



competitiontribunal
SOUTH AFRICA

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM031May24

In the matter between:

ARZATOUCH (PTY) LTD

Acquiring Firm

and

EQUITES PROPERTY FUND LTD

Target Firm

Panel:	L Mncube (Presiding Member) M Mazwai (Tribunal Member) I Valodia (Tribunal Member)
Heard on:	12 June 2024
Order issued on:	12 June 2024
Reasons issued on:	2 July 2024

REASONS FOR DECISION

Approval

- [1] On 12 June 2024, the Competition Tribunal (“Tribunal”) unconditionally approved the large merger whereby Arzatouch (Pty) Ltd, will acquire a 50% undivided share held by Equites Property Fund Limited (“Equites”) in Amrod (the “Target Property”). Post-merger, the Target Property will be jointly controlled by the Arzatouch and Attacq Waterfall Investment Company (Pty) Ltd (“Attacq Investment”).

Parties to the transaction and their activities

Primary acquiring firm

- [2] Arzatouch is a special-purpose vehicle created specifically for this proposed transaction and does not have any commercial activities. Arzatouch is wholly owned by Emerging African Property Partners (Pty) Ltd (“EAPP”). EAPP is in turn jointly controlled by The Government Employees Pension Fund (“GEPF”).

75% and Emerging African Property Holdings (Pty) Ltd (“EAPH”) 25%. The South African Government owns GEPE. EAPH is owned by the following shareholders, none of whom have a controlling interest; Ms Nonkululeko Nyembezi (30.25%); Mr Maurice Mdlolo (27.28%); Ms Lynette Finlay (25.86%); Mr Mzamo Vilakazi (5.76%) and Ms Kgaogelo Mamabolo (10.85%). We will refer to all firms directly and indirectly controlled by Arzatouch, EAPP and EAPH as the “Acquiring Group”.

- [3] The Acquiring Group is active in several sectors including rental property, agriculture, financial services, manufacturing, renewable energy, transport and logistics. Of relevance to this merger assessment is the Acquiring Group’s light industrial property occupied by Barloworld South Africa and situated in Boksburg, Gauteng.

Primary target firm

- [4] The primary target firm is Equites 50% undivided share in the Target Property, Amrod. Equites is a Real Estate Investment Trust listed on the Johannesburg Stock Exchange.
- [5] Amrod is a logistics property classified as a large light industrial property, located at Old Pretoria Road and Beatty Road, Waterfall District, Midrand. It comprises 41,371.40 m² of industrial, warehousing and distribution space.

Proposed transaction and rationale

Transaction

- [6] According to the Sale Agreement concluded between the parties, Arzatouch, will acquire a 50% undivided share in the Target Property. Post-Merger, Arzatouch and Attacq Investments will jointly control, the Target Property.

Rationale

- [7] The proposed transaction presents an opportunity for the Acquiring Group to invest and gain exposure in the industrial property market in this area. The proposed transaction also aligns with GEPPF's investment mandate. For Equites, this is an opportunity to offload property. Equites is investing R1.3 billion in developing modern warehouse facilities in South Africa to meet the demand for A-grade, environmental social governance compliant spaces, with some of its funding coming from asset disposal.

Competition Assessment

- [8] Having considered the activities of the merging parties, we note that the proposed transaction raises a horizontal overlap, in that the merging parties overlap in the provision of rentable light industrial property.
- [9] In *DSV/Plumbago*¹ and *Waterfall Logistics/Cummings*², the Tribunal considered that the market for the provision of large light industrial property constituted a separate product market. We assessed the effects of the proposed merger in line with previous decisions.
- [10] The Tribunal has previously accepted that large light industrial properties such as retail distribution centres, vehicle parts centres and logistics parks are typically greenfield developments built to the specifications of a specific customer.³ Further, the Tribunal has previously accepted that customers seek out suitable large industrial properties where they are available or even build new facilities in locations where space and access to highways is available.⁴ This means that the availability of suitable land with access to highway networks typically informs the geographic scope, particularly for large format industrial properties such as the Target Property.

