

COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: 118/LM/Nov08

In the matter between:

ABSA Bank Limited

Acquiring Firm

And

Abseq Properties (Pty) Ltd

and

Equity Estates (Pty) Ltd

Target Firm

Panel : D Lewis (Presiding Member), N Manoim (Tribunal Member),
and Y Carrim (Tribunal Member)

Heard on : 3 December 2008

Order Issued : 3 December 2008

Reasons Issued: 3 December 2008

Reasons for Decision

Approval

[1] On 3 December 2008, the Tribunal unconditionally approved the merger between ABSA Bank Limited and Abseq Properties (Pty) Ltd and Equity Estates (Pty) Ltd. The reasons for approving the transaction follow.

The parties

[2] The primary acquiring firm is ABSA Bank Limited ("ABSA Bank"), a public company incorporated under the laws of the Republic of South Africa. ABSA Bank is a wholly owned subsidiary of ABSA Group Limited ("ABSA Group"), which in turn is controlled by Barclays Plc ("Barclays"), a public company listed on the London, Tokyo, and New York stock exchanges. Barclays controls several subsidiaries worldwide. In South Africa, Barclays does not control any other firm except ABSA Bank. ABSA Bank controls various subsidiaries.¹

¹ The firms controlled by ABSA Bank include ABSA Mortgage Fund Managers (Pty) Ltd, ABSA Brokers (Pty) Ltd, ABSA Stockbrokers (Pty) Ltd, ABSA Portfolio Managers (Pty) Ltd, Meeg Bank Limited, ABSA Development Company Holding (Pty) Ltd, and Property 24 (Pty) Ltd.

- [3] The primary target firms are Abseq Properties (Pty) Ltd (“Abseq”) and Equity Estates (Pty) Ltd (“Equity Estates”) in respect of its office property known as the Illovo Corner Property situated in Illovo.
- [4] Abseq is jointly controlled by ABSA Bank (with 50% shareholding), The Pajan Family Share Trust (with 29% shareholding), Equity Estates (Pty) Ltd (with 10% shareholding), The Richardson Family Share Trust (with a 7% shareholding), and The Regency Trust (with a 4% shareholding).
- [5] Abseq controls various firms.²
- [6] The Illovo Corner Property is owned by Equity Estates. Equity Estates has three shareholders namely The Pajan Family Share Trust (with a 60% shareholding), The Richardson Family Share Trust (with a 20% shareholding), and the Regency Trust (with a 20% shareholding).
- [7] The Pajan Family Share Trust, the Equity Estates, the Richardson Family Share Trust and the Regency Trust do not control any other firm.

Description of the transaction

- [8] The proposed transaction consists of two stages, which are interlinked and conditionally depend upon each other.³ In terms of the first stage, ABSA Bank will increase its existing 50% shareholding in Abseq to 85%. On completion of this stage, ABSA Bank will have sole control over Abseq.
- [9] In terms of the second stage, ABSA Bank will acquire from Equity Estates the Illovo Corner Property, a grade A office property situated in Illovo, Johannesburg.

Rationale for the transaction

- [10] The acquiring firm submitted that the proposed transaction forms part of a wider strategy to secure returns on a suitable basis from investments in the property market.

² The firms controlled by Abseq are Ferns Investments (Pty) Ltd, High Properties Houghton (Pty) Ltd, Kilkishen Investments (Pty) Ltd, and Stand 1135 (Pty) Ltd.

³ The Commission has submitted that there are two separate transactions which have been notified as intermediate mergers currently pending before the Commission under case numbers 2008Oct4075 and 2008Nov4094. In those transactions ABSA intends to acquire control over Ngwenya River Estate (Pty) Ltd and Cherry Vanilla Investments (Pty) Ltd.

[11] Abseq submits that the proposed transaction forms part of a wider strategy to develop and grow its asset base over a period two to three years.

[12] Equity Estates submitted that the proposed transaction forms part of a wider strategy to secure returns on a suitable basis from investments in the property sector.

The parties' activities

Primary acquiring group

ABSA Bank

[13] ABSA Bank is active within the personal banking, corporate banking, wholesale banking, financial services and insurance segments. ABSA Bank also invests in office, retail and residential properties.

The primary target firms

Abseq

[14] Abseq is involved in property investment and development. It owns office, industrial and retail properties.

The Illovo Corner Property

[15] The Illovo Corner Property is a grade A office property situated in Illovo.

Competition analysis

[16] The only area of overlap in the activities of the parties is in respect of grade A office property in the Houghton node. ABSA Bank owns a grade A office property situated at 1 River Street, in Houghton, Johannesburg. Abseq owns grade A office space situated at 19, 21, 29 and 31 West Street, and 6-10 River Road, in Houghton. However, this overlap is unlikely to substantially prevent or lessen competition as ABSA Bank currently exercises joint control over Abseq and is acquiring sole control in Abseq. Thus there is no change in the market structure.

[17] There is no overlap between the properties owned by ABSA Bank and the Illovo Corner Property.

Public Interest

[18] There are no public interest issues.

Conclusion

[19] The merger is approved unconditionally.

D Lewis
Tribunal Member

3 December 2008

DATE

N Manoim and Y Carrim concur in the judgment of D Lewis

Tribunal Researcher : R Kariga

For the merging parties: ABSA Legal – Office of the General Counsel.

For the Commission : M Mohlala (Mergers and Acquisitions)