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The legal issues for determination are as follows;

* Whether the act of the Governor in Demolishing Tarzan Hotel was Constitutional.
* Whether the Right of Occupancy of Chief Ajah to Tarzan Hotel was properly revoked by the Governor in line with the prescriptions of the Land use Act.

According to section 4 of the Quarantine Act, the purpose of an executive order is to prevent and not to punish. Accordingly, section 5 of the Quarantine Law further prescribes that the penalties for flouting the executive order are fines and imprisonment.

The law never allows a single person to be Judge, Jury and Executioner. Thus, an executive order cannot be used as an excuse for summary judgment. According to section 36(8) of the Constitution of the Federal republic of Nigeria, it states that

“No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence.”

The Governor has the authority to make the Executive order. However, this authority is only exercisable subject to the ambits of existing laws. If the Governor of Kuzuland had prescribed the punishment for flouting the order, that punishment prescribed can be enforced. In the instant case, the punishment is meant to be fines and imprisonment and not to demolish the Hotel as arbitrarily stated in the Executive order.

However, if the punishment as stated in the executive order is unconscionable and extreme, the court will not prescribe the said punishment. In the instant case, the test is based on section 43 of the Nigerian Constitution i.e The right to own property. In the case of FAITH OKAFOR V. GOVERNOR OF LAGOS STATE AND ANOR(2016) LPELR-41066 CA, it was held that the Appellant, Faith Okafor, could not be arrested or prosecuted for disobeying or flouting the Executive Order or Directive of the Governor of Lagos State because the Appellant could only be arrested and prosecuted for an offence that is prescribed in a written law.

Furthermore, it is important to note that Section 7 of the Quarantine Act empowers the Magistrate sitting in any Magistrate court within Jurisdiction to hear and convict the accused person.

Also, Section 28 of the Land Use Act grants a Governor the right to revoke rights of occupancy on the grounds of overriding public interest. Section 28 further states the grounds upon which an order of revocation of right of Occupancy can be based as seen in the case of OBI V. MINISTER OF FCT.

In terms of Section 28(6) of the Land use Act, any revocation of a right of occupancy shall be signified under the hand of a public officer duly authorized In that behalf by the Governor and notice thereof shall be given to the holder. By implication, the governor is empowered to revoke a right of occupancy only after issuing a notice of revocation as seen in the case of AMALE V. SOKOTO LOCAL GOVERNMENT.

Section 44 of the Land Use Act also states that the notice of revocation required by the act to be served on any person shall be effectively served on him.

Applying the principles stated above to the given scenario, it is safe to say that the Executive order as prescribed by the governor of Kuzuland to demolish buildings is inconsistent with Constitutional and Legal provisions. Also, the act of the Governor in Demolishing Tarzan Hotel goes against the provisions of the Land use Act and several decided cases.

In an advice to Chief Ajah, he should bring up and action in court due to the fact that the actions of the Governor were arbitrary and they went against the Constitution and the Land use Act. He can also claim Damages against the governor.