

SOUTH AFRICA / JUDGMENT

Absa Bank Limited v Ballito Junction Development (Pty) Ltd (84/LM/AUG08) [2008] ZACT 89 (22 October 2008) [2008] ZACT 89

COURT

Competition Tribunal

BEFORE

N Manoim, Y Carrim, M Mokuena

CASE / FILE NUMBER

84/LM/AUG08

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COMPETITION TRIBUNAL OF SOUTH AFRICA

CASE NO: 84/LM/AUG08

In the matter between:

ABSA BANK LIMITED Acquiring Firm

and

BALLITO JUNCTION DEVELOPMENT (PTY) LTD Target firms

Panel : N Manoim (Presiding Member), Y Carrim (Tribunal Member), and

M Mokuena (Tribunal Member)

Heard on : 23 September 2008

Order issued on : 23 September 2008

Reasons issued on : 22 October 2008

REASONS

FOR DECISION

APPROVAL

On 23 September 2008 the Tribunal approved the property merger between Absa and Ballito Junction. The reasons for the decision follow:

THE PARTIES

The primary acquiring firm is ABSA Bank which owns the following retail shopping centres; Maxcity shopping centre, a community shopping centre situated in Mamelodi in Pretoria; Valley shopping centre, a neighbourhood shopping centre situated in Dainfern in Johannesburg; and Krugersdorp shopping centre, a super-regional shopping centre in Krugersdorp, currently under construction.¹ The primary target firm is Ballito Junction Development (Pty) Ltd which is jointly controlled by ABSA Bank (50%) and Robfair

Investments No. 139 CC (50%). Ballito Junction is a property holding company which owns only Ballito Shopping Centre, a neighborhood retail shopping centre, in Ballito, KwaZulu-Natal.

THE TRANSACTION AND RATIONALE

The proposed transaction is a move from joint to sole control in that ABSA Bank intends to increase its shareholding in Ballito Junction from 50% to 100%.

Abisa considers the proposed transaction as part of its wider strategy to secure returns from investments in the property sector. For Ballito Junction this is also part of its business development strategy.

RELEVANT PRODUCT MARKET

There is only a horizontal overlap in the activities of the merging parties in respect to neighbourhood retail shopping centre. However, there is no geographic overlap since Absa does not have any neighbourhood retail shopping centre in Ballito, KwaZulu-Natal, where Ballito Junction's only property is situated.

CONCLUSION

In light of the above, we find that this merger will not result in any substantial lessening or prevention of competition in any of the relevant markets in the property sector. Accordingly, we approve the merger without conditions.

There are no public interest issues.

___ 22 October 2008

N Manoim Date

Tribunal Member

Y Carrim and M Mokoena concur in the judgment of N Manoim

For the merging parties : M Griffiths and E Posthumus of Absa

For the Commission : T. Ravhugoni

(Mergers and Acquisitions)

Tribunal Researcher: L Xaba

1 The terms community and neighbourhood refer to the size not the location of the shopping centres.

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