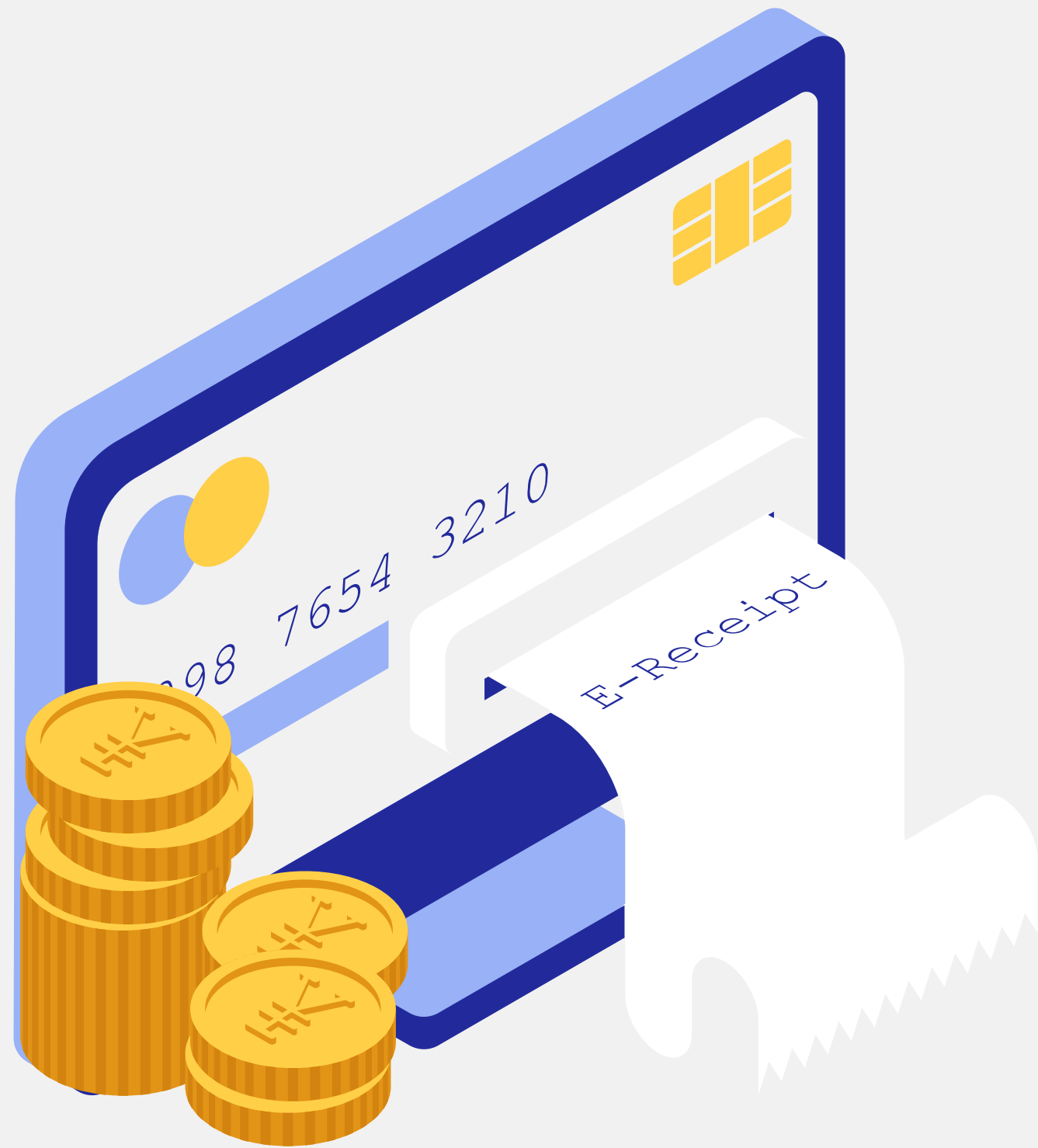


Predicting how the Courts will deal with this new frontier

How are digital assets divided during divorce?

