Constructive and resulting trusts

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Trusts arising by operation of law are the subject of Chapter IV, where they appear as remedies for fraud and mistake. One point belongs here. *ByBit* declared an institutional constructive trust that arose at the moment of the fraud, with the result that the exchange was "the legal and beneficial owner" of the USDT throughout and the thief never acquired any beneficial interest.[1] The court did not need to decide whether a remedial constructive trust, imposed by the court at its discretion, is available in Singapore law. English law rejects the remedial constructive trust. Singapore's Court of Appeal has been more open to it in principle but has rarely imposed one.[2] For a victim of crypto fraud the institutional trust is in any event the better claim, because it arises automatically and allows tracing from the moment of the wrong.

Notes

1. *ByBit* [2023] SGHC 199 at [42]–[44]. ↩
2. *Wee Chiaw Sek Anna v Ng Li-Ann Genevieve* [2013] SGCA 36 at [169]–[182], discussing the remedial constructive trust in Singapore law. ↩

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