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Introduction:

The give question requires the knowledge and application of the management and control of land as well as revocation of occupancy.

Issues:

The legal issue in the given scenario is as follows:

1. Whether the governor’s act (demolishing the hotel)was unconstitutional.

The legal issue may be resolved in the affirmative. The governor should have made his executive order consistent with the quarantine law.

Rules:

By virtue of Sections 2 and 3 of the Land Use Act, the governor has control over every land in urban areas of the state while the local government is in charge of all other lands.

According to Section 28 of the Land Use Act, a right of occupancy may be revoked by a governor for overriding public interest. Revokation is simply the right of the governor to revoke the right of occupancy. Revokation must however satisfy the following conditions:

1. The purpose: This is a requirement under Section 28(2) of the Land Use Act stating that revocation must fall within the definition of overriding public interest.
2. Is there a valid notice? A valid notice must have been given according to Section 28(6) of the Land Use Act and the reason for the revocation has to be stated. The notice must be personal to the holder, therefore a public advertisement is not a notice. In Section 44 of the Land Use Act, the mode of service is stipulated and the alternative ways notice can be given are also mentioned. The case of Onunuju v Anambra State is relevant here.
3. Adequate Compensation: This condition can be found in Section 29 of the Land Use Act. If a right of occupancy is revoked in respect of a developed land, the holder/ owner of that right of occupancy is entitled to compensation. The government may also decide on resettlement and in that case there will be no need for compensation according to Section 33 (1) of the Land Use Act. In addition any dispute that arises as a result of the amount of compensation to be paid shall be referred to the appropriate Land Use and Allocation Committee according to Section 30 of the Land Use Act.

Application:

It is important to note that the governor of Kuzuland has control over all lands in urban areas. The next point for consideration will be to determine whether the governor satisfied all the conditions for revokation before demolishing the hotel. The governor’s act satisfies the first condition. A valid notice was however not given because it has to be addressed directly to the person concerned. Therefore a valid notice was not issued to the general public.

The act of demolition of the hotel by the governor in itself was not wrong if one only pays attention to the executive order. However, it was wrong in the sense that there was no valid notice thus there has to be compensation and that same executive order should have been consistent with the quarantine law that stated fines and imprisonment as the appropriate punishment.

It is also important to note that where there is a conflict between the Land Use Act and the Constitution, the entire Land Use Act shall not be nullified but only the parts that are inconsistent with the constitution. This is because the constitution is supreme.

Conclusion:

Finally, in my opinion Chief Ajah can bring an action seeking compensation from the government because a valid notice was not given and according to the quarantine law his punishment should have been a fine or imprisonment. The constitution is the supreme law and any part of the Land Use Act which is inconsistent with it shall be nullified but not the entire Land Use Act.