Comparative analysis between Singapore and Australia



How are digital assets divided during divorce?

Singapore

Roadmap



Step 1

What are digital assets?

Definitions

Step 2

Are digital assets matrimonial assets?

Division during matrimonial proceedings

Step 3

Valuation of digital assets

Volatile values

Step 4

Hidden digital assets/ Creating a digital inventory

How to "discover" such assets

Step 5

Other considerations

Factors the Court will look at

What are digital assets?



Digital Assets

What are digital assets?



- no specific statutory definition of digital assets in Singapore yet
- closest statutory definition is a “digital payment token” as defined in the Payment Services Act 2019

Payment Services (PS) Act

<https://www.mas.gov.sg/regulation/acts/payment-services-act>



- a forward looking and flexible framework for the regulation of payment systems and payment service providers in Singapore.
- It provides for regulatory certainty and consumer safeguards, while encouraging innovation and growth of payment services and FinTech.
- Parliament passed the PS Act on 14 January 2019.

"digital payment token"

as defined in the Payment Services Act 2019



Interpretation

2.—(1) In this Act, unless the context otherwise requires —

...

“digital payment token” means any digital representation of value (other than an excluded digital representation of value) that —

- (a) is expressed as a unit;
- (b) is not denominated in any currency, and is not pegged by its issuer to any currency;
- (c) is, or is intended to be, a medium of exchange accepted by the public, or a section of the public, as payment for goods or services or for the discharge of a debt;
- (d) can be transferred, stored or traded electronically; and
- (e) satisfies such other characteristics as the Authority may prescribe;

"digital payment token"

as defined by Inland Revenue Authority of Singapore (IRAS)



A digital payment token refers to any cryptographically-secured digital representation of value that is used or intended to be used as a medium of exchange.

"digital payment token"

as defined by Inland Revenue Authority of Singapore (IRAS)



Characteristics of a Digital Payment Token

To qualify as a digital payment token, the token must have all of the following characteristics:

- 1.it is expressed as a unit;
- 2.it is designed to be fungible; [1]
- 3.it is not denominated in any currency, and is not pegged by its issuer to any currency;
- 4.it can be transferred, stored or traded electronically;
- 5.it is, or is intended to be, a medium of exchange accepted by the public, or a section of the public, without any substantial restrictions on its use as consideration;

[1] replaceable by another identical item; mutually interchangeable.

"digital payment token"

as defined by Inland Revenue Authority of Singapore (IRAS)



but does not include:

1. money;

2. anything which, if supplied, would be an exempt supply of financial services;

3. anything which gives an entitlement to receive or to direct the supply of goods or services from a specific person or persons and ceases to function as a medium of exchange after the entitlement has been used.

Examples of digital payment tokens are Bitcoins, Ether, Litecoin, Dash, Monero, Ripple and Zcash.

Digital assets

Law Gazette

Ronald JJ Wong - June 2019

<https://lawgazette.com.sg/feature/enforceability-of-legal-rights-relating-to-cryptocurrencies-digital-tokens-and-smart-contracts/>



What are Cryptocurrencies and Digital Tokens?

- Cryptocurrencies, such as Bitcoin and Ethereum, and digital tokens or coins are digital assets which operate on open-source peer-to-peer blockchain network systems.
- Their value depends wholly on what people ascribe to it (as opposed to government fiat).
- While it could be a store of value, a digital token or coin has no inherent value apart from the rights (if any) purportedly attached to it.

Digital assets

Law Gazette

Ronald JJ Wong - June 2019

<https://lawgazette.com.sg/feature/enforceability-of-legal-rights-relating-to-cryptocurrencies-digital-tokens-and-smart-contracts/>



- Most cryptocurrencies offer no rights at all and are therefore purely a medium of exchange.
- Although the term “currency” is used, cryptocurrency is unlike money dominated in national currency which would be legal tender, and therefore may or may not be accepted for making good payment obligations.
- The broader term “digital token” refer to tokens which may confer rights or functions.

