

SOUTH AFRICA / JUDGMENT

Flameup Investments (Pty) Ltd v Festigen Investments (LM163Mar20) [2020] ZACT 12 (8 April 2020)

[2020] ZACT 12

COURT

Competition Tribunal

BEFORE

Enver Daniels, Halton Cheadle, Fiona Tregenna

CASE / FILE NUMBER

LM163Mar20

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Competition tribunal

SOUTH AFRICA

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM163Mar20

In the matter between:

Flameup Investments (Pty) LtdPrimary Acquiring Firm

Flameup Investments (Pty) Ltd

Primary Acquiring Firm

Festigen Investments (Pty) Ltd in respect of thePrimary Target Firm

Festigen Investments (Pty) Ltd in respect of the

Primary Target Firm

letting enterprise known as River Crescent Centre

Panel: Mr Enver Daniels (Presiding Member)

Prof. Halton Cheadle (Tribunal Member)

Prof. Fiona Tregenna (Tribunal Member)

Heard on: 08 April 2020

Order Issued on: 08 April 2020

Reasons

Issued on: 08 April 2020

REASONS

FOR DECISION

Approval

[1]On 08 April 2020, the Competition Tribunal unconditionally approved the proposed merger transaction whereby Flameup Investments (Pty) Ltd intends to acquire the letting enterprise known as River Crescent Centre, as a going concern, from Festigen Investments (Pty) Ltd.

On 08 April 2020, the Competition Tribunal unconditionally approved the proposed merger transaction whereby Flameup Investments (Pty) Ltd intends to acquire the letting enterprise known as River Crescent Centre, as a going concern, from Festigen Investments (Pty) Ltd.

[2]The reasons for our approval follow.

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Parties to the transaction

[3]Flameup Investments (Pty) Ltd ("Flameup Investments") is a private company controlled by Oneeighty Holdings (Pty) Ltd ("Oneeighty").

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[4][...]

[5]Flameup Investments is a property holding company and does not control any firms. Flameup Investments and the firms directly and indirectly controlling it will be collectively referred to as the "ONE Group".

Flameup Investments is a property holding company and does not control any firms. Flameup Investments and the firms directly and indirectly controlling it will be collectively referred to as the "ONE Group".

[6]ONE Group is a property holding, investment and management group with a portfolio comprising retail, residential and office properties across South Africa. Of relevance to the proposed transaction is the Witbank Medical Centre which falls within the ONE Group property portfolio. The Witbank Medical Centre is situated in Witbank, Mpumalanga and has a total gross lettable area (GLA) of 13 920m².

ONE Group is a property holding, investment and management group with a portfolio comprising retail, residential and office properties across South Africa. Of relevance to the proposed transaction is the Witbank Medical Centre which falls within the ONE Group property portfolio. The Witbank Medical Centre is situated in Witbank, Mpumalanga and has a total gross lettable area (GLA) of 13 920m².

[7]River Crescent Centre is controlled by Festigen Investments (Pty) Ltd ("Festigen Investments"). Festigen Investments is a private company and is controlled by Gerhard Strydom.

River Crescent Centre is controlled by Festigen Investments (Pty) Ltd ("Festigen Investments"). Festigen Investments is a private company and is controlled by Gerhard Strydom.

[8]Festigen Investments is a property development and letting company situated in Mpumalanga. Festigen Investments does not directly or indirectly control any other firms.

Festigen Investments is a property development and letting company situated in Mpumalanga. Festigen Investments does not directly or indirectly control any other firms.

[9]River Crescent Centre is a retail community shopping centre with a total GLA of 24 721m².

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Proposed transaction

[10]In terms of the proposed transaction, Flameup Investments will acquire the letting enterprise, River Crescent Centre, as a going concern. Upon implementation of the proposed transaction, Flameup Investments will exercise sole control of River Crescent Centre.

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[11]ONE Group submitted that the target firm aligned with its investment mandate to invest in the property market. Festigen Investments submitted that the proposed transaction represented an opportunity for it to reduce its financial exposure.

ONE Group submitted that the target firm aligned with its investment mandate to invest in the property market. Festigen Investments submitted that the proposed transaction represented an opportunity for it to reduce its financial exposure.

Competition Assessment

[12]The Commission investigated the proposed transaction in the market for the provision of rentable convenience centres within a radius of 10km of River Crescent Centre, Witbank, Mpumalanga.

The Commission investigated the proposed transaction in the market for the provision of rentable convenience centres within a radius of 10km of River Crescent Centre, Witbank, Mpumalanga.

[13]For purposes of its assessment the Commission included properties currently held by ONE Group such as the Witbank Medical Centre, as well as competitors which fall into the same market as the River Crescent Centre.

For purposes of its assessment the Commission included properties currently held by ONE Group such as the Witbank Medical Centre, as well as competitors which fall into the same market as the River Crescent Centre.

[14]The Commission found that post transaction the merged entity would have a market share of approximately 18% with a market share accretion of approximately 12%. However, the merged entity would not gain any market power as they would be constrained by several other players in the market. The Commission was therefore of the view that the proposed transaction was unlikely to lessen or prevent competition in the market.

The Commission found that post transaction the merged entity would have a market share of approximately 18% with a market share accretion of approximately 12%. However, the merged entity would not gain any market power as they would be constrained by several other players in the market. The Commission was therefore of the view that the proposed transaction was unlikely to lessen or prevent competition in the market.

[15]We concur with the Commission's findings and are of the view that the proposed transaction is unlikely to result in a SLC in the market.

We concur with the Commission's findings and are of the view that the proposed transaction is unlikely to result in a SLC in the market.

Public interest

[16] The merging parties submitted that no job losses or retrenchments will occur as a result of the proposed transaction. They submitted that three family related employees currently employed by River Crescent Centre would be accommodated by sister entities in which Mr Strydom is a 100% shareholder.

[17]The Commission contacted employee representatives of both Flameup Investments and Festigen Investments who raised no concerns regarding the proposed transaction.

The Commission contacted employee representatives of both Flameup Investments and Festigen Investments who raised no concerns regarding the proposed transaction.

[18]The Commission therefore accepted the merging parties' submissions on employment. No further public interest concerns were raised.

The Commission therefore accepted the merging parties' submissions on employment. No further public interest concerns were raised.

Conclusion

[19] In view of the above, we concluded that the proposed transaction is unlikely to result in a SLC in any market. In addition, the proposed transaction will not result in job losses or have adverse effects on any other public interest considerations.

In view of the above, we concluded that the proposed transaction is unlikely to result in a SLC in any market. In addition, the proposed transaction will not result in job losses or have adverse effects on any other public interest considerations.

[20] We therefore approved the proposed transaction unconditionally.

We therefore approved the proposed transaction unconditionally.

8 April 2020

Mr Enver Daniels

Prof. Halton Cheadle and Prof. Fiona Tregenna concurring.

Tribunal Economist: Karissa Moothoo Padayachie

For the Merging Parties: V Chetty of Vani Chetty Competition Law (Pty) Ltd

For the Commission: N Msiza and M Aphane

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Prepared on 12 October 2026 · Esheria