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Answer

The legal issues given in this question are as follows, whether the Governor of Kuzuland had the right under the Quarantine law to demolish Tarzan hotel, whether the governors’ actions were unconstitutional according to the constitution and the Land Use Act, whether notice was given, whether Chief Ajah will be able to seek redress for the demolition of his hotel.

In order to be able to answer the legal issues it is best to understand that the scenario is based on revocation of rights of occupancy. Revocation of right of occupancy can be said to be the right of the governor to withdraw the right of occupancy from a person. According to Section 28 of the Land Use Act, it is lawful for the governor to revoke a right of occupancy for overriding public interest.

However there are three requirements which must be fulfilled for the revocation of occupancy which include: Purpose, Notice and Compensation. Any revocation that does not meet these criteria’s will be considered null and void.

The first requirement being purpose is found under Section 28(2) of the Land Use Act which states that overriding public interest in the case of statutory right of occupancy means the alienation means the alienation by the occupier by assignment, mortgaged, the requirement fr the land for mining purposes and other purposes connection therewith. According to the Land Use Act it does not provide for the demolition of Chief Ajah’ hotel and was just an executive order given. It cannot be said that there was a breach by Chief Ajah according to section 10 of the Land Use Act. in the case of Oni V. Minister of FCT, it was held that the right of occupancy could be revoked based on breach of contract.

The second requirement being Notice section 28(4) of the Land Use Act, which implies that the governor may revoke the right of occupancy based on notice given by or on behalf of the president, notice is very important under the Land Use Act, the notice must state the particular public purpose for which the land is required. It is further stated under Section 28(6) of the Land Use Act that a notice of revocation must be given. According to the scenario it can be seen that the Quarantine law made an executive closing order for all public places including hotel an stated that any place which continued to be open shall be demolished, however, the Quarantine order provided under Section 5 of the law that the penalty or not following the order shall be a fine or imprisonment, it did not provide for the demolition of property, it may be possible to say that a notice was indeed not given to Chief Ajah. According to Section 44(a) (b) ad (c) the notice should be delivered to the person. It wa held in the case of S.O Adole v. Boniface B. Gwar that publishing in a gazette a revocation of notice to the public is invalid. Therefore it can be said that no notice was given to Chief Ajah.

The third requirement is that of compensation, according to Section 29 of the Land Use Act, where a right of occupancy is revoked for public purpose, the holder shall be entitled to compensation for the value of the land at the date of the revocation. The compensation is not for the land itself but for the improvement of the land. I believe compensation will need to be given to Chief Ajah.

When advising Chief Ajah it is based to inform him that under the Quarantine law the Governor had no right to demolish the hotel based on the fact that no notice was given. It can be said to be an unconstitutional act although Chief Ajah breach the order given that no publc places are to open during to the outbreak occurring, however the Quarantine Law provided for a fine or imprisonment as penalty an no demolition of the public as was done by the governor, therefore it can be said to be an unconstitutional act. According to the Land Use Act it can also be unconstitutional because no public notice was given directly and the purpose for the revocation was not stated in the Act.

In conclusion, it can be said that indeed Chief Ajah will be able to seek redress for the demolition of his hotel and that the act by the governor was unconstitutional. The proper penalty for breach of the order to close all public places should have been imprisonment or a fine and not demolition. The right of demolition was given by the executive order and not the Quarantine Law.