Omaghomi Anthony itse

16/law01/175

From the factual scenario above the legal issues for consideration are.

1) whether the governor had the power to revoke the statutory right of occupancy of chief Ajah

2) whether chief Ajah claim would be successful in court .

It is noteworthy to state that , section 28 of the land use act deals with revocation of statutory right of occupancy, as it provides that right of occupancy may be revoked by the governor for overriding public interest, this power is exercisable in respect of either statutory right of occupancy or customary right of occupancy . In order for revocation of statutory right of occupancy to take place, there must be a purpose, which in this scenario the governor did so on the grounds of overriding public interest as chief Ajah violated the lockdown stipulation but however the governors action was unconstitutional on the basis that the Quarantine law all ready stated punishment for such default which include ,fines and imprisonment as punishment and not demolition. Also it is important to note that revocation for purposes outside the those outlined by section 28 of the Act or not in compliance of the provision of the section will be against policy and intention of the Act and will be declared void. Section 28(6) provides for a notice of revocation and its service to be handed to the holder ,which was not done by the Governor. Chief Ajah would have a good chance of success of this claim on the basis that a notice to carry out the revocation was not given and the penalty for such offense he committed does not into demolish as the penalties are stated in the Quarantine law section 5 and as such can claim compensation for the demolition ,but first he must do right before the law and pay his fines for violating the quarantines act,as the Maxim off equity states that "he who comes before the law must come with clean hands".