¹Plumbago Logistics Platform Proprietary Limited and DSV Real Estate Johannesburg Proprietary Limited in respect of the enterprise known as DSV Park ("DSV/Plumbago") Case number: LM069Sep21

²EA Waterfall Logistics JV Property Limited and Truzen 116 Trust in respect of an undivided half share of the property letting enterprise known as Cummins("Waterfall Logistics/Cummings"). Case number: LM058Jul20

³Capital Propfund (Pty) Ltd and Pick n Pay (Pty) Ltd on behalf of the immovable property known as "Erf 137 Longmeadow" Case number: LM024Jun23

⁴Emerging African Property Partners (Pty) Ltd and Lisaline Investment Holding (Pty) Ltd Case number: LM124Oct19

[11] The Commission noted that the distance between the Acquiring Group's large light industrial property is 45km. Given this, there are ample alternative large light industrial properties within Boksburg, Germiston, Kempton Park and Midrand.⁵

[12] No third party raised any competition concerns about this aspect of the proposed merger.

Conclusion

[13] In light of the above, we conclude that this proposed transaction is unlikely to result in a substantial prevention or lessening of competition.

Public interest

Employment

[14] According to the merging parties, the proposed transaction will not have any detrimental or negative effects on employment. Specifically, no retrenchments or job losses will occur due to the proposed transaction.

[15] The employee representatives of the merging party have confirmed that they have been notified of the proposed transaction. Both employee representatives do not have employees with the Target Property. The property management functions of Target Property are currently handled by Attacq Management Services Proprietary Limited and will remain so post-merger. Accordingly, there will be no retrenchments or job losses arising from the proposed transaction.

[16] Based on the above, we conclude that the proposed transaction is unlikely to have any adverse impact on employment.

⁵Silverstone Raceway (41 590 m²); Isando Business Park (54 479 m²); City Deep Industrial Park (56 693 m²); Isando DC (40 438 m²); RTT Group, Jet Park (46 673 m²); Wadestone Industrial Park, Germiston (70 000 m²); Hiltop Industrial Park, Germiston (76 283 m²); Growthpoint Business Park, Midrand (68 260 m²); Woolworths Distribution Centre, Midrand (72 000 m²); Super Group, Isando (80 000 m²); Dischem, Midrand (54 000 m²); Takealot, Midrand (40 000 m²); Simba, Germiston (40 428 m²); Value Logistics, Jet Park (75 000 m²); DCD Dorbyl Boksburg (45 182 m²); Isobar, Isando (40 438 m²); and Barloworld South Africa, Boksburg (39 437 m²).

Effect on the promotion of a greater spread of ownership to increase the levels of ownership by historically disadvantaged persons and workers in firms in the market

[17] Arzatouch has HDP ownership of approximately 52.35%. The Acquiring Group will contribute at least 9% HDP ownership. Post-merger, the Arzatouch will retain an indirect HDP ownership of approximately 22%. Despite the HDP dilution, the merger introduces the GEPF as the Acquiring Group's majority ultimate owner. According to the Commission, there are no further interventions required in the circumstances. We accept the Commission's explanation.

Other public interest considerations

[18] We received no evidence that the proposed merger raises other public interest considerations.

[19] No third parties, whether customers or competitors, expressed any public interest concerns about the proposed merger.

Conclusion

[20] We conclude that the proposed transaction does not raise any other public interest concerns.

Conclusion

[21] In light of the reasons outlined above, we conclude that the proposed transaction does not substantially lessen or prevent competition or raise public interest concerns. We therefore approve the proposed transaction, unconditionally.



Presiding Member

Prof. Liberty Mncube

Concurring: Ms Mondo Mazwai and Prof. Imraan Valodia

2 July 2024

Date

Tribunal case manager:

Moleboheng Mhiati

For the merging parties:

Vani Chetty

For the Commission:

Tumiso Loate and Wiri Gumbie