Digital assets

Law Gazette

Ronald JJ Wong - June 2019

<https://lawgazette.com.sg/feature/enforceability-of-legal-rights-relating-to-cryptocurrencies-digital-tokens-and-smart-contracts/>



- Cryptocurrencies and digital tokens are based on peer-to-peer blockchain network systems in that they do not require a third-party intermediary (eg, PayPal) to process transactions but instead distributes the intermediary functions across the whole network of users of the blockchain underlying the cryptocurrency.
- In simple terms, it does this by distributing all the relevant information about every transaction across the network of users.
- Transactions are verified against and recorded on the distributed blockchain ledger. The verification and recording are done through cryptographic algorithm.
 - For example, the fact that Person A had 1 Bitcoin (BTC) and has just transferred to Person B the 1 BTC will be verified and recorded on the blockchain ledger distributed across the network of Bitcoin blockchain users.

Digital assets

Law Gazette

Ronald JJ Wong - June 2019

<https://lawgazette.com.sg/feature/enforceability-of-legal-rights-relating-to-cryptocurrencies-digital-tokens-and-smart-contracts/>



- A blockchain is essentially a digital database with two core components:
 - (1) cryptographic hash functions for data integrity, ie, persistent, tamper-proof data records; and
 - (2) public key infrastructure for authentication of the identity of parties to each transaction.
- Strictly speaking, a blockchain need not be a distributed ledger. The preference for distributed ledger is driven by the scepticism to centralised authority. However, a blockchain can in fact be stored in a centralised manner.

Digital assets

Law Gazette

Ronald JJ Wong - June 2019

<https://lawgazette.com.sg/feature/enforceability-of-legal-rights-relating-to-cryptocurrencies-digital-tokens-and-smart-contracts/>



- Nonetheless, most, if not all, cryptocurrencies and digital tokens circulating today are based on blockchains which operate on distributed ledger technology (DLT).
 - These distributed ledgers are managed by peer-to-peer networks which have particular protocols that govern how new blocks are added to the chain.
 - While the term “users” is used, the users do not actually manually or actively process transactions on the chain.
 - Instead, blockchain protocols use smart contracts which are run by computers to process the verification and addition to the blockchain ledger.

Digital assets

Law Gazette

Ronald JJ Wong - June 2019

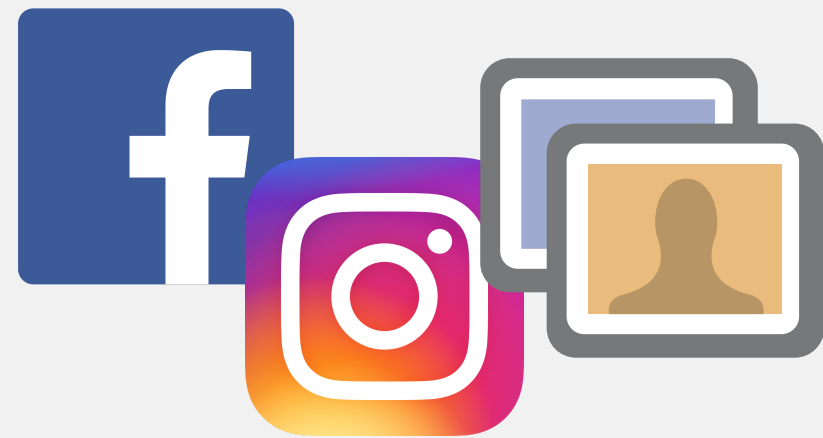
<https://lawgazette.com.sg/feature/enforceability-of-legal-rights-relating-to-cryptocurrencies-digital-tokens-and-smart-contracts/>



- The unique characteristics of blockchain on DLT in relation to cryptocurrencies and digital tokens are:
 - (1) that it operates without requiring no trust among the users, and has no central authority holding or dealing with the blockchain;
 - (2) payment verification protocols which ensure no double-spending, ie, the token holder cannot use or transfer or otherwise dispose of the same token twice.
 - The latter is significant (as will be seen below) because this key component distinguishes digital tokens from any other digital information.

