# The property foundation

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Every proprietary remedy depends on the asset being property. The Singapore position developed in three steps. In *Quoine v B2C2* the Court of Appeal observed, without deciding, that there was much to commend the view that cryptocurrencies satisfy the classic definition of property. In *CLM v CLN* Lee Seiu Kin J held, at the interlocutory stage, that the claimant had a seriously arguable case that stolen BTC and ETH were property. He applied the four criteria of *National Provincial Bank v Ainsworth*: definable, identifiable by third parties, capable in nature of assumption by third parties, and having some degree of permanence or stability.[1] In *Janesh* the same judge applied the criteria to a Bored Ape non-fungible token, again on an urgent ex parte basis, and found them met.[2]

The third step came in *ByBit*, where Philip Jeyaretnam J decided the point at summary judgment. USDT is property and, more specifically, a chose in action, defined as an incorporeal right of property recognisable by the common law as a thing in action. The judge rejected the argument that the stablecoin's status depended on the contractual redemption right against Tether, which is at most an additional thing in action. He also drew attention to the fact that the Rules of Court 2021 themselves name cryptocurrency as a form of property that an enforcement order may reach.[3] Part J, Chapter I examines the doctrinal debate about whether a token is a thing in action or a third category of personal property. For the recovery lawyer the debate is settled enough. Singapore courts will grant proprietary relief over tokens, so a defendant who argues otherwise at the interlocutory stage will lose.

## Notes

1. CLM v CLN [2022] SGHC 46 at [39]–[46], applying the Ainsworth criteria and drawing on Ruscoe v Cryptopia and the Court of Appeal's observations in Quoine.
2. Janesh s/o Rajkumar v Unknown Person [2022] SGHC 264 at [58] and [69]–[72].
3. ByBit Fintech Ltd v Ho Kai Xin [2023] SGHC 199 at [4], [30], [33]–[36] and [39].

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