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Whether the governor’s action in demolishing chief Ajah’s hotel is unconstitutional with the provisions of the Quarantine Law, Land Use Act and Constitution.

The Land Use Act was enacted as a decree on 29th March 1978. It set out the framework for national land policy in Nigeria as well as Kuzuland. The Act is a planning law. It’s considered as an existing law in terms of the Constitution of the Federal Republic of Nigeria, 1999.

There are two types of right of occupancy. The statutory rights of occupancy and the customary rights of occupancy. The statutory rights of occupancy is the major focus in analysis the interest by the Governor ***section 5 and 34 of the Land Use Act*** provides that it is lawful for the governor to grant statutory rights of occupancy whether or not is in the urban area.

Section 28 of the Land Use Act provides for the requirements whereby an interest in land may be revoked. There are three conditions to be met before an interest can be validly revoked.

I) Purpose of revocation

II) valid notice

III) compensation

The purpose of revocation is also known as overriding public interest.

***Section 28(2)*** defines overriding interest in statutory rights of occupancy.

\* alienating an interest without the consent of the governor

\* The requirements for the purpose of public interest

\* For mining and solid minerals purposes.

\* ***Section 28(3)*** defined overriding public interest for the customary right of occupancy. Section 28(5) of the Land Use Act provides for other reasons where an interest can be revoked.

In ***Obi v Minister of Fct,*** it was held that the governor has the right to revoke the interest of a person for not complying with ***Section 28(5) of the Land Use Act.***

In the Administrators of the Estate of General Sanni Abacha v Samuel, it was held that it unlawful to confiscate a land belonging to one person for the granting to another person.

Valid notice means that the governor is empowered to issue a notice informing the person on the reason why his interest is revoked. The notice must be given to the person or made by the provisions stated in ***Section 44 (a),(b) &(c).*** Publication in a gazette will not amount to a valid revocation in the case of ***Ononuju v A. G of Anambra State***.

***In Section 29*** provides that if any right is revoked the person is entitled to compensation. In ***Section 33(2) & (3)*** provides that it is either resettlement or compensation.

In ***Horn v Sunderland***, it was held that compensation implies that the loss suffered.

**Application**

In relation to the above scenario, Chief Ajah is right that the demolishment of his hotel by the Governor was unconstitutional. According to Section 5(5) of the Quarantine Law provides for fines and imprisonment for default. From the principles stated above, it can be deduced that the Land Use Act doesn’t make provision for demolishment of building where there is default. The only thing the government could was to revoke his interest or punishment with fines or imprisonment.

Therefore, the Governor’s action is unconstitutional with the provisions of the Land Use Act and Constitution. The Constitution provides that everyone is entitled to own immovable property. The Constitution is the superior over any law.