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LEGAL ISSUES

Whether the governors act was unconstitutional

Whether Chief Ajah can get redress by the court

The revocation of rights of occupancy is the right of the governor to withdraw the right of occupancy of a person. S28 of the Land Use Act says that a right of occupancy may be revoked by the governor for overriding public interest. There are however some criterias that must be met before a person’s right can be revoked. The first criteria is that there must be a purpose. This purpose is for the overriding public interest of statutory right of occupancy. S28(2). The second criteria is that there must be a valid notice. The third requirement is that there must be adequate compensation. Any revocation by the governor that does not meet the three criterias will not be considered by the court. It is important to note that revocation under S28 of the Act must be in accordance with the provision of the Act. Any exercise of power of revocation for purposes outside those in S28 of the Act, or not carried out in accordance with the provision of the Act will be said to be against the Act and will be declared void. S28(5) provides that the governor may revoke a statutory right of occupancy on the ground that there was a breach of any of the provisions which a certificate of occupancy is by S10 of the Act, also that there was a breach of any term contained in the certificate of occupancy, and that there was a refusal to neglect or accept to pay for a certificate of occupancy. In The Administrators/Executors of the Estate of General Sani Abacha v Samuel David Eke-Spiff, it was held that it is unconscionsable, unlawlful and unconstitutional to take away a piece of land already allocated and reallocated to someone else without serving a notice of revocation on the person and not compensating the person. The purpose of giving notice of revocation of a right of occupancy is to duly inform the holder thereof of the steps being taken to extinguish his or her right of occupancy. In the case where there is no valid notice of revocation, that revocation of the right of occupancy will be ineffectual. According to S28(6) of the Land use Act, a notice of revocation of a right of occupancy must be given to the holder. In Amale v Sokoto Local government. It was held that the governor of a state has the power to revoke a person’s right of occupancy for overriding public interest and has a duty to pay compensation for such revocation.

In conclusion, because of the outbreak of the Covid 19, there was an emergency in the country and was stated that there should be no public gathering, the quarantine laws stated fines and penalties if there be any breach in the law. The governor however did not give a notice of demolition to Chief Ajah but just went ahead to demolish without a valid notice which was a wrong act. Chief Ajah is however entitled to compensation from the governor. In Nigeria an executive order is only valid when the President acts within the boundary of the constitution and statutory authority, it is not with the governors authority to revoke the occupiers right without notice.