Name: Ayeni Moyinoluwa Precious

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The pandemic Covid- 19 broke out in Kuzuland. The Governor, in pursuant of the powers conferred on him under the Quarantine Law, made an executive order closing down all public places including bars, restaurants, hotels, clubs, and event centers, among others. Any public place which continues such businesses shall be demolished as provided in the executive order. S. 5 of the Quarantine Law provides fines and imprisonment as the penalty for default. Recently, Tarzan hotel has been operating in defiance of this order despite warnings. As stipulated in the order, the governor demolished Tarzan hotels.

Chief Ajah, the owner of Tarzan hotel, has been expressing his displeasure on all media platforms. He believes the action of the Governor is unconstitutional and contravenes the procedures under the Constitution and the Land Use Act. For him, even if he were wrong, the punishment was unlawful. He has sworn to contest the Governor’s action in court and get redress. Chief Ajah has approached you for your legal advice. Succinctly advise him with legal authorities as to his chances of success in court in an action contesting the legality of the Governor’s action in demolishing his hotel particularly in the light of the Quarantine law, the Executive Order, the Constitution and the Land Use Act. Assume that the laws of Kuzuland are same as the relevant Nigerian Legislations.

Instructions: Provide your answers in MAXIMUM OF 2 PAGES.

 As informed earlier, the test is a 30 mins test but you will be allowed extra minutes to type and upload your work. Students MUST SUBMIT the assignment on or before 11.20am as those submitted thereafter will not be considered for the purpose of the CA. Ensure you upload your answers early and do not wait till the umpteenth minute to rush to submit considering network challenges. Note that excuses will not be permitted.

 Also, type out your answers in a word or pdf document and upload, do not type directly in the portal.

 Ensure you also write out your Matric no clearly on top of your word document.

Answer

The legal issue in the above painted scenario is as to whether the actions of the governor was right with relation to the revocation of occupancy for overriding public interest.

With relation to this it is firstly important to understand that S28 of the Land Use Act states that a right of occupancy by the governor for overriding public interest, this power can be exercised both statutorily and in customary settings. However with relation to this law it is important to understand whether the action of the governor in this case was appropriate or unlawful. S 5(2) however extinguishes all hitherto existing rights to the use and occupation of land, which is the subject of statutory right of occupancy.

The act further states under S 28(5) that the governor may revoke a statutory right of occupancy on the ground of: (a) a breach of any of the provisions which a certificate of occupancy is by section 10 deemed to contain;

(b) A breach of any term contained in the certificate of occupancy or in any special contract made under section 8;

(c) A refusal or neglect to accept and pay for a certificate which was issued in evidence of a right of occupancy but has been cancelled by the governor under subsection (3) of section 9 of the Act

The fact that any exercise of power of revocation for purposes not outlined by S28 of the Act or not carried out in compliance with the provisions of this section will be against the Act and will be declared void. Bookshops LTD v. Registered trustees of Muslim community in Rivers state & 3ors

Additionally it is important that whatever notice given for the revocation of statutory Right must have the expressed reason for said revocation. The revocation of rights however for agricultural, industrial or economic development will not be seen as overriding public interest within the scope of the act’s definition. The case of The Executors of the Estate of General Sani Abacha v. Samuel David Eke-spiff & 3ors held that the reallocation to the General could not be assimilated to an action taken for overall interest of the public due to the fact that he was just an ordinary citizen.

With relation to the painted scenario given the fact that the Executive order of the governor would be seen as less than the provisions of the land use act it is appropriate to say that the actions of the governor was wrong and that Chief Ajah should be adequately compensated.

When the question of compensation comes into play it is important to understand that in line with the provisions of S44 of the CFRN which states that prompt compensation will be paid along with the prescribed payment stated by the Land use Act. Saude v. Abdulahi. According to S30 of the act where there arises any dispute as to the amount of compensation calculated in accordance with the provisions of section 29, such dispute shall be referred to the appropriate Land Use and Allocation Committee.

In conclusion the fact that the actions of the governor was not in line with the Quarantine Law in this case it is safe to say that the claimant should receive compensation for his loss.