state enactment order can override the provisions of the Land Use Act. Applying this case to the facts above, the Quarantine law does not have more power than the Constitution and Land Use Act and as such makes the demolishing null and void. The governor should have given him proper notice on the revocation of his right of occupancy and as he failed to do that Chief Ajah will be entitled to compensation under Section 29 of the LUA, 1978. Chief Ajah should also institute his action in the High court of Kaland as they are the only court that has jurisdiction in determining matters in relation to statutory right of occupancy. The Governor demolishing the building was not for an overriding public interest, rather it was for his personal purpose, more like to show or prove that he is in power or has the power to act at will

In conclusion, in advising Chief Ajah, he has a good case. He is entitled to compensation for the wrongful demolishing of the building. The purpose for the demolishing was not for an overriding public interest and as such would be entitled to have his land back and paid compensation.