

NON-CONFIDENTIAL



COMPETITION TRIBUNAL OF SOUTH AFRICA

Case No: LM189Jan17

In the matter between:

JR209 INVESTMENTS (PTY) LTD.

Acquiring Firm

and

**ZENDAI DEVELOPMENT (SOUTH AFRICA) (PTY) LTD,
ZENDAI INVESTMENT MANAGEMENT (SOUTH AFRICA) (PTY) LTD
and ZENDAI CAPITAL (PTY) LTD.**

Target Firms

Panel	: Norman Manoim (Presiding Member)
	: Yasmin Carrim (Tribunal Member)
	: Andiswa Ndoni (Tribunal Member)
Heard on	: 22 February 2017
Order Issued on	: 22 February 2017
Reasons Issued on	: 03 March 2017

Reasons for Decision

Approval

[1] On 22 February 2017, the Competition Tribunal ("Tribunal") unconditionally approved the proposed transaction between JR 209 Investments (Pty) Ltd ("JR 209") and Zendai Development (South Africa) (Pty) Ltd ("Zendai Development"), Zendai Investment Management (South Africa) (Pty) Ltd ("Zendai Investment Management") and Zendai Capital (Pty) Ltd ("Zendai Capital").

[2] The reasons for approving the proposed transaction follow.

Parties to the Proposed Transaction

Primary Acquiring Firm

- [3] The primary acquiring firm is JR 209, a company incorporated in accordance with the laws of the Republic of South Africa, controlled by M&T Holdings (Pty) Ltd ("M&T"). M&T also controls M&T Development (Pty) Ltd, Codex Utilities (Pty) Ltd, and Centurion Vision. M&T is an investment holding company controlled by the Tsai Trust.¹
- [4] The Tsai Trust also controls Erf 87 Erasmuskloof Ext 3 (Pty) Ltd. JR 209 controls Elastisign Investments (Pty) Ltd and M&T Residential Fund (Pty) Ltd. The Tsai Trust, M&T and all its subsidiaries, including JR 209, are referred to as the "Acquiring Group".
- [5] The Acquiring Group is engaged in property development and investment focusing on industrial, commercial, retail and residential properties. It owns a portfolio of [REDACTED] immovable properties and vacant lands. Most relevant to the proposed transaction before the Tribunal are the Acquiring Group's industrial, commercial, retail and residential properties located in Gauteng.

Primary Target Firms

- [6] The primary target firms are Zendai Development, Zendai Investment Management and Zendai Capital ("the Target Firms"). The Target Firms are all companies incorporated in accordance with the laws of the Republic of South Africa and are controlled by Zendai (South Africa) (Pty) Ltd ("Zendai SA").
- [7] Zendai SA is controlled in China by Shanghai Zendai Property Limited ("Shanghai Zendai"). The Target Firms and all of their subsidiaries² are collectively referred to as the "Target Group".

¹ The current trustees of the Tsai Trust are Iren Margaret Tsai, Steven Martin Tsai, Tony Bruce Tsai, Michael Thompson Tsai and Andrew Berdt Lowe.

² Zendai Development controls Zendai Residential (Pty) Ltd.

- [8] The Target firms own in excess of 150 properties and are engaged in property development. The properties are not yet developed but are zoned as industrial, commercial, retail and residential properties.

Proposed Transaction and Rationale

- [9] JR 209 intends to acquire all of the issued shares in the Target Firms. Post transaction JR 209 will exercise sole control over the Target Firms.
- [10] In terms of the rationale, JR 209 submits that the proposed transaction represents an opportunity for the Acquiring Group to expand into new geographic markets in which it is not currently active. Zendai SA submits that it wishes to dispose of the Target Firms due to, *inter alia*, the depreciating value of the Rand, the uncertain state of the South African economic and political environment and a shift in business focus resulting from a change in the Shanghai Zendai shareholding structure.

Impact on Competition

- [11] The Commission considered the activities of the merging parties prior to the proposed transaction and found that the Acquiring Group is engaged in the development and renting out of residential, commercial, industrial and retail properties. The Target Group owns a number of properties that are not fully developed, with only one property in an advanced stage of development (the Longlake property). The target properties, however, are zoned for retail, office, industrial and residential purposes.
- [12] The Commission therefore found that the proposed transaction results in a horizontal overlap in the provision of rentable space in retail, office, industrial and residential property.
- [13] However, the proposed transaction is unlikely to substantially prevent or lessen competition for two reasons. Firstly, none of the target properties are yet fully

developed and as such are not considered to be competitors in the relevant market at the time of the transaction.

[14] Secondly, even when the properties are fully developed, none of the Acquiring Group's properties are located within a 20 km radius of the Target Group's properties. The Acquiring Groups' properties are located in Centurion, Midrand, Olifantsfontein, Pretoria North and Pretoria, whereas the Target Group's properties are located in Klipfontein, Zuurfontein, Modderfontein, Longmeadow, Longlake, Founders Hill and Linbro Park. Therefore, there is no geographic overlap in the activities of the merging parties.

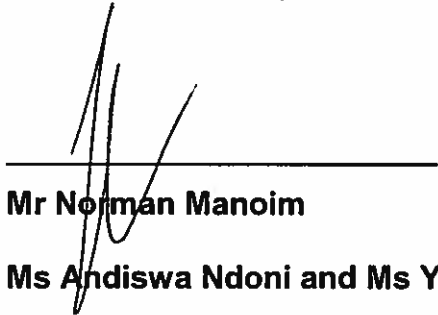
Public Interest

[15] The merging parties submit that the proposed transaction will have no negative effect on employment as no job losses or retrenchments are envisaged.

[16] The Commission was of the view that the proposed transaction is unlikely to raise concerns on any other public interest grounds.

Conclusion

[17] In light of the above, we conclude that the proposed transaction is unlikely to substantially prevent or lessen competition in any relevant market or raise any adverse public interest issues. Accordingly, we approve the proposed transaction unconditionally.



Mr Norman Manoim

03 March 2017

Date

Ms Andiswa Ndoni and Ms Yasmin Carrim concurring

Tribunal Researcher: Hayley Lyle

For the merging parties: Derushka Chetty and Wade Graaf of ENS Africa

For the Commission: Zintle Siyo