Question:

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, 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.

Answer

The question above requires me to advise CHIEF AJAH on the legality of the Governors action which lead to the demolishment of his hotel.

The legal issue can be seen to be the legality of the act of the Government in demolishing his hotel, which serves both as a source of income and livelihood to Chief Ajah.

Section 43 of the 1999 constitution clearly states that everyone has the right to acquire property and wealth, a right which Chief Ajah was clearly exercising, for the governor to legally demolish a citizens property or to act upon another persons property he must duely revoke the person in questions statutory right of occupancy as gotten in section 28 of the land use act, (revocation means the rights of an occupant maybe revoked by the governor in accordance with the provisions of the land use act and the law provides the circumstances under which the right of occupancy over land maybe revoked as well as the procedure to be followed). See CSS bookshop v. rista trustees of rivers state

The executive order in its own part can be said to be unconstitutional and arbituary as it is cintrary to the provisions of the constitution and other existing laws in place.

My advice for Chief ajah would be for him to take the issue to court and claim damages for the actions of the governor, which he claimed was empowered by the executive order was unconstitiuonal and was not in accordance with the relevant law whivh is the land use act.