

Legal Commentary

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The Arrival of the Web3 Era: Taking stock of HK Court Decisions Relating to Digital Assets

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With the rapid development of fintech, investment and trading in digital assets has become increasingly popular. As an international financial centre, Hong Kong has not only established responsive regulatory frameworks in relation to digital assets, its jurisprudence has also evolved in step with emerging technologies and we have seen legal principles applied to cryptocurrency-related disputes and attempts made to freeze digital assets using innovative methods. These measures enhance investor protection and foster confidence in the digital asset market, and enhance investors' willingness to adopt Hong Kong law as the governing law for transactions involving digital assets. This article serves to introduce and take stock of recent judicial decisions relating to digital assets.

Starting point: Cryptocurrency is recognised as 'property' in Hong Kong

In *Re Gatecoin Limited* [2023] 2 HKLRD 1079, [2023] HKCFI 914¹, the Court of First Instance held that cryptocurrency is property under Hong Kong law and is capable of being held on trust.

The court followed the New Zealand court decision of *Ruscoe v Cryptopia* [2020] NZHC 728 and concluded that cryptocurrency satisfies the four criteria for "property" as explained in *National Provincial Bank v Ainsworth* [1965] AC 1175. In short, cryptocurrency is a type of intangible property that is:

- (1) Definable: The public key allocated to a cryptocurrency wallet is readily identifiable, sufficiently distinct and capable of being allocated uniquely to an individual account holder.
- (2) Identifiable by third parties: Only the holder of a private key is able to access and transfer the cryptocurrency from one wallet to another.
- (3) Capable of assumption by third parties: It can be and is the subject of active trading markets where the rights of the owner in that property are respected, and it is potentially desirable to third parties such that they want themselves to obtain ownership of it.
- (4) Of some degree of permanence or stability: The entire life history of a cryptocurrency is available in the blockchain [at paras.57 & 59].

¹ See Decision at https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=151622&currpage=T.

This decision aligns the position of Hong Kong with that of other common law jurisdictions, recognising the proprietary nature of cryptocurrencies as legal property.

The terms and conditions of the cryptocurrency exchange matter

In determining whether a cryptocurrency exchange holds the cryptocurrencies on trust for its customers, the court looked at the terms and conditions between the exchange and its customers, and the way the exchange operates (including how it deals with the cryptocurrencies).

As an example, in *Re Gatecoin Limited*, the latest terms and conditions of Gatecoin were found to contain no express declaration of trust, and expressly disclaim any fiduciary relationship between Gatecoin and its customers. The terms and conditions further provide that the cryptocurrencies may be stored in pooled blockchain assets accounts or omnibus fiat accounts (i.e. they are not segregated) [at para.42]. The cryptocurrencies deposited by the customers were indeed treated as Gatecoin’s assets and Gatecoin was able to use the cryptocurrencies kept in the wallets it controlled in the way it saw fit, including for the purpose of carrying on trades in its own right. In Gatecoin’s audited financial statements, the cryptocurrencies held by Gatecoin were treated as its assets while the “customer deposits” were treated as liabilities [at para.43].

In light of the above, the court ruled that pursuant to the latest terms and conditions, Gatecoin held the cryptocurrencies in its own right and did not hold the same on trust for its customers. In other words, when the exchange is wound up, the customers who accepted the latest terms and conditions would be treated as unsecured creditors, and their “deposits” would be regarded as the exchange’s assets, which would be realised in the liquidation process.

Interlocutory proprietary injunctions can be made against cryptocurrency assets

In recent years, Hong Kong courts have granted interlocutory proprietary injunctions in relation to cryptocurrency assets, see for example [Nico Constantijn Antonius Samara v Stive Jean-Paul Dan \[2021\] HKCFI 1078](#)² (proprietary injunction restraining the defendant from disposing of his assets, including Bitcoins) and [Yan Yu Ying v Leung Wong Hei \[2021\] HKCFI 3160](#)³ (proprietary injunction restraining the defendant from dealing with the subject Bitcoins). These decisions confirm that Hong Kong courts can prevent cryptocurrency holders from transferring cryptocurrency out of their wallets or otherwise dealing with cryptocurrency without the court’s consent.

Tokenised injunction orders allowed

In *Worldwide A-Plus Investment Ltd v A-Plus Meta Technology Ltd* (HCA 2417/2024), the Court of First Instance allowed for the first time the use of blockchain technology in serving a tokenised injunction order, prohibiting the transfer of funds from two crypto wallets involving a fraud of over \$2.6 million in Tether

² See Reasons for Decision at https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=135241&QS=%2B%7C%28HCA%2C902%2F2018%29&TP=JU.

