



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 55/LM/Aug10

In the matter between:

Resilient Properties (Pty) Ltd

Acquiring Firm

And

Ilanga Lifestyle Centre (Pty) Ltd

Target Firm

Panel : Andreas Wessels (Presiding Member)
Medi Mokuena (Tribunal Member)
Merle Holden (Tribunal Member)

Heard on : 29 September 2010

Order issued on : 29 September 2010

Reasons issued on : 08 October 2010

Reasons for Decision

Approval

[1] On 29 September 2010, the Competition Tribunal (“Tribunal”) unconditionally approved a merger between Resilient Properties (Pty) Ltd and Ilanga Lifestyle Centre (Pty) Ltd. The reasons for approving the transaction follow.

The parties and their activities

- [2] The primary acquiring firm is Resilient Properties (Pty) Ltd (“Resilient”), a property investment company incorporated under the company laws of the Republic of South Africa. Resilient is a wholly owned subsidiary of Resilient Property Income Fund Limited, a property income fund listed on the Johannesburg Securities Exchange Limited (JSE). Resilient is involved in the rental of properties in the retail space sector of the rental property market.
- [3] The primary target firm is Ilanga Lifestyle Centre (Pty) Ltd (“Ilanga”). Premerger Ilanga is a joint venture between The Visagie Beherende Trust, Laeveld Trust 2001 (Pty) Ltd and Resilient.¹ The only business conducted by Ilanga is its investment in Ilanga Mall. Ilanga Mall is a shopping centre, categorised as a minor regional centre, comprising 48 539 square metres of rentable retail space, situated in the Nelspruit Node in the Mpumalanga Province.

The proposed transaction

- [4] In terms of the proposed transaction Resilient will acquire from Ilanga a 50% undivided share in the business enterprise known as Ilanga Mall, which includes an undivided share of 50% in two other properties which are in the process of being consolidated into a single erf.²
- [5] Since there is a pre-existing relationship between the merging parties, Resilient will simultaneously transfer its pre-merger 25% indirect shareholding in Ilanga to the above-mentioned two other shareholders of Ilanga.

¹ Currently Resilient has a non-controlling share in Ilanga (see paragraph [5]).

² These are: Erf 2159 West Acres Extension 38 Township, Registration Division JT, Mpumalanga; and Erf 2160 Acres Extension 38 Township, Registration Division JT, Mpumalanga.

- [6] According to the merging parties Resilient and Ilanga will have joint control over Ilanga Mall following the implementation of the proposed transaction.

Rationale for the proposed transaction

- [7] Resilient wishes to change its pre-merger indirect shareholding in Ilanga Mall to a direct one and Ilanga wants to reduce its gearing by selling a 50% share in Ilanga Mall to Resilient.

Potential relevant markets and impact on competition

- [8] Resilient's only rentable retail space in Nelspruit is the Nelspruit Plaza which is classified as a community centre. Therefore, from a narrow market delineation perspective there is no overlap between the property portfolios of the merging parties since the Nelspruit Plaza is classified as a community centre and Ilanga Mall is classified as a minor regional centre.
- [9] On a possible broader definition of the relevant market, namely rentable retail space in the Nelspruit Node, the activities of the merging parties do overlap. However, Resilient will post merger have a market share of less than 15% (including the market share attributed to Ilanga Mall) in rentable retail space in the Nelspruit node.

Public interest

- [10] The merging parties indicated that all employees currently employed by Ilanga Mall will be retained after implementation of the proposed transaction. No other public interest issues arise from this merger.

Conclusion

[11] The proposed transaction is approved without conditions since it is unlikely to substantially prevent or lessen competition in any potential relevant market. Furthermore, the proposed transaction raises no public interest concerns.

08 October 2010

Andreas Wessels

DATE

Medi Mokuena and Merle Holden concurring

Tribunal Researcher : Mahashane Shabangu
For the merging parties : Vani Chetty of Vani Chetty Competition Law
For the Commission : Mogalane Matsimela of the Mergers &
Acquisitions Division