Where contract ends

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Contract governs the relationship between a platform and its customer. Chapter III has shown how far the terms decide what the customer may expect. Tort matters where contract does not reach. Four situations arise in practice. The customer's assets are lost through a hack, after which the customer wishes to sue the custodian in negligence to escape a limitation clause or because the contracting entity is empty. A third party with no contract, such as a user of a decentralised protocol, loses assets through a defect in software written by identifiable developers. A professional, such as a smart-contract auditor or a valuation agent, gives negligent advice on which others rely. Or an employee of a platform defrauds its customers and the question is whether the platform is vicariously liable. Singapore law has not yet produced a reported judgment on any of these in a crypto context. The applicable principles are nonetheless clear enough to advise on, because Singapore's law of negligence is settled and has features that differ from English law in ways that matter here.

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