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LAND LAW

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The question is bothered on revocation of a land by the Governor.

The legal issues includes whether the act of the governor is unconstitutional and the second legal issue is if Chief Ajah can bring a legal action against the state or the governor or government for the act carried out on his hotel.

Applying the issue to the topic involved Land Use Act, which is the Act that governs the rights on land in Nigeria. According to Section 1 of the Land Use Act, places power on the governor to have rights over the lands in the state. According to land to land holding, there are three tripartite to which land is held, State, Federal and individual. The Land Use Act didn’t come to abolish the laws existing before in relation to land, but to improve and also sustain the rights over land. Lands in Nigeria can be occupied based statutory occupancy and customary occupancy. Under Customary Occupancy by virtue of Section 50 of the land use Act, it involves the right of a person or community lawfully using or occupying a land and Statutory occupancy is right of occupancy granted by the governor under the Act. S.O Adole v. Bono face B. Gwar.

When lands are owned by individuals, it can be revoked, either through the means it can be terminated which include by effluxion of time, surrender, forfeiture or revocation.

Before a land can be revoked, the owner or holder of the land must be given a notice, by virtue of Section 28 of the Land Use Act.

Applying the law of revocation for overriding public interests, which states by virtue of Section 28 of the Land Use Act that occupancy can be revoked by the governor for overriding the public interest and the power can be exercised not regarding any statutory or customary of the occupancy, the right is exercised in respect of the right of occupancy.

A law has been placed by the Governor of the state, which is the Quarantine Law, which was duly enforced by the governor, which the owner of Tarzan hotel and other people were aware of, and the owner of the Tarzan hotel, went further to violate the law placed by the governor to ensure the safety of the people of this state.

Lastly I will say that the governor had right to demolish the hotel, after publicly enforcing the Quarantine Law and also giving several warning in defiance of the order despite the warnings, but he is wrong, because the rule as regard the warning, is that a personal warning is to be issued for the holder of the land before any revocation can be carried out, by virtue of Section 28(6) of the Land Use Act, which states the requirement. No personal notice was given to the holder either by the governor or on behalf of the governor, the governor has right to revoke occupancy only after he has given a notice and the mode of service must comply with the provision of the Act. Goldmark LtD v. Ibafon Co. Ltd. In addition to this the Governor’s executive order is inconsistent with the quarantine law. Once it can be satisfied that the notice is valid, no action can be brought, from the scenario, the notice is invalid, Ononuju v A.G Anambra State.

In conclusion I will advice that Chief Ajah can bring an action of the Governor for compensation, after not duly, properly and constitutionally being notified before the demolition was carried out on his hotel, by virtue of Section 44 of the Land Use Act. Mulima v. Usman, I will also say that the governor is not wrong for carrying out the demolishing of the hotel, but is wrong for not carrying it out in a constitutional way and manner.