NAME- THOMPSON IDARA

MATRIC NUMBER- 16/LAW01/199

LEVEL- 400

COURSE- LAND LAW

ANSWER

The legal issues are:

1. Whether the Governor had the right revoke the statutory occupancy of Mr Ajah and if his act was unconstitutional
2. Whether Chief Ajah can bring an action against the Government of Kuzuland

This case scenario relates to revocation of rights of occupancy. Before the rights of occupancy can be revoked it must meet certain criterias which includes that there must be purpose, Adequate compensation and there must be valid notice.

Notice is essential before there can be valid revocation according to section 28(6) of the Land Use Act which provides that the revocation of a right of occupancy shall be signified under the hand of a public officer duly authorized on behalf of the governor and notice shall be given to the holder thereof. In LAGOS STATE DEVELOPMENT AND PROPERTY CORP v FOREIGN FINANCE CORPORATION It was held that it is necessary for a notice of revocation of a right of occupancy to state specifically one of the public purposes categorized in section 28(2) (a) and(3) and Failure to do so is a breach of section 33 (a) of 1999 constitution. And is unconstitutional. It is an abuse of statutory power to revoke a grant of a statutory right of occupancy without a valid personal notice first . The notice is meant to be personal to the holder of the statutory right of occupancy. Also Section 5 of the Quarantine law provides for fines and imprisonment as the penalty for default. An executive order is not a legislation and has to be in an existing law and it is not sufficient compared to an existing law. The case of ONONUJU V AG ANAMBRA STATE it was held that the publication in the Gazette of a notice of revocation without personal service of same on the person or persons connected does not make the revocation valid. Also the case of OLATEJU V COMM FOR L&H , KWARA STATE It was held that for revocation to be valid, its notice must be personally served on the holder.

In applying the case scenario, an executive order is only valid when the Governor acts within the boundaries of their constitutional and statutory authority and it is not within his authority to revoke the occupiers right without a valid notice. Section 5 of the Quarantine law provides fines and imprisonment as the penalty for default. The Governor who demolished Chief Ajah’s hotel without valid notice acted unconstitutional because he didn’t give valid notice. Even if Chief Ajah violated the rule what would have been best before the demolition was a valid personal notice. The executive order cannot count as a valid notice

Chief Ajah can bring an action against the Government of Kuzuland and seek for compensation for the demolition of his hotel without a proper valid and personal notice.

In conclusion, when a persons right of occupancy has been revoked without due notice him or her is entitled to compensation and for a notice to be valid it must be proper and direct to the person in question.