The Law Commission's third category and whether Singapore follows

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The Law Commission of England and Wales published its final report on digital assets on 28 June 2023 and a supplemental report with a draft Bill on 30 July 2024. Its central recommendation was that the common law should be confirmed as recognising a third category of personal property, distinct from things in possession and things in action. Legislation should remove any doubt that a thing can be an object of property rights even though it falls into neither traditional class.[1] That recommendation was enacted in the United Kingdom as the Property (Digital Assets etc) Act 2025. The Act is a single-section statute that does exactly what the draft Bill proposed and leaves the courts to work out which assets qualify.[2]

Singapore has taken a different path and has done so deliberately. Jeyaretnam J was aware of the English debate when he decided *ByBit*. He chose to locate crypto assets inside the existing category of things in action, reasoning that the category has never been closed and that forcing a tertium quid on the law was unnecessary.[3] No Singapore statute has intervened, and as of 30 June 2026 the Singapore Academy of Law's law reform work has not produced a legislative proposal on the point.

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Does the difference matter? For most purposes it does not, because whether a token is a thing in action or a member of a third category, it can be owned, held on trust, traced, frozen and bequeathed. Two differences are nonetheless real, of which the first concerns the rules that attach specifically to things in action. The most prominent is s 4(8) of the Civil Law Act 1909, which requires a legal assignment of a chose in action to be in writing and notified to the debtor. If a token is a thing in action with no debtor, there is nobody to notify. The Singapore courts have not yet had to decide whether an on-chain transfer is a legal assignment, an equitable assignment or a sui generis mode of transfer.[4] The sensible working assumption, consistent with *ByBit*, is that the on-chain transfer itself moves title. Section 4(8) is simply inapplicable because there is no debtor whose position the notice requirement protects. The second difference concerns persuasive authority, because English decisions after the 2025 Act will reason from a statutory third category and Singapore courts citing them will have to translate.

Cross-border perspective

Swiss law has never doubted that a crypto asset can be the object of legal relations. It has refused to call it a thing (Sache) under Art. 641 ff. of the Civil Code (CC; ZGB) and treats pure payment tokens as data over which the holder exercises a "factual power of disposal" (Part D, Chapter I). The Swiss response to the resulting gaps was legislative, with the ledger-based security of Art. 973d ff. CO for tokens that embody claims and Art. 242a DEBA for segregation in bankruptcy. Singapore has filled the same gaps judicially by treating the token as a thing in action. For a group holding assets in both places the practical difference is this. A claim to tokens held by a bankrupt Swiss custodian is made under Art. 242a DEBA and succeeds if the tokens were allocated to the customer individually or held collectively and readily attributable. The same claim against a Singapore liquidator succeeds only if the customer can show a trust, which depends on the terms of service and on the segregation practice of the platform (Chapters II and V). Where the client can choose which entity holds the assets, that difference should weigh in the choice.

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Notes

1. Law Commission, *Digital Assets: Final Report* (28 June 2023). Law Commission, *Digital Assets as Personal Property: Supplemental Report and Draft Bill* (30 July 2024). ↩
2. Property (Digital Assets etc) Act 2025 (UK), s 1. ↩
3. *ByBit* [2023] SGHC 199 at [34]–[36]. ↩
4. Civil Law Act 1909, s 4(8) (absolute assignment by writing of any debt or other legal thing in action). The point has not been decided in Singapore. ↩

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