I6/LAW01/052

**ISSUE:** Whether the act of the Governor of Kuzland in demolishing Tarzan hotel was constitutional in light of the provisions of the Land Use Act 1978

This issue is resolved by this legal writer in the affirmative.

**Applicable Principles of Law:**

With respect to nullification of the statutory rights of occupancy of an individual with respect to land **Section 28 of Land Use Act** succinctly provides;

It shall be lawful for the Governor to revoke a right of occupancy for the overriding public interest.

**Section 29** subsequently provides that: if a right of occupancy is revoked for the cause of purposes set out in **Section 28(2c)** or the purposes set out in **subsection 3(a) or (c)** the occupier shall be entitled to compensation for the value at the date of the revocation of their unexhausted improvement.

**Section 44** of the Constitution of the Federal Republic of Nigeria provides that no moveable property or interest in immoveable property shall be acquired compulsorily from an individual except in the manner prescribed by law.

**Section 1** of the CFRN also provides that the constitution ids supreme to every other law and any other law which is found to be inconsistent to it is void to the extent of its unconstitutionality.

**Application of the Principles of Law:**

The provisions of the constitution and the Land Use Act which is the supreme ordinace of the country with respect to control and management of land does not contain any outright conferment of authority on the person of The Governor with respect to the destruction of the erected buildings on a land which is rightly vest for the purpose of occupation and use on an individual. While it is true that by virtue of **Section 1** of the Land Use Act all the lands in a territory of a state is vest in the governor also by virtue of **Section 34** and **Section 36** the Governor and Local Government may grant statutory right of occupancy and customary right of occupancy accordingly with respect to land. When such statutory right of occupancy and customary right of occupancy is granted to an individual the prescribed procedure for reverting such ownership of the land back to the governor is referred to as revocation as provided by **Section 28** of the act. There are abundant judicial authorities that have emphasized this point of law such as **Amale v Sokoto Local Government** where it was held that the Governor of the state has the power to revoke the occupancy right of a person for overriding public interest and where such is done such a person is entitled to compensation. Also in the case of **the administrators and executors of the estate of Sani Abacha v Samuel David Eke-Spiff** this was the holding of the court alongside the modification that revocation of the rights of occupancy of a person to confer it on another person doesn’t to qualify as public interest. With respect to the provisions of the Quarantine law which authorizes demolition of public places in violation of the lockdown order is incompatible with the provisions of the constitution as well as the Land Use Act and in line with such inconsistency the law according to this writer is void for its unconstitutionality. More so the revocation of the title of Chief Ajah the owner of Tarzan Hotel would not be rightly backed by law as the provisions with respect to the land use act provides for land to only be revoked on the grounds of requirement of land for public purposes.

**CONCLUSION**

While the provisions of the law does not extend to fit the hypothetical scenario as raised above, the law is very specific with reference to the procedures on how the title of a person can be revoked and destruction of such provision states that the right of occupancy is duly revoked only where such a person is duly notified as seen in **S.O Adole v Boniface Gwar** and also all the procedures with respect to revocation must be followed otherwise such a revocation will be void and the executive order being made in this scenario will not qualify as appropriate notice relying on **Ononuja v Anambra State**. A person who has his right of occupancy revoked is also entitled to compensation and by virtue of **Horn v Suderlands**, such a compensation must be equal to the compulsory sacrifice being made by the person.