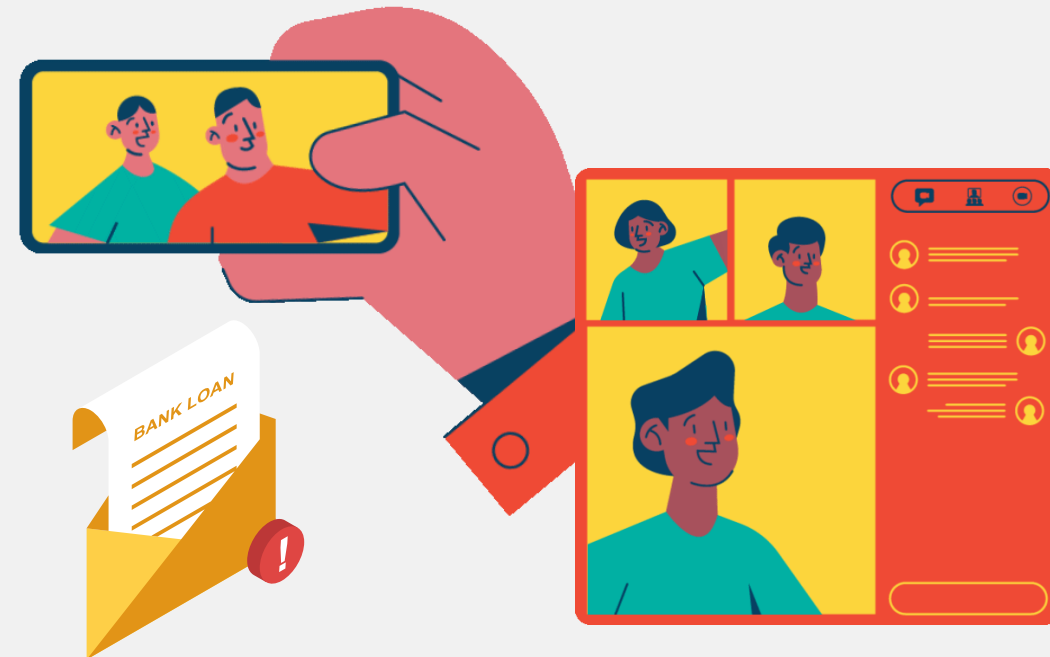
3 aspects of digital assets

Adapted from Fortis Law Corporation (<https://fortislaw.com.sg/publications/digital-assets-and-legacy-planning-in-singapore/>)



Digital Presence

personal presence on digital platforms such as social media accounts



Digital Media

digital media such as photos and videos that have sentimental value rather than monetary value



Digital Assets

assets which are in digital form and have monetary value

Digital assets

in Legacy Planning

14/08/2019 Fortis Law Corporation

Authors: Patrick Tan and Samantha Lek

<https://fortislaw.com.sg/publications/digital-assets-and-legacy-planning-in-singapore/>



Two-Step Analysis for Digital Assets

1. Is the digital 'asset' in question owned by the Testator, such that he has the rights to bequeath it?
 - A Testator can only will an asset away if the asset belongs to him. Emails and social media accounts are not considered Digital Assets because they are not owned by the Testator and cannot be passed through a Will. Instead, they form the online persona of the Testator and is a digital presence which needs to be managed after the Testator passes away.
 - Certain types of digital media, such as music on a music streaming account or eBooks, are often content leased from an Internet Service Provider ("ISP") and do not belong to the Testator. Each ISP has different policies in their terms of service agreement and access to such accounts after the user's death may or may not be allowed.

