



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 04/LM/Jan12

In the matter between:

VUKILE PROPERTY FUND LIMITED Acquiring Firm

And

SANLAM LIFE INSURANCE LIMITED
IN RESPECT OF CERTAIN RENTAL ENTERPRISES Target Firm

Panel : Andreas Wessels (Presiding Member)
Medi Mokuena (Tribunal Member)
Merle Holden (Tribunal Member)
Heard on : 22 February 2012
Order issued on : 22 February 2012
Reasons issued on : 12 March 2012

Reasons for Decision

Approval

1] On 22 February 2012 the Competition Tribunal ("Tribunal") approved the large merger involving Vukile Property Fund Limited and certain rental enterprises of Sanlam Life Insurance Limited. Our reasons for approving the transaction are set out below.

Parties to the transaction

- 2] The primary acquiring firm is Vukile Property Fund Limited (“Vukile”).¹ Vukile is not controlled by any firm; it is a public company incorporated in terms of the laws of the Republic of South Africa and listed on the Johannesburg Securities Exchange and the Namibian Stock Exchange. In South Africa it controls MICC Property Income Fund Limited and MICC Properties (Pty) Ltd and in Namibia it controls MICC Properties Namibia (Pty) Ltd.
- 3] Being a property fund, the acquiring firm owns retail, commercial and industrial properties throughout South Africa² and in Namibia.
- 4] The primary target firm is Sanlam Life Insurance Limited (“Sanlam Life”) in respect of certain rental enterprises. Sanlam Life is controlled by Sanlam Limited (“Sanlam”)³ which is not controlled by any particular person, juristic or otherwise. Sanlam lists the Public Investment Corporation Limited and Ubuntu-Botho Investments (Pty) Ltd as some of its major shareholders. Sanlam is the holding company within the Sanlam Group and controls a large number of companies.
- 5] The transferred properties comprise retail, office and industrial properties situated in Gauteng, KwaZulu-Natal, the Free State and the Western Cape.

Proposed transaction

- 6] In terms of the proposed transaction and as detailed in the Agreement for Sale and Purchase between the parties, Vukile intends to acquire from Sanlam Life several rental enterprises, comprising of properties, fixed assets, rights and obligations in respect of leases and operating contracts and all other assets necessary to operate the enterprises as going concerns (collectively referred to hereinafter as “the transferred

1 <http://www.vukileprops.co.za/>

2 Vukile owns properties in Limpopo, Gauteng, Mpumalanga, the North West Province, KwaZulu-Natal, the Western Cape, the Eastern Cape and the Free State.

3 http://www.sanlam.co.za/wps/wcm/connect/Sanlam_EN/sanlam/home

properties”).

Rationale for transaction

- 7] According to Vukile, this transaction is in line with its objective of building a quality portfolio of properties with strong contractual cash flows. Vukile also already manages the properties that will be acquired and therefore has a level of insight into the properties thereby lessening the risk involved in this acquisition.
- 8] This transaction provides Sanlam with an opportunity to dispose of the transferred properties.

Competition analysis

- 9] The Competition Commission (“Commission”) found that the activities of the merging parties overlap in that they both own office property in the broader Johannesburg, Midrand, Pretoria and Cape Town geographic areas.
- 10] The Commission went on to analyse the post-merger market shares of the merging parties in specific geographic areas on the basis of gross lettable areas and information obtained from the South African Property Owners Association (SAPOA). The Commission ultimately concluded that the post-merger market shares of the merging parties remain relatively low in all relevant markets and that the proposed transaction therefore raises no competition concerns from a horizontal perspective.
- 11] There is no reason for us to in this matter take a definitive view on the exact parameters of the relevant markets in question. We are satisfied that sufficient competition remains post-merger in any alternative relevant market in which there is an overlap between the activities of the merging parties.
- 12] There is also a vertical overlap in the activities of the merging parties arising from the fact that Vukile provides property management services to Sanlam Life. The Commission however found that Vukile managed the

transferred properties pre-merger and will continue to do so post-merger and that the vertical overlap therefore will not lead to any foreclosure concerns. We agree with this assessment.

13] In light of the above we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any of the relevant property markets affected by the proposed transaction.

Public interest

14] The merging parties confirmed that the proposed transaction will have no adverse effects on employment and will not result in any retrenchments or job losses.⁴ Furthermore, the proposed deal raises no other public interest concerns.

Conclusion

15] We find that the proposed merger is unlikely to lead to a substantial prevention or lessening of competition in any relevant market. Furthermore, the proposed transaction raises no public interest concerns. We therefore approve the proposed merger without conditions.

A Wessels

12 March 2012
DATE

M Mokuena and M Holden concurring

Tribunal researcher: Songezo Ralarala

For the merging parties: Andries le Grange of Cliffe Dekker Hofmeyr
Attorneys

For the Commission: Bheki Masilele and Lindiwe Khumalo

⁴ See, for example, page 11 of the record.