16/LAW01/128; NASA-OKOLIE KAMSI

MAY 15TH, 2020

LAND LAW II; LPB 402

BAR. OLUBIYI; CONTINUOUS ASSESSMENT

ISSUE;

1. Whether the action of the Governor in demolishing Chief Ajah’s hotel is unconstitutional and contravenes the procedures under the Constitution and Land Use Act?
2. Whether the Executive Order for demolition of defiant businesses made pursuant to the Governors powers under the Quarantine Law is legal?
3. Whether Chief Ajah’s claim can succeed in court?

RULE;

Under Section 28, Land Use Act, before the right of occupancy can be revoked, there must be a purpose which falls under the ones listed in the land use act, a valid notice which is served with the right method also highlighted in the Act in Section 44 and an adequate compensation.

Some of the characteristics of land occupancy is that;

1. It is not an absolute right as the interest is subject to natural resources on that land. Section 14 LUA
2. The holder of the right has the sole and absolute possession of all improvements on that land. Section 15 (a) LUA
3. May alienate his interest subject to the consent of the governor. Section 15(b) LUA

Section 5 Quarantine Law already gives the punishment for defiant business. Under the constitution, the law does not enable a person to prescribe a punishment higher than that already stated.

APPLICATION

In this writer’s opinion, the act of the governor is unconstitutional as he cannot invoke a punishment higher than that meted out by the law and Section 5 Quarantine Law already gives the punishment to be fines or imprisonment.

An Executive Order in all its ramification is legal but when its provisions is inconsistent to that of the Constitution, it would be invalid. So therefore, demolition of defiant businesses is an illegal act.

On the last issue, this writer is of the opinion that Chief Ajah claim can succeed in court.

CONCLUSION

A land holder has the absolute and exclusive right of his land to the exclusion of others.