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LAND LAW TEST

 ANSWER

The issue for determination is whether the act of the governor to demolish the Tarzan hotel is unconstitutional and contravenes with the procedures under the land use act and the constitution. A right of occupancy is a right to use and occupy land granted under the land use Act.

The revocation of a right of occupancy rests on two principles, that the governor is the owner of the land which he holds in trust for the people by virtue of section 1 of the land use Act and that the governor needs the land for development purposes. Section 28 of the land use Act states that the governor can revoke a right of occupancy for overriding public interest. Section 51 explains public purposes and one of it includes for sanitary improvements of all kinds. And by virtue of section 28(1) of the land use Act a person’s right of occupancy can be revoked for public purposes within the state, local government or the federation. In the case of Amale v sokoto local government the government revoked a right of occupancy for public interest, for expanding the cattle market it was held that it was valid for public interest.

Also for there to be revocation there must be a valid notice by the virtue of section 28(6) and 28(7) of the land use Act and the notice must state the reason for revocation as stated in the case of Ononuju v AG Anambra state and also compensation by virtue of section 29 and 6(5) of the land use Act.

 My, advice to chief Ajah, is that the governor gave and Executive order under the Quarantine Law which has the same force as law which chief Ajah disobeyed. And for public purpose of safety and (sanitary purposes) stated in section 51 of the land use act, the governor made the order for the public interest in order to safeguard the people from the COVID 19 pandemic and its power is justifiable by section 28 of the land use Act but although chief Ajah disobeyed is punishment is not in line with section 5 of the Quarantine law of which the punishment is imprisonment or a penalty. But however as stated in the case of The Administrators of the estate of Sani Abacha v Samuel eke- spiff, it is unconscionable to take a person’s land without a valid notice and compensation so he should seek for compensation by virtue of section 29 of the land use act and by virtue of section 44 0f the CFRN 1999 a person’s land should not be taken away without adequate compensation. Chief Ajah should ask for compensation. Chief should be compensated and should apply to the land use and allocation committee. Also a valid notice which is to be personal as stated in Ononuju v Anambra state government, was not given to chief Ajah therefore he should be compensated as his punishment was more than was stated in the Quarantine law.