Digital assets

in Legacy Planning

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<https://fortislaw.com.sg/publications/digital-assets-and-legacy-planning-in-singapore/>



Two-Step Analysis for Digital Assets

2. Is the digital asset of any monetary value?

- If the Testator only has digital media which are of sentimental value, such as family photos and videos stored on a hard disk, these should not form part of the estate and there is no need for specific clause in the Will to take these into account
- Certain Digital Assets are financial in nature, such as online trading accounts and digital wallets. One of the easiest ways to allow for the Executor to access these accounts is to provide the username and password for each account. Otherwise, the Executor must contact each of these different entities to deal with the Digital Assets belonging to the Testator

Digital assets

in Legacy Planning

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Two-Step Analysis for Digital Assets

2. Is the digital asset of any monetary value?

- Cryptocurrencies, such as bitcoins, are even more complex. Cryptocurrencies are digital currencies which use encryption to regulate and verify its units. Since cryptocurrencies are not legal tender and are not held in an individual's name, it remains to be seen whether cryptocurrencies can be transferred through a Will.
 - Little guidance has been provided from the Monetary Authority of Singapore, which has taken an observatory stance on the use of cryptocurrencies in Singapore

Parliamentary stance on Crypto Asset Market



Answer by Mr Tharman Shanmugaratnam, Senior Minister and Minister in charge of MAS for Parliament Sitting on 5 April 2021

<https://www.mas.gov.sg/news/parliamentary-replies/2021/reply-to-parliamentary-question-on-crypto-asset-market>

3. Cryptocurrencies can be highly volatile, as their value is typically not related to any economic fundamentals. They are hence highly risky as investment products, and certainly not suitable for retail investors. MAS has issued numerous consumer advisories to warn the public of the risks of trading these products.

4. The size of the cryptocurrency market in Singapore remains small compared to, say, shares and bonds. The combined peak daily trading volumes of three major SGD-quoted cryptocurrencies – Bitcoin, Ethereum and XRP [2] – was 2% of the average daily trading volume of securities on SGX in 2020. Cryptocurrency derivatives traded through financial institutions likewise amounted to less than 1% of the derivatives trading activity on SGX. Cryptocurrencies comprise less than 0.01% of the assets in funds managed by MAS-regulated fund managers. Cryptocurrency funds are also not authorised for sale to retail investors.

