

COLLEGE OF LAW

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**COURSE: LAND LAW II**

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**The legal issues for determination in the given case scenario are:**

1. Whether the act of the governor in destroying the Tarzan hotel property is constitutional?

The legal issue is resolved in the negative. The destruction of the hotel by the governor is unlawful and has no legal backing. The punishment prescribed in the Executive Order contravenes the provisions of the Quarantine Law, Land Use Act and Constitution and is therefore null and void.

**The Principles of Law Applicable**:

The Land Use Act which was enacted to bring an order and nationalization to the land policy in Nigeria vests the title of land comprised in the territory of each state in the governor of the state, to be held in trust and administered for the benefit of every Nigerian as per the provisions of **Section 1** of the Act. By virtue of this provision, the governor possesses nominal ownership of all land in the territory of the state and he holds the lands for the benefit of the citizens. The control and management of all land is also vested in the governor by virtue of **Section 2 (1)(a)** and he has the power granted by **Section 5 (1)(a)** to grant to person the Right of Occupancy. This right is an exclusive possessory right which can be enforced against all except the governor. Thus, the governor still has some ownership over the property.

The Land Use Act provides in **Section 22** that is unlawful for a holder of a right of occupancy to alienate his right of occupancy or any part thereof by assignment, mortgage, sublease and so on without the consent of the governor. The effects of the failure to obtain governor’s consent include: the revocation of such right which is provided in **Section 28 (2)(a),** fine of 5 thousand naira or imprisonment of 1 year provided in **Section 36(6)** and so on.

As provided by the Land Use Act in **Section 28**, the governor has a right to revoke this right for several reasons. These reasons include: revocation for overriding public interest i.ee alienation and requirement for public or mining purposes, revocation for breach of provisions of the Certificate of Occupancy and so on. It is therefore imperative to note that the Land Use Act makes no provision for demolition of property and the requisite punishments for contravention of the provisions of the act have been stated above.

Also, in line with the Covid-19 quarantine prescriptions, the Quarantine law was enacted to govern quarantine procedures. In **Section 5** of the Quarantine Law provides and imprisonment for default of quarantine procedures.

In line with all of this, the CFRN 1999 in **Section 43** provides the right for individuals to acquire and own immovable property (land) anywhere in Nigeria.

**Application of the Principle of Law to the Scenario given:**

In applying the principle of law stated above to the case scenario given, the legal issue will now be resolved.

**Issue One:** Whether the act of the governor in destroying the Tarzan hotel property is constitutional?

The out-break of Covid-19 in the country resulted in the stringent quarantine process to prevent its easy contraction. Therefore, laws such as the Quarantine Law and the Governor’s executive order were put in place to ensure strict conformity and prescribes punishment for contravention of quarantine procedures. The Executive order provides that all public places which includes hotels shall be shut down in line with strict quarantine measures and to prevent the spread of coronavirus. The punishment prescribed for breach of this order is demolition of such property. However, the punishment prescribed in the order contravenes the provision of the Quarantine Law which prescribes punishment and imprisonment. Also, it is not in conformity with the punishment methods underlined in the Land Use Act. Again, demolition of such property distorts the provision of the right to own property given in **Section 44** of the CFRN 1999. Ergo, the provision for punishment under the Executive Order is null and void and has no effect. The demolition is unconstitutional. The legal issue is resolved in the negative.

**Conclusion and Advice to Chief Ajah:**

In conclusion, it is my advice to Chief Ajah to file against the governor for the demolition of his property as it is unlawful and has no legal backing. He can file the suit at the State High Court which was given the exclusive jurisdiction by **Section 39 (1)(a)** to entertain any land subject