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Matric number: 16/law01/160

Course Title: Land law

Course Code: LPB 402

Answers

Legal issue for determination

1)Whether the building could could be demolished by the government

2)Whether the governor had the power to revoke the statutory right of occupancy of Mr Ajah

3)Whether Mr Ajah’s claim would be successful in court

The land use act introduced a system which is called a right of occupancy for the country which gives a holder of the land right of possession to the land so as to use the land. A person is granted right of occupancy under section 5 and section 6 of the land use act acquired vested [rights.it](http://rights.it) is also stated in the land use act a person deemed to have been granted a right of occupancy by virtue of section 34 and section 36. Under the land use act it must be in accordance with section 28 and in addition to this section of the land use act compensation is payable by virtue of section 29 of the land use act.

Section 28 of the Act provides that a right of occupancy may be revoked by the governor for or riding public interest. This power is exercisable in respect of either statutory right of occupancy or customary right of occupancy. The power of revocation is also exercisable in the respect of right of occupancy deemed granted by the government. Section 28 of the land use act provides that overriding of public interest includes alienation by occupier of any right of occupancy or part thereof contrary to the provisions of the act or any regulations made under requirements of the land by the government for public purposes. Section 28 (5) provides that statutory right of occupancy maybe revoked by the government on grounds

a) A breach of any of the provisions which a certificate of occupancy is by section 10 of this act deemed to contain

b) A breach of any term contained in the certificate of occupancy or in any special contract made under section 8 of the land use act

c) Refusal or neglect to accept and pay for a certificate which was issued in evidence of right of occupancy but had been cancelled by the governor under subsection (3) of section 9 of the land use act.

It is very important to note that revocation under 28 of the act must be in accordance with the provisions of the act. Any exercise of the power of revocation for purposes out of which has been stated by section 28 of the act will be against public policy and the act or intention would be considered null and void.

According to section 28 of the LUA the right of occupancy may be revoked by the governor for overriding public interest and in relation to to the senerio state pd Tarzan hotel had been running its business despite the order of the government which that there should be total lockdown meaning that nobody should be found outside including hotels , clubs. The hotel which caused demolishment as a punishment of non compliance by the hotel. The case of demolishment is a form of revocation. The act also provides for revocation of right of occupancy to occur, Service if notice to the holder is very important

Section 28 (6) which provides that in absence of a valid notice of revocation the purported revocation will be null and void as seen in the case of AG BENDEL STATE V AIDEYAN.

in this case the order given was not inline with the quarantine law the government was given an order to demolish buildings which is not in accordance with the quarantine law. The quarantine law states that fines and penalties should be given to the parties there therefore the demolition of the hotel was unconstitutional because as stated in section 28 of the LUA there are three conditions for revocation of right to occupancy which include

Purpose

Notice and

Adequate compensation

The demolition of the building didn’t pass through these tests because none of these requirements were fulfilled so therefore the demolition was unconstitutional

In conclusion the government should not have demolished the building because there was no court order and failed to fulfill the requirements.