

NAME: IGBO CHIAMAKA UCHENNA

MATRIC NUMBER: 16/LAW01/101

COLLEGE: LAW

LEVEL: 400

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COURSE TITLE: LAND LAW II

LECTURER: MRS. OLUBIYI

TEST

The legal issue for determination of the case scenario is as follows

1) whether the Governor has the right to revoke the statutory right of occupancy of Chief Tarzan for overriding public interest.

2) Whether the act of the Governor was unconstitutional.

2) Whether Chief Tarzan can institute an action in Court, in the light of the case scenario. The legal issue for number one is resolved in the affirmative.

The legal issue for number two is resolved in the affirmative.

The legal issue for number three is resolved in the affirmative.

Application of the Rule of law to the case scenario.

Revocation of rights of occupancy is the right the Governor has to withdraw the right of occupancy if an occupier of land or of a land owner. According to section 28 of the Land Use Act, the Governor has the power to revoke a right of occupancy for overriding public interest. This power is exercisable in respect of either statutory right of occupancy or customary right of occupancy. However, before there can be revocation of rights, the following must be present:

1) Purpose of the governor's revocation. The purpose of the governor's revocation is for the public interest, in connection with sanitary improvement, that is, to prevent the spread of the Corona Virus pandemic.

2) Valid notice. It can be seen in the case scenario that the governor

did not give a valid notice of lockdown prior to the demolishing Tarzan's hotel. He should have given a personal notice to the occupier of the land, Chief Ajah. Tarzan hotel was however operating in defiance of the law despite the warnings. Notice and consent is a valid reason for revocation of a right of occupancy. Where there is notice, the right of occupancy shall be extinguished or the title of the holder of a right of occupancy shall be extinguished. There was a public notice but there should have been a personal notice. The notice should state the reason for the right of revocation as in the case of Lagos State Development & Property Corp. V. Foreign Finance Corporation and the case of Studio Ventures Ltd. V. Alamieyeseigha.

3) Adequate compensation. There is need for adequate compensation for Tarzan hotel by the governor for the purpose of invalid notice.

In addition, the act of the governor was unconstitutional for demolishing Chief Ajah's hotel even though he gave prior notice. The appropriate punishment according to section 28 of the Land use Act the governor has the power to revoke the right of occupancy for overriding public interest of the Act. It is already established in the case scenario, the governor gave valid notice for all establishment to be closed down and anyone who defies this order according to section 5 of the Quarantine Law which gives imprisonment or fine for default of the order given by the governor.

Also, Chief Ajah has no right to institute an action in Court as he defied the orders of the Governor. The law will take its full course of Chief Tarzan for disobeying the Governor's orders.

Finally, my legal advice is that Chief Ajah can bring an action under invalid notice of the governor and he can sue for compensation in the high Court which has unlimited jurisdiction in these matters as in section 39(1)(a) of the act and in the case of Okonkwo v. Okonkwo. Even though he defaulted the order of the governor from his unlawful act, the punishment meted on him by the governor was unconstitutional, he can seek redress in court. However, he will still be punished according to section 28 of the Act, that is, by revocation of his right of occupancy