Parliamentary stance on Crypto Asset Market



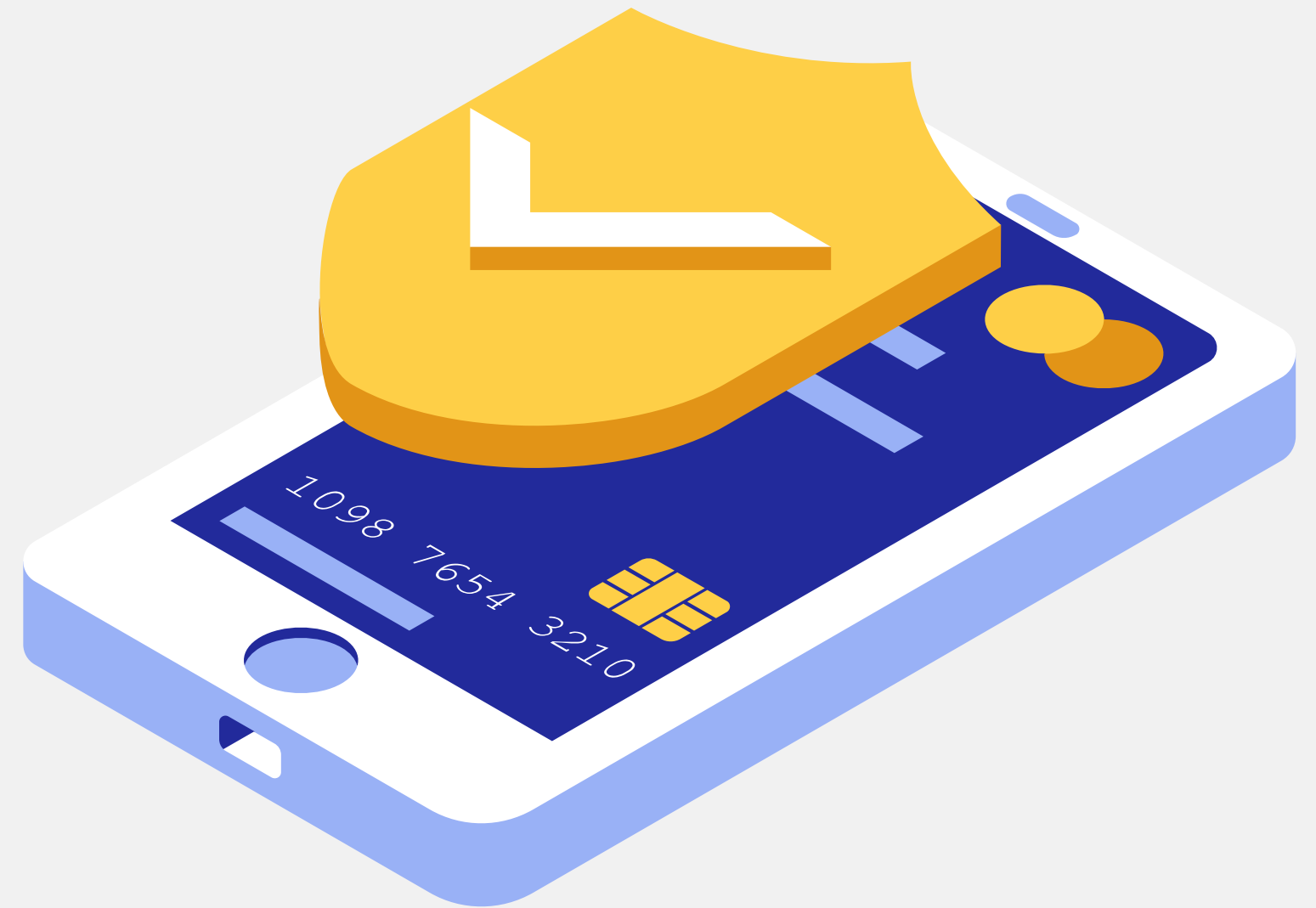
Answer by Mr Tharman Shanmugaratnam, Senior Minister and Minister in charge of MAS for Parliament Sitting on 5 April 2021

<https://www.mas.gov.sg/news/parliamentary-replies/2021/reply-to-parliamentary-question-on-crypto-asset-market>

11. The crypto assets space is constantly evolving. MAS has been closely monitoring developments and will continue to adapt its rules as needed to ensure that regulation remains effective and commensurate with the risks posed. Investors, on their part, should exercise extreme caution when trading cryptocurrencies.

Summarized definition of digital assets

- include digital payment tokens
 - expressed as a Unit
 - not denominated /pegged to any currency / fiat
 - transferred, stored or traded electronically on a medium of exchange
- (1) digitally owned by the matrimonial parties, and
- which (2) have monetary value.



Section 112(10) of the Women's Charter ("WC")

112(10) In this section, "matrimonial asset" means —

- (a) any asset acquired before the marriage by one party or both parties to the marriage —
 - i. ordinarily used or enjoyed by both parties or one or more of their children while the parties are residing together for shelter or transportation or for household, education, recreational, social or aesthetic purposes; or
 - ii. which has been substantially improved during the marriage by the other party or by both parties to the marriage; and
- (b) any other asset of any nature acquired during the marriage by one party or both parties to the marriage
- but does not include any asset (not being a matrimonial home) that has been acquired by one party at any time by gift or inheritance and that has not been substantially improved during the marriage by the other party or by both parties to the marriage.

Matrimonial assets

Digital assets

- acquired before the marriage by one party or both parties to the marriage — which has been substantially improved during the marriage by the other party or by both parties to the marriage;
 - OR
- any other asset of any nature acquired during the marriage by one party or both parties to the marriage
- In particular the definition of “any other asset of any nature” would offer a broad enough umbrella in which such digital assets could fall under.

