NAME : PRINCESS CHIDERA IFEZUE

MATRIC NO: 16/LAW/100

LEGAL ISSUE:

1. WHETHER CHIEF AJAH HAD DEFAULTED IN HIS STATUTORY RIGHT OF OCCUPANCY
2. WHETHER THE ACT OF THE GOVERNOR WAS UNCONSTITUTIONAL
3. Whether the executive order would serve as notice

By virtue of section 2(1) Land Use Act, it provides that all lands in urban areas would be under the control and management of the governor of each state and all other land would be under the control and management of local government within the area of jurisdiction of which the land is situated. It goes without saying that the governor is in control of the land situated in his jurisdiction. This does not necessarilty mean however that he owns the land per se, but holds it in trust for the citizens of Nigeria.. by virtue of section 5, it provides that there are two types of occupancy; statutory right of occupancy and customary right of occupancy but for the purpose of this discuss, I will focus on the statutory right of occupancy. Section 5o defines the statutory right of occupancy as a right of occupancy granted by the governor under the act. the governor has the right to grant this right to all persons for all purposes.

Such rights however may be revoked by the governor. By the provisions of section 28 of the land use act, a right of occupancy may be revoked by the governor on the gr0ounds of **overriding public interest**. In the context of this provision, overriding public interests includes alienat6ion by the holder of any right of occupancy or part thereof contrary to the Act or any regulations made thereunder also , it may be revoked for public purpose and the holder of such land would be compensated.

The purpose of giving notice of revocation of a right of occupancy is very crucial. It is to duly inform the holder of the steps to be taken in extinguishing his or her right of occupancy. Thus in the absesnse of a notice, the revocation would be considered ineffectual. By virtue of section 28(6), any revocation of a right of occupancy shall be signified under the handoff a public officer duly authorized on behalf of the governor and notice would be given to the holder. Basically, the governor is vested with the right to revoke a right of occupancy only AFTER issueing a notice. However, if the mode of service does not comply with the act, the notice would be considered void. This can be sited in Ononuju v. Anambra state.

APPLICATION TO THE SCENARIO

The governor of Kuzuland had given an executive order closing down all the bars, resturantys, hotels etc. and any business that continues would be demolished. The quarantine law however provides fines and imprisonments the penalty ofor default. Chief Ajah had run his business against the quarantine law put in place and by executive order, his hotel had been demolished. However,this ‘executive order’ was inconsistent with the QUUARANTINE LAW that gave its penalty in fines and imprisonment and by virtue of section 28(6), where the mode of service is inconsistent with the act, the notice would be considered void. Also section 1(3) of the 1999 constitution FRN states that where a law is inconsistent with the law, to that point of inconsistency would be seen as null and void.

CONCLUSION

In conclusion, the governor although had given notice of revocation (executive order), it was inconsistent with the quarantine law. Thus in my humble legal opinion, although Chief Ajah had defaulted the law, the punishement metted on him was unconstitutional and rather unlawful and therefore is entitiled to a form of compensation.