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**LEVEL: 400**

**COURSE TITLE: LAND LAW II**

ANSWER

The legal issue that can be deduced from the factual scenario is

1. Whether the Governor the actions of the Governor of Kuzuland demolishing Tarzan Hotel contravenes the procedures under the Land Use Act and the Constitution of te Federal Republic of Nigeria 1999.

In addressing this issue, the relevant provisions of the law must be examined. The Land Use Act 1978. The preamble and **Section 1** of the Act makes it clear that all lands within a particular territory are vested in the Governor of that sate who is to hold it in trust for the people. So in essence, one individual does not necessarily own land but he may have an exclusive possessory right over that land.

**Section 5&**6 of the Act empowers the governor and local government to grant statutory and customary rights of occupancy over land to individuals. The nature of this right can be found in **Section 14** of the Act which provides that such rights are exclusive possessive and is held against all else except for the governor.

Also, the Act provides for instances where a person’s right of occupancy can be revoked. Revocation under the Act is provided for in **Section 28** of the Act. Three conditions have to be satisfied for a revocation to be valid and they are;

1. The purpose of the revocation must be in line with the provisions of the Act
2. Proper notice of revocation must be given.
3. There must be adequate compensation.

The purpose of revocation of right of occupancy according to the Act can be failure of the holder to abide by certain regulations for example where **S. 21 or 22 of the Act** is contravened. The case of **Obi V Minister of FCT** exemplifies this. The major purpose of revocation is where there is an overriding public interest. Thus, where a particular land has to be used for mining purposes, extraction of building materials or any other purpose of public interest the holder or occupier’s right of occupancy may be revoked. The cases of Stodie **Venturees V Alamieyeseigha and the Administratoors / executors of the estate of Gen Sani Abacha V Samuel** makes it clear that the purpose of revocation must be for public interest and not for the personal interest of the governor.

The next is notice; adequate notice must be given to the holder/ occupier of land whose right is to be revoked. **Section 44** of the Act spells out the process of notice and how it should be given. Such notice when given must be personal to the holder, publishing it in a gazette is not enough.Tthe case of **S O Adole v Boniface B Gwar** also exemplifies the importance of notice.

The next condition is adequate compensation. Where the right of occupancy of a holder has been revoked such holder is entitled to compensation. **Section 29** of the Act provides for such compensation. The holder also as the option to be resettled in another location, where such a holder decides to exercise such option, compensation is no longer an entitlement this is by **section 33** of the Act.

Now, applying these provisions to the factual scenario and advising Chief Ajah and resolving the legal issue, the actions of the Governor of Kuzuland contravenes the procedures as stipulated under the Constitution which is the grund norm and reigns supreme over all other laws in the land by its **Section 1&3**. and the Land Use Act. The CFRN 1999 is very clear on its provisions of the fundamental right to own movaeble and immovable property in Section 44. Also, the provisions of the Land Use Act are equally clear on the processes by whih an individauls rights of occupancy can be revoked. The procedures are strict and gives no room for derogation, any derogation would render such revocation void and of no effect. The Governor of Kuzuland failed to give notice in the manner stipulated by **Section 44** of the Act and there are plethora of cases that show that the condition of notice is vital and if not adhered to renders revocation void.

In conclusion, Chief Ajah can successfully bring an action against the Governor of Kuzuland because due process according to the Land Use Act was not followed.