



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM212Oct17

In the matter between:

RMB Property Holdco 1 (Pty) Ltd

Primary Acquiring Firm

And

Celasys (Pty) Ltd

Primary Target Firm

Panel : Medi Mokuena (Presiding Member)
: Fiona Tregenna (Tribunal Member)
: Andiswa Ndoni (Tribunal Member)
Heard on : 08 November 2017
Order Issued on : 08 November 2017
Reasons Issued on : 06 December 2017

Reasons for Decision

Approval

- [1] On 08 November 2017, the Competition Tribunal ("Tribunal") unconditionally approved the transaction involving RMB Property Holdco 1 (Pty) Ltd and Celasys (Pty) Ltd
- [2] The reasons for approving the proposed transaction follows.

Parties to the proposed transaction

Primary acquiring firm

- [3] The primary acquiring firm is RMB Property Holdco 1 (Pty) Ltd ("RMBPH1"), a South African firm. RMBPH1 is controlled by RMB Investment and Advisory Proprietary Limited ("RMBIA"). RMBPH1, holds investments in various firms, none of which compete with the activities of the target firm.
- [4] RMBPH1 is a property investment holding company that holds investments in Capstone 453, Nomic 163, Micawbr 533 and Born Free Investment.¹

Primary target firms

- [5] The primary target firm is Celasys (Pty) Ltd ("Celasys"), a South African firm. Currently, Celasys is controlled by Eris (Pty) Ltd ("EPF").
- [6] The only assets that Celasys holds is the Makro building in Nelspruit, Mpumalanga province. The property is subject to a long-term triple net lease with Masstores Proprietary Limited.

Proposed transaction and rationale

- [7] The proposed transaction involves the acquisition of Celasys by RMBH1. RMBH1 will subscribe for 4900 new ordinary shares of R1.00 each in Celasys which will constitute 98% of Celasys' issued share capital. RMBPH1 will also subscribe for preference shares in Celasys for up to an additional R91 700 000, the proceeds of which will be utilised to settle an existing shareholders loan. Post transaction, RMBPH1 will hold the majority of the issued shares of approximately 98% in Celasys and will have control over Celasys.

¹ Please note that none of these firms own lettable warehouses retail property in the Nelspruit area which compete with the Makro building held by the target firm

- [8] The acquiring firm submits that the proposed transaction presents an attractive investment opportunity because the property is tenanted, and will continue to be tenanted. Celasys, submits that it is reaching the end of its planned fund life and is realising its investment in line with its original mandate

Impact on competition

- [9] The Competition Commission ("Commission") considered the activities of the merging parties and found that there is no overlap as RMBPH1, and its controllers, do not own any warehouse type retail properties in the Nelspruit area. Furthermore the Commission found that the target property only has a single tenant, Makro and that the target property is currently subject to a long term lease for a period of 15 years, with 14 years remaining. The Commission therefore concluded that the proposed merger is unlikely to lessen or prevent competition in any market as the merging parties do not overlap.

- [10] We concur with the Commission's finding.

Public interest

- [11] The merging parties confirmed that the proposed transaction will not have any negative effect on employment in South Africa.

- [12] The proposed transaction further raises no other public interest concerns.

Conclusion

- [13] In light of the above, we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market. In addition, no public interest issues arise from the proposed transaction. Accordingly, we approve the proposed transaction unconditionally.

M. Mokuena

06 December 2017

Mrs Medi Mokuena

DATE

Prof Fiona Tregenna and Ms Andiswa Ndoni concurring

Tribunal Case Manager : Ms Busisiwe Masina
For the merging parties : Mr Albert Aukema of Cliffe Dekker Hofmeyr
For the Commission : Ms Nolubabalo Myoli