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COURSE: LAND LAW

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**SOLUTION:**

The legal issue are:

Whether the governor has the right to demolish chief ajah's hotel

Whether the governor’s action was constitutional or not

**Section 1of the land use act states that.**   “ Subject to the provisions of this Act, all land comprised in the territory of each State in the Federation are hereby vested in the Governor of that State and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of this Act.”

The Governor has been entrusted with the land in Nigeria

The case above is a case under the determination of land and this scenario falls under the revocation of right to occupancy.

REVOCATION

This is the right of a government to withdraw a person’s right to occupancy.

This was stated in section 28 of the land use act

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

(2)      Overriding public interest in the case of a statutory right of occupancy means--.

(a)       the alienation by the occupier by assignment, mortgage, transfer of possession, sublease, or otherwise of any right of occupancy or part thereof contrary to the provisions of this Act or of any regulations made thereunder;

(b)       the requirement of the land by the Government of the State or by a Local Government in the State, in either case for public purposes within the State, or the requirement of the land by the Government of the Federation for public purposes of the Federation;

(c)        The requirement of the land for mining purposes or oil pipelines or for any purpose connected therewith.

Before a right can be revoked the following criteria should or must be met for the revocation to be valid

1. There must be a purpose for the revocation

2. A valid notice

3. Adequate compensation.

Was the punishment unlawful and unconstitutional?

According to section 5 of the quarantine law of the kuzuland “defaulters would be either awarded a fine or imprisoned for a definite number of years”

But according to the land use act a right of occupancy can be revoked by the governor if it overrides the public policy

And section 27 of the land use act states that

“The Governor may accept on such terms and conditions as he may think proper the surrender of any statutory right of occupancy granted under this Act.”

In the case of the administrators executors of the estate of general sani abacha v Samuel David eke spiff and 3 others.

PURPOSE

The government had a purpose for demolishing the hotel because they went against the instruction or orders which were set in order to curb the spread of the virus for the safety of the people in kuzuland .

This was stated in section 28 of the land use act

In the case of obi v minister it was held that the right of statutory occupancy may be revoked on any of the following by the governor

A. breach of any of the provisions of the c/o

B. breach of any term in the c/o

3. Refusal to accept and pay for the certificate which was issued as evidence for the rights of occupancy.

NOTICE OF CONSENT

There must be a notice of consent before a breach can be deemed as constitutional or valid.

If there was no notice such revocation would be unconstitutional

COMPENSATION

According to the requirements the only thing that could be contested for was the payment of compensation by the government to Chief ajah.

In conclusion in my opinion the governor was in his constitutional right to demolish the property because the acts of the holders of the property were against the rules given in other to curb the spread of the virus in the country for the safety of the people. But according to the quarantine law the appropriate punishment was either a fine or imprisonment ,therefore it could be said that the fundamental right of chief ajah was breached .