NAME: EPHRAIM OLORUNFEMI

MATRIC: 16/LAW01/171

LEVEL: 400L

COURSE: LAND LAW II

TEST

The given scenario entails dispute between Chief Ajah, the owner of Tarzan hotel and the Governor and has decided to take action against the Governor. The legal issue from the given scenario is that whether the Governor had the power to revoke the statutory right of occupancy of Chief Ajah that is whether the act of the government was unconstitutional and the other legal issue is whether the claim or action of Chief Ajah would be successful in court.

As a legal adviser, there are legislations that protect and regulate the statutory right or customary right of occupancy which have been provided for in Section 28 of the Land use Act. From the given scenario, the statutory right of Chief Ajah has been revoked for violating the legislations of the Quarantine Law. An executive order was given for closing all public places including bars, hotels, clubs etc where Section 5 of the Quarantine law provides penalty for defaulters. Thus the defiance of this law, makes Chief Ajah liable to pay a fine or be imprisoned. However, the executive order is inconsistent with the constitution and provisions of the Land Use Act and thus executive orders must be in line with the laws already existing as provided for in Section 315 of the Constitution of the Federal Republic of Nigeria. As seen in the case of Amgbe v Sokoto local government, a right that was revoked without purpose or notice was void and unconstitutional as provided by Section 33 of the Constitution. Thus, the act of the government which was demolishing the hotel owned by Chief Ajah is unconstitutional.

Regarding the issue of whether the action would be successful in court, as a legal adviser, I would advise my client to sue or take an action against the government because the executive order is inconsistent with the constitutional and legal provisions. Land can only be acquired as proposed by law as provided in Section 43 which states that law provides for fines and not demolition. An executive order is merely a directive and not legislation. It’s basically the executive ordering government agencies to take a particular cause of action which the law already provided for.

In Conclusion , government could have asked Chief Ajah to pay a fine rather than demolishing his property. In my legal opinion, Chief Ajah would succeed in an action against the government and thus he should take an action against the government.