MATRIC NO: 16/LAW01/004

NAME: ADENIRAN IFEOLUWA MABEL

COURSE CODE/COURSE TITLE

LECTURER: DR.OLUBIYI

TEST

The legal issue in this question is whether the demolishment by the governor of chief Tarzan land was unconstitutional.

The main purpose for revocation as provided in section 28 of the land use act is where the land is overriding public interest.

**Section 28(2**) further defined overriding public interest as either

1. The alienation by the occupier by assignment, mortgage, lease transfer of possession, sub lease or otherwise of any right of occupancy or part thereof contrary to the provisions of this act or any act thereof
2. The requirement of the land by either the government of the state or local government in a state for public purpose or the requirement of the land by the government of the federation for public purpose
3. The requirement of the land for mining purpose or oil pipelines or for any purpose connected therewith

It should be noted that for there to be revocation of land, there are three conditions that must apply, they include; purpose, notice and compensation

These three conditions are to the effect that; the purpose of the revocation must be stated. Notice of the revocation must be given to the holder of the statutory right of occupancy and there must be adequate compensation given to the holder

However It is noted that by virtue of s**ection 44 of the constitution of the federal republic** of Nigeria, it provides that no immovable property shall be taken possession of compulsorily and no right over interest shall be acquired compulsorily in any part in Nigeria except in the manner and for the purposes prescribed by the law that, among other things…

However subsection **2 (b) (e) and (f) 0f this section** provides that “nothing in subsection 1 of this section shall be construed as affecting any general law;

b) For the imposition of penalties or forfeitures for the breach of any law, whether under civil process or after conviction for an offence;

e) Relating to the execution of judgment or orders of court and

f) Providing for the taking of possession of property that is in a dangerous state or injurious to the health of human beings. Plants or animals

Thus in the case of **Obi v.Minister of FCT, the** appellant certificate of occupancy was revoked because he breached certain conditions. The appellant appealed that the revocation was invalid. He stated that the only reason why revocation can be done is for overriding public interest. But the court held that, that was not the only reason but it was the most popular. The right of occupancy can be revoked for breach of any conditions.

Thus in the above scenario, Governor in exercising his power issued out an execution order which stated that all public place should be closed down otherwise, it would be demolished. In addition to this Section 5 of the quarantine law provides that fines and imprisonment are the penalty for this default. This act by the government constitutes an execution order.

Thus by virtue of **section 315(2) of the CFRN 1999**

“The appropriate authority may at any time by order make such modifications in the text of any existing law as the appropriate authority considers necessary or expedient to bring that law into conformity with the provisions of this constitution”

The appropriate authority in regard is the governor

In conclusion, my advice for Chief Tarzan that he has a good success of bringing an action against the governor for demolition of his hotel, this is because the ‘demolition of the hotel is just an executive order from the governor and executive order from the governor’s office is a directive order and merely an administrative instrument and hereby do not have force of law.

However in light of the quarantine law and the provisions of the provisions of the constitution of Nigeria, he is liable to pay a fine or be imprisoned.

Although the land use Act does not make provisions in relation to this, however section 1(3) of the constitution provides that if any other law is inconsistent with the provisions of this constitution, the constitution shall prevail and that other law shall to the extent of the inconsistency be void.