

SOUTH AFRICA / JUDGMENT

Redefine Properties Ltd v Grapnel Property Investments Pty Ltd in respect of the property letting enterprise known as Ericsson Building (018424) [2014] ZACT 26 (13 February 2014)

[2014] ZACT 26

COURT

Competition Tribunal

BEFORE

N Manoim, T Madima, M Mokuena

CASE / FILE NUMBER

018424

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COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No.018424

In the matter between:

Redefine Properties Limited

Primary Acquiring Firm

and

Grapnel Property Investments Proprietary

Primary Target Firm

Limited in respect of the property letting enterprise known as Ericsson Building

Reasons

for Decision

Panel

N Manoim (Presiding Member), T Madima (Tribunal Member) and M Mokuena (Tribunal Member)

Heard on

05 February 2014

Decided on

05 February 2014

Reasons

issued on: 13 February 2014

Approval

On 05 February 2014, the Competition Tribunal (“Tribunal”) approved the merger between Redefine Properties Ltd (“Redefine”)

and Grapnel Property Investments (Pty) Ltd “Grapnel”), in respect of the Property Letting Enterprise known as Ericsson

Building(“Target Property”). The reasons for approving the proposed transaction follow below.

Parties to the transaction

- [1] The primary acquiring firm is Redefine, a property loan stock company listed on the Johannesburg Stock Exchange. Redefine’s property portfolio comprises of a diversified range of properties which include office, retail and industrial space situated throughout the country.
- [2] The primary target firm is part of the Grapnel Property Group, and is a privately owned business which comprises of two core elements. One being a property investment company, and the other being a property services company. For purposes of the proposed transaction Grapnel’s ownership of the Target Property is relevant. The Target Property is an office building, although it also has a small retail component used for retail space and a gymnasium. The Target Property is located at Kelvin Drive in Woodlands, Gauteng.

Proposed transaction

- [3] Through a Sale Agreement, Redefine seeks to acquire the Target Property from Grapnel which includes, the property, buildings erected on the property, fixed assets, leases and all tenants deposits and guarantees from tenants. Such that post merger, Redefine will acquire sole control of the Target Property.

Relevant markets and impact on competition

- [4] The proposed transaction results in a horizontal overlap since both parties are active in the provision of rentable Grade A office space in the Woodmead node in the Gauteng Region. Redefine owns two Grade A offices in Woodmead, namely the Allhart Park and Accenture Woodmead. As such, there is a geographical overlap that arises from the proposed transaction.

[5] The Commission's findings was that the proposed transaction will not result in any competition concerns as the post-merger market shares of the Merging Parties will be less than 6%. Clearly showing that post merger the merged entity will face significant competition from competitors such as Growthpoint, Acucap and Investec amongst others.[1]

[6] In relation to the market for rentable retail space, the proposed transaction will not have a negative impact on the market, as

Redefine's rentable retail space Pro-Shop, in the Woodmead node is categorised as a neighbourhood centre, whilst the Target

Property's rentable retail property is categorised as a small free standing centre.[2]

[7] The Commission's approach here is formalistic and assumes the target premises have multiple tenants with weak bargaining power. However the most important fact in this merger is that there is a single tenant, Ericsson that rents the entire target property. The tenant has a lease until 2016. After that date we are told, there will have to be a re-negotiation. Given that the tenant rents the entire building it has sufficient bargaining power with the merged firm to prevent it from using its ownership of other properties in the area from exercising market power over it. The merger for this reason raises no competition concerns.

Public Interest

[8] The merging parties confirmed that the proposed transaction will have no adverse effect on employment[3] and the proposed transaction raises no other public interest concerns.

CONCLUSION

[9] We accordingly approve the transaction without conditions.

13 February 2014

DATE

Mr. Norman Manoin

Dr. Takalani Madima and Ms. Medi Mokuena concurring.

Tribunal Researcher: For the merging parties: For the Commission:

Caroline Sserufusa

Vani Chetty of Vani Chetty Competition Law Clementine Mahlangu

[1] See page 13 of the Commission's Report.

[2] See page 14 of the Commission's Report.

[3] See Merger record at pages 79-80.

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