³ See Decision at https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=139582&currpage=T.

USDT.

A tokenised injunction order overcomes the limits of the traditional method of serving an injunction order (which requires a copy of the order to be served personally with the requisite penal notice indorsed thereon) by allowing the service of court documents on anonymous crypto wallets holders (in that case directly onto the Tron Blockchain). Once an injunction order is tokenised, anyone who intends to perform transactions with the wallets concerned would see the injunction order stored on the blockchain, preventing one from claiming ignorance as a defence.

This decision shows that Hong Kong's legal system is adapting to digital assets and blockchain technology, and sets a precedent for the use of tokenised injunction orders.

Bankers Trust order made possible against crypto exchange platforms

In *Wang Weiqing v Zhuo Yihao & Others* [2025] HKCFI 4941⁴, the court held that a Bankers Trust order can be invoked to compel a digital asset exchange platform to provide relevant account information and transaction details to enable the plaintiff to trace his stolen assets.

In that case, the court set aside a proprietary injunction against a hot wallet of a cryptocurrency exchange platform which purportedly contained the stolen assets. The plaintiff failed to make full and frank disclosure under an *ex parte* application about the possible defences of the exchange by reasons of the nature of the hot wallet and the pre-injunction correspondence between the parties.

Although the plaintiff was unable to make an application on the basis of an ancillary disclosure order as the proprietary injunction was discharged, the court accepted and allowed the plaintiff to invoke the Bankers Trust order, requiring the exchange to supply the relevant information for him to trace the stolen cryptocurrencies.

This decision demonstrates that the Hong Kong court has decided to follow the English court approach (which made a Bankers Trust order compelling Binance (a cryptocurrency exchange platform) to make disclosure in *Ion Science Ltd v Persons Unknown* [2020] EWHC 3688 (Comm)) in issuing Bankers Trust orders against cryptocurrency exchanges to assist the victims in tracing digital assets.

Conclusion and expected trends

The Hong Kong courts have made a series of milestone decisions in recognising cryptocurrencies as property, pioneering the use of tokenised injunction orders to freeze digital assets involving fraud, and utilising Bankers Trust orders to compel cryptocurrency exchanges to disclose account information and transaction records of crypto wallets containing stolen assets to assist the victims in following and recovering their assets.

These developments have significantly strengthened the protection for digital asset investors in Hong Kong and have fostered investors' confidence, reinforcing Hong Kong's position as an international financial

⁴ See Decision at https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=173524&currpage=T.

centre.

The Financial Services and the Treasury Bureau of Hong Kong previously announced its goal of positioning Hong Kong as a world leader in the development of virtual assets and fostering the sustainable development of an international virtual asset industry⁵. The Government further issued Policy Statement 2.0 on the Development of Digital Assets in Hong Kong in June 2025, setting out a vision for a trusted and innovative digital asset ecosystem that prioritises risk management and investor protection. The statement introduces the framework which focuses on establishing a comprehensive and unified regulatory framework for digital asset service providers, and expanding the suite of tokenised products etc.

We are optimistic that Hong Kong will continue to build a more comprehensive legal framework in the protection of cryptocurrency assets. We also expect to see more disputes involving cryptocurrency assets in court litigation and arbitration, and the Hong Kong courts continuing to refine legal tools and apply them in the context of digital assets.

For the regulatory framework in relation to digital assets in Hong Kong, please refer to “[从虚拟资产到数字资产,《香港宣言 2.0》的变与不变](#)”. Also check out “[Key Takeaways from Notice No.42: New Regulatory Measures on Virtual Currencies in the Chinese Mainland](#)” and “[峰回路转,柳暗花明 — 现实世界资产 \(RWA\) 代币化新规解读](#)” for the regulatory framework relating to virtual currencies and real world assets (RWA) in the PRC.

In case of any questions or inquiries, please contact Adrian Yip, Rio Li or Sam Wong of Dispute Resolution Team of Han Kun Law Offices LLP.

⁵ Financial Services and the Treasury Bureau, *Hong Kong Court Granted First “Tokenised Injunction Order”, Setting Legal Precedent in Virtual Asset Sector*
<https://www.facebook.com/100064860394243/posts/1038215571683780/?mibextid=WC7FNe&rid=HW0LcDAq0hDQKAFB>.

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