



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM145Oct20

In the matter between:

**RMB Investments and Advisory (Pty) Ltd and
Redefine Properties Limited**

Primary Acquiring Firm(s)

and

**The Trustees for the time being of Truzen 89 Trust
in respect of the property letting enterprise known
as Mall of the South**

Primary Target Firm

Panel	: Yasmin Carrim (Presiding Member)
	: Fiona Tregenna (Tribunal Member)
	: Thando Vilakazi (Tribunal Member)
Heard on	: 25 November 2020
Order Issued on	: 25 November 2020
Reasons Issued on	: 10 December 2020

Reasons for Decision

Approval

- [1] On 25 November 2020, the Competition Tribunal ("Tribunal") approved the proposed transaction between RMB Investments and Advisory (Pty) Ltd and Redefine Properties Limited and the Trustees for the time being of Truzen 89 Trust in respect of the property letting enterprise known as Mall of the South.
- [2] The reasons for approving the proposed transaction follow.

Parties to proposed transaction

Primary acquiring firms

- [3] The first primary acquiring firm is RMB Investments and Advisory Proprietary Limited ("RMBIA"). RMBIA is an investment company incorporated in accordance with the company laws of the Republic of South Africa. RMBIA is a wholly owned subsidiary of FirstRand Investment Holdings Limited ("FirstRand Investment Holdings"). FirstRand Investment Holdings is controlled by FirstRand Limited ("FirstRand"), a public company listed on Johannesburg Securities Exchange ("JSE") and the Namibian Stock Exchange. FirstRand is not controlled by any firm or shareholder.
- [4] RMBIA is an investment company and its main business is the acquisition and holding of assets for investment purposes. [REDACTED]
[REDACTED]
[REDACTED]
- [5] The second primary firm is Redefine Properties Limited ("Redefine"), a Real Estate Investment Trust ("REIT") which is listed on the JSE and is not controlled by any firm or shareholder. Redefine controls numerous firms such as Alice Lane Trust, Annuity Asset Managers (Pty) Ltd, and Annuity Properties Limited.
- [6] Redefine's property portfolio comprises a diverse range of properties comprising office, retail, residential and industrial space situated throughout South Africa.

Primary target firm

- [7] The primary target firm is the Trustees for the time being of Truzen 89 Trust ("Truzen Trust") in respect of the property letting enterprise known as Mall of the South ("Target Property"). The Target Property is a regional centre comprising of 72 070m² of gross lettable area ("GLA") and is situated on the corner of Swartkoppies Road and Kliprivier Drive, Aspen Lakes Extension 12, in the Gauteng Province.

- [8] [REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

Proposed transaction and rationale

[9] In terms of the proposed transaction, RMBIA, Redefine, and the Truzen Trust have entered into a Sale of Enterprise Agreement ("Sale Agreement") and agreed to incorporate a new company ("Propco SPV") with the intention that Propco SPV will acquire the property letting enterprise known as Mall of the South together with the fixed assets and the property upon which it is located ("Enterprise") from Truzen Trust. This transaction shall be referred to as the "Enterprise Transaction".

[10] The parties had initially anticipated that they would have to exercise a PUT Option Arrangement but later confirmed that they only wanted approval for the Enterprise Transaction.¹

[11] Upon implementation of the proposed transaction, the shares in Propco SPV will be held by RMBIA (80%) and Redefine (20%). Both RMBIA and Redefine will exercise joint control over Propco SPV and the Mall of the South.

[12] [REDACTED]
[REDACTED]
[REDACTED]

[13] [REDACTED]
[REDACTED]

[14] [REDACTED]
[REDACTED]
[REDACTED]

Impact on competition

[15] The Commission considered the activities of the merging parties and found that the proposed transaction results in a horizontal overlap in the market for rentable retail

[REDACTED]

[REDACTED]

space in regional and comparative centres at Aspen Lakes Extension 12, Gauteng. The overlap arises due to Redefine's ownership of three comparative retail centres within a 25km radius of the Target Property at Aspen Lakes Extension 12.²

- [16] In terms of the market shares, the Commission submitted that post-merger, the merged entity will have an estimated market share of 13.90% with an accretion of 4.60%.³ Further, the Commission submitted that the merged entity will continue to face competition from numerous competing retail properties which are owned by Momentum Metropolitan, JH Group, Hyprop Investments Limited & Ellerin Bros, One Property Holdings and Vukile Property Fund Limited.
- [17] In light of the above, the Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition within the relevant market.

Public interest

- [18] The merging parties confirmed that there will be no retrenchments or job losses arising from the transaction. All employees employed by Truzen Trust in respect of the Mall of the South, will be transferred to Propco SPV in terms of Section 197 of the Labour Relations Act.
- [19] The proposed transaction raises no other public interest concerns.

Conclusion

- [20] In light of the above, we concluded 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 approved the proposed transaction unconditionally.

² Please see Table 1 page 81-83 of the Competitive Report

³ Please see Table 3 page 14 of the CC recommendation

Yasmin Tayob Carrim

Ms. Yasmin Carrim

10 December 2020
DATE

Prof Fiona Tregenna and Dr Thando Vilakazi concurring

Tribunal Researcher:	Busisiwe Masina
For the merging parties:	Vani Chetty of Vani Chetty Competition Law (Pty) Ltd.
For the Commission:	Nonhlanhla Msiza

