



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM070Jul22

In the matter between:

Redefine Properties Limited

Acquiring Firm

and

Setso Property Fund (Pty) Ltd in respect of a One-third Undivided Share in Hertford Office Park

Target Firm

Panel : Imraan I. Valodia (Presiding Member)
: Yasmin Carrim (Tribunal Panel Member)
: Vilakazi Thando (Tribunal Panel Member)

Heard on : 17 August 2022

Order issued on : 17 August 2022

Reasons issued on : 30 August 2022

REASONS FOR DECISION

Approval

- [1] On 17 August 2022, the Competition Tribunal ("Tribunal") unconditionally approved the large merger wherein Redefine Properties Limited ("Redefine") intends to acquire a 33.33% undivided share in Hertford Office Park ("Target Property") from Setso Property Fund (Pty) Ltd ("Setso Property Fund"). Post-merger, the Target Property will be controlled by Redefine (33.33%), Tadvest Commercial (Pty) Ltd ("Tadvest") [REDACTED] and Sable Place Properties 106 (Pty) Ltd ("Sable Place") [REDACTED]

Parties to the transaction and their activities

Primary acquiring firm

- [2] The primary acquiring firm is Redefine Properties Limited¹ (“Redefine”), a public company incorporated in accordance with the laws of the Republic of South Africa.
- [3] Redefine controls several firms in South Africa which include the following: Madison Property Fund Managers Holdings Limited, Student Accommodation Operations (Pty) Ltd, Fountainhead Property Trust Management Limited, Annuity Properties Limited and S&J Land Investments (Pty) Ltd.
- [4] Redefine and all the firms, directly or indirectly, controlled by it are, hereafter, collectively referred to as the ‘Acquiring Group’.
- [5] The Acquiring Group is a property investment holding company which holds a property portfolio consisting of rentable office, retail, residential and industrial space situated throughout South Africa.

Primary target firm

- [6] The primary target firm is Setso Property Fund (Pty) Ltd (“Setso Property Fund”) in respect of a one third undivided share (33.33%) in Hertford Office Park (“Target Property”)².
- [7] The Target Property is jointly controlled by the following shareholders: Setso Property Fund (the Seller) (33.3%), Tadvest Commercial (Pty) Ltd (“Tadvest”) [REDACTED] and Sable Place Properties 106 (Pty) Ltd (“Sable Place”) [REDACTED]
- [8] The Target Property is an office property comprising of 51,840.43m² of rentable grade P office space. The Target Property is situated at No. 90 Bekker Road, Vorna Valley, Midrand, Gauteng Province.

Proposed transaction and rationale

Transaction

- [9] The proposed transaction involves the disposal of Setso Property Fund’s one third undivided share (33.33%) in the Target Property to the Acquiring Group. Post-merger, the Acquiring Group will hold 33.33% of the Target Property’s shares and will exercise joint control over the Target Property.

Rationale

¹ Redefine is not controlled by any single shareholder.

² The Target Property does not directly or indirectly control any firm.

- [10] The acquiring firm submits that the proposed transaction will complement the size and quality of Redefine's office portfolio. This will further advance Redefine's investment strategy in a more accretive asset portfolio through the alignment of prime and quality assets at attractive yields.
- [11] The target firm submits that the proposed transaction creates an opportunity for Setso Property Fund to dispose a [REDACTED] share in Hertford Office Park. This will enable the target firm to use the proceeds to strengthen its balance sheet by paying down debt in an environment where interest rates are rising.

Relevant market and impact on competition

- [12] The Competition Commission ("the Commission") considered the activities of the merging parties and found that the proposed transaction results in a horizontal product overlap as both parties own Grade P office properties.
- [13] The Commission found no evidence of a pre-existing relationship or vertical overlap arising as a result of the proposed transaction.
- [14] In respect of the geographic market, the Commission found that the Acquiring Group does not have any Grade P office spaces in Vorna Valley, Midrand, where the Target Property is situated.
- [15] As such, the Commission found that there is no geographic overlap between the merging parties' grade P offices as the Acquiring Group does not have any Grade P office spaces in Vorna Valley Midrand, where the Target Property is situated.
- [16] Based on the above, the Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in any market.
- [17] When assessing the proposed transaction, the Tribunal did not find any evidence suggesting that that the relevant market should be broader than the one defined above.

Relevant counterfactual

- [18] The Tribunal assessed the prospects for competition with the proposed transaction against the competitive status quo without the proposed transaction. Based on the above evidence, it concluded that there are no competitive concerns raised.
- [19] No third parties raised concerns regarding the effects of the proposed transaction on competition.
- [20] The Tribunal concludes that the proposed transaction is unlikely to substantially prevent or lessen competition in any market.

Public interest

Effect on employment

- [21] The Commission engaged with the merging parties who submitted that the proposed transaction will not give rise to any retrenchments in South Africa as the Seller does not have any employees at the Target Property.
- [22] We agree with the Commission's findings that the proposed transaction is unlikely to have a negative impact on employment in South Africa.

Effect on the spread of ownership

- [23] The proposed transaction results in the dilution of HDPs shareholding in Target Property by approximately [REDACTED]
- [24] The merging parties submitted that a reduction of HDP shareholders from [REDACTED] to [REDACTED] post-merger is unlikely to have a significant impact given that the Acquiring Group is listed on the JSE, and its shareholders include members who are historically disadvantaged persons, as defined in section 3(2) of the Competition Act.
- [25] The merging parties further submitted that the current board of the Acquiring Group is made of [REDACTED] directors and [REDACTED] of such directors are black. In addition, [REDACTED] of such directors comprise black women.
- [26] The Commission is of the view that the proposed transaction is unlikely to have a substantial negative impact on the promotion of a greater spread of ownership, particularly considering the Acquiring Group's empowered credentials.
- [27] The Commission found that the proposed transaction raised no further public interest concerns, and the Tribunal concurs.

Conclusion

- [28] Considering the above, The Tribunal conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. Accordingly, we approve the proposed transaction unconditionally.

Signed by: Imraan Valodia
Signed at: 2022-08-30 09:35:44 +02:00
Reason: Witnessing Imraan Valodia

Imraan Valodia

Prof. Imraan I. Valodia

30 August 2022
Date

Concurring: Ms Yasmin Carrim and Dr. Vilakazi Thando

Tribunal case manager	:	Baneng Naape
For the merging parties	:	Vani Chetty and Melinda Pianese of Vani Chetty Competition Law
For the Commission	:	Zanele Hadebe and Themba Mahlangu