**NAME:** ADEOLA – BELLO HALIMA OLUWATOBI

**MATRIC NUMBER :17/LAW01/299**

**LEVEL:** 400

**COURSE CODE**: LPB 402

**COURSE TITLE**: LAND LAW II

**LECTURER**: DR. OLUBIYI IFEOLUWA

**ANSWER:**

**LEGAL ISSUE:**

1. Whether the actions of the governor of kuzuland is in breach of the provisions of the Quarantine law, executive order, constitution and Land Use Act

**RULES AND APPLICATION**

**Section 1 of the land use act** **1978** vests the title of land comprised in the territory of each state in the governor of the state to be held in rust and administered for the benefit of every Nigerian. This was explicitly stated in the case of **Usman v Garke.** The governor holds only nominal ownership of land and is not beneficially entitled to the land vested in him. The Land Use Act allows for individuals and organizations to be granted a right of occupancy over land. A right of occupancy refers to the right to use and occupy land. It is not an absolute title but it is the highest form of interest a person can have in land. **By Section 5(1) (a**) of the Act, it shall be lawful for the governor to grant statutory rights of occupancy in respect of land whether or not in the urban area. By virtue of **Section 5 (2)**, once a statutory right of occupancy is granted, every other interests in such land is extinguished. This was the position of the supreme court in the case of **S.O Adole v Boniface B. Gwar (2008) 11NWLR (pt 109) 562**. Also in the case of **SPDCN Ltd v Amadi(2010)** Though it is said that this provision should not be interpreted literally as such interpretation would contravene the intendment of the law maker. A right of occupancy since its not absolute can be terminated in a number of ways which includes effluxion of time, surrender by the holder of such rights **(Section 27 Land Use Act),** forefeiture and by revocation.

**Section 28** provides that a right of occupancy may be revoked by the governor for overriding public interest. **Section 28 (2**) goes further to define overriding public interest as:

***(a)the alienation by the occupier by assignment, mortgage, transfer of possession, sublease, or otherwise of any right of occupancy or part thereof contrary to the provisions of this Act or of any regulations made thereunder;***

***(b) the requirement of the land by the Government of the State or by a Local Government in the State, in either case for public purposes within the State, or the requirement of the land by the Government of the Federation for public purposes of the Federation;***

***(c) the requirement of the land for mining purposes or oil pipelines or for any purpose connected therewith*.**

In the case **of Obi v Minister of FCT (2015),** the court held while dismissing the appeal that a statutory right of occupancy may be revoked on the following grounds:

* Breach of any of the provisions which a certificate of occupancy is deemed to contain by virtue of Section 10 of the Land Use Act
* Breach of any term contained in the certificate of occupancy or any special contract made under section 8 of the Act
* Refusal or neglect to accept and pay for a certificate which was issued as evidence of a right of occupancy but has been cancelled by the governor

This ruling is in line with the provisions of Section 28 (5) of the Act. However, for a revocation by the governor to be valid, the purpose must be valid (i;e must be for overriding public interest), valid notice must be issued and served on the holder of such right and adequate compensation must be arranged in line with **Section 44 of the Constitution of the Federal Republic of Nigeria.** The governor is empowered to revoke only after issuing a notice as stated in **FGN V Rasaki Akande (2013).** The notice must state thr public purpose for which the land is required as directed by **Section 28 (4) (6) of the Act** and enunciated in the case of **LSDPC v FFC.** The mode of service of such notice must also comply with **Section 44 of the Land Use Act**.

In the instant case, the governor can deomolished Tarzan Hotel which Chief Ajah still had valid interests in as there was no evidence of any determination of his right of occupancy. This goes against provisions of the Land Use Act as clearly stated above and also Section 5 of the Quarantine Law which prescribed fine and imprisonment for default. Furthermore, I am of the view the governor is in breach of Ajah’s right to own immovable property anywhere in Nigeria as provided for in **Section 44 CFRN 1999.**

**CONCLUSION**

In conclusion, I am of the opinion that Chief Ajah should institute an action in the High Court which is the court granted exclusive jurisdiction by virtue of Section 39 of the act to entertain questions pertaining to land issues in Nigeria as he might have a fair chance of success against the governor.