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Question: The pandemic Covid- 19 broke out in Kuzuland. The Governor, in pursuant of the powers conferred on him under the Quarantine Law, made an executive order closing down all public places including bars, restaurants, hotels, clubs, event centers, among others.  Any public place which continues such businesses shall be demolished as provided in the executive order.  S. 5 of the Quarantine Law provides fines and imprisonment as the penalty for default.

Recently, Tarzan hotel has been operating in defiance of this order despite warnings. As stipulated in the order, the governor demolished Tarzan hotels.

Chief Ajah, the owner of Tarzan hotel, has been expressing his displeasure on all media platforms. He believes the action of the Governor is unconstitutional and contravenes the procedures under the Constitution and the Land Use Act. For him, even if he were wrong, the punishment was unlawful. He has sworn to contest the Governor’s action in court and get redress. Chief Ajah has approached you for your legal advice.  **Succinctly** advise him with legal authorities as to his chances of success in court in an action contesting the legality of the Governor’s action in demolishing his hotel particularly in the light of the Quarantine law, the Executive Order, the Constitution and the Land Use Act. Assume that the laws of Kuzuland are same as the relevant Nigerian Legislations.

**ANSWER**

The issue for determination n the releant case scenario above is whether the governor,eing the trustee in whom territorial land is vested, has the power to demolish tarzan hotel belonging to chief Ajah.

A right of occupancy may be terminated by either of the following

* Effuxion of time
* Surrender
* Forfeiture
* Revocation.

The relevant determinant here is revocation. This is a situation whereby the governor of a state divests a holder of is rights and intersts in a land. This power is exercisable in respect of both statutory and customary rights of occupancy.. A revocation must include the following:

* Purpose
* Notice
* Adequate compensation

**Purpose**

The grounds of revocation have been provided in **section 28** of the act in (1), and (5). They include, for overriding public interest, neglect to pay requisite fees, and breach of terms contained or deemed to be contained in the certificate of occupancy.

Per s.28(2) , defines what overriding public interest for statutory right of occupancy connotes as follows: Alienation of land by the occupier without governor’s consent, Requirement of the land for pblic purposes, Requirement of the land for mining purposes. The only added requirement for customary rigt of occupancy is the extraction of building materials. **S.52** has defined public purposes to include; mining, agriculture, rural or urban development etc.

As such, in the case of **administrators of the estate f sanni abacha, v Samuel david**, the sc observed that the respondents right was revoked for the purpose of re allocating it to general sanni abacha. It held that the reallocation could not be assimilated to be an action taken in overall public interest within the land use act. Also in the case of **amale v sokoto LG**, it was held that the governor of a state has the power to revoke a right of occupancy as well as a duty to pay compensation. Also in the case of **obi v minister, FCT**  it was held that the governor has the right to revoke on the grounds contained in section **28(5).**

In light of the foregoing, it can be invoked that revocation cannot occur outside the intendment of the land use act. As such where such a revocation is operated, it would be deemed null and void in accordance with the proisions of the act.

**Notice**

s.28(6) proides that any reocation of a right of occupancy shall be signigied under the hand of a public officer duly authorised by the governor and notice therof gien to the holder. The governor is empowered the right of reocation, aonly after issuing a notice that states the particular purpose for which the reocation is being done, and the requisite procedure being taken to extinguish the holder of his rights in the land. The mode of seric has been stipulate din s. 44, and must be strictly adhered to. Thus, in the case of **s.o adole v bonficase** , it was held that notice of a revocation of title and serice to the holder are mandatory requirements for reocation. Also in the case of **olateju v commissioner for L&H kwaras tate**, it was hed that for a notice to be alid, it must be served personally to the holder, as a publication cannot tae its place.

**Compensation**

s.29(1) proides that “where a right of occupancy is revoked for public purpses, the holder shall be entitled to compensation…”. In the eent of any dispute rising from the compensation, it shall be referred to the land use and allocation committee. In the case of **Horn v Sunderland** , it was held that compensation implies thst the loss to the holder must be completely made up to him and that unless received, a price fully equated to his pecuniary detriment, the compensation would not suffice.

**Conclusion**

In light of the foregoing, it is clear that the governor did not take requisite steps in extinguishing the right of chief Ajah before demolishing his hotel. As such, chief Ajah can successfully bring an action within the high court, as it has jurisdiction over matters pertaining to statutory right of occupancy by irtue of s. 39 and 41 of the act. Hence, due to the fact that revocation of an occupier’s right in his land can only be extinguished based on provisions within the act, the governor cannot practice any such revocation outside the act.