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ANSWER

The legal issue is whether Chief Ajah can contest the Governor’s action in court and get redress and whether it is unconstitutional for demolishing his property.

The is this issue of revocation of right of occupancy this is the right of the governor to withdraw the right of occupancy before it can be valid there are three things to look out for which includes the purpose of the revocation of the right of occupancy by the governor, if there is a valid notice, and adequate compensation

Any right that does not fit these three criteria is going to be nullified.

The Governor is not permitted by any law to arrogate the powers of the court to himself. The Governor is not empowered to amend the provisions of the Nigerian constitution

I would advise Chief Ajah that the chances of success in court in an action contesting the legality of the governor’s action demolishing his hotel particularly in light of the quarantine law, the Executive Order, the constitution and the Land Use Act are high because the Governor has no right under the constitution to demolish any property which went against the order but would have been fined or imprisoned Chief Ajah for disobeying the law.

I would advise Chief Ajah to contest the actions of the Governor since it was harsh, unconstitutional and provided under Section 5 of the quarantine law provides any person contravening any of the regulations made under this Act shall be liable to a fine of N200 or to imprisonment for a term of six months or to both.

In the case of ONAH v. FRN (2017), the court established that: while the sentence of the court must be in accordance with that prescribed by the statute creating offence, a court cannot impose a higher punishment than that prescribed for the offense. This has been the position of the law in other cases such as; In ALI v. FRN

It must also be put to note that the Executive order of the Governor is nothing but a mere subsidiary legislation. Even though a subsidiary legislation has the force of law, it cannot override the provisions of its enabling law. The enabling law of the Governor is the Quarantine Act, the Executive order can therefore not impose penalty outside of and higher than what the Quarantine Act provides.

It is only wickedness to deprive people of their means of livelihood, launch an attack on their fundamental human rights and cause them eternal agony by hiding under the cover of curtailing the spread of diseases.

My advice to the Governor is to stop the illegality and award Chief Ajah adequate compensation to all those properties that have been destroyed.