Valuation issues

General principles

- Pool: determined at time of IJ
- Value: determined at time of AM hearing





Pool - general

Operative date to determine matrimonial pool of assets

In ARY v ARX and another appeal [2016] 2 SLR 686 (“ARY v ARX and another appeal”), the Court of Appeal (“CA”) is instructive on the operative date for the determination of the pool of matrimonial assets:

"31 ... In our judgment, while the court retains the discretion to select the appropriate operative date to determine the pool of matrimonial assets, there is much to be said that, unless the particular circumstances or justice of the case warrant it, the starting point or default position should be the date that interim judgment is granted.

34 ... We will not go so far as to fix the date of the interim judgment as the operative date for determining the pool of matrimonial assets. We think the right balance between certainty and flexibility is struck if the date of the interim judgment is set as a starting point, with the court possessing the discretion to depart from it in deserving cases.



Pool - general

Operative date to determine matrimonial pool of assets

35 ... This will preserve the court's flexibility to ensure that justice is done in every case. The court may depart from the starting point when there are cogent reasons to do so. These include situations where, for example, a party incurs a large amount of expenditure from having 'indulged in certain vices' such that the matrimonial assets have been "unfairly or unjustly depleted by the unacceptable actions of that party" (AJR v AJS [2010] 4 SLR 617] at [6]). Even when the court chooses not to depart from the starting point, it remains able to take into account accruing benefits (Yeo Chong Lin v Tay Ang Choo Nancy [2011] 2 SLR 1157] at [21]) and restore expenditure notionally to the pool of matrimonial assets (Yeo Chong Lin at [33]).

36 The court must exercise care when it decides to depart from the starting point, and should provide reasons whenever it does. This is because the court has not only the discretion to select the operative date to determine the pool of matrimonial assets, it also has the discretion to determine the date at which those assets should be valued (Anthony Patrick Nathan v Chan Siew Chin [2011] 4 SLR 1121 at [21]-[33]), and the discretion to determine how those assets should be divided. ..."



Valuation - general

Operative date to determine valuation of matrimonial pool of assets

In USA v USB [2019] SGHCF 5 (“USA v USB”), the HC reiterated at [33] the CA’s affirmation in TDT v TDS [2016] 4 SLR 145 and TND v TNC and another appeal [2017] SGCA 34 that the date of the ancillary matters hearing is to be adopted for the purpose of valuing the matrimonial assets.

However, the HC also held at [35] that, “it is appropriate to value the bank accounts and CPF accounts as at the date of the interim judgment. These are unique assets in that their value is tied to the quantum of funds therein” and that “as for the non-money assets, however, these should rightly have been valued as at the ancillary matters date ...”.

Valuation issues of digital assets

As of date of IJ / AM hearing?

- volatile fluctuating values
- conversion back to fiat currency
- can depart from AM hearing date?
- No direct case law on digital assets as yet but the closest we have is that of how the Court deals with the valuation of shares



BPC v BPB and another appeal [2019] 1 SLR 608; [2019] SGCA 3

Facts:

- The parties married in December 1993. The Divorce Proceedings ended a 17-year-long dual-income marriage which produced two children (“the Children”) and a pool of matrimonial assets valued at \$38,010,639.
- In the early stages of their marriage, [BPC] (“the Wife”) consistently commanded a steadier income than [BPB] (“the Husband”)
 - (Wife took up various senior executive roles in various banks, while the Husband took on various consultancy-related roles in a series of companies) (at [7]).
- In 2005, the Husband co-founded, with four partners, a venture capital fund (“the Fund”), in which he was granted numerous share options - Husband was granted a total of 833,184 share options in the Fund on 15 August 2005 (at [8]).
 - After the inception of the Fund, the value of the Husband’s interests in the Fund grew astronomically, particularly in 2015 and 2016, to the extent that at the date of the ancillary matters hearing, the assets in the Husband’s sole name completely dwarfed those in the Wife’s -
 - as of June 2016, the Husband’s shares in the Fund alone were valued at \$28,021,805. (at [9]).



BPC v BPB and another appeal [2019] 1 SLR 608; [2019] SGCA 3

Issues:

- Husband tried to argue that the shares were of a volatile nature and should not be valued at the AM hearing date (where the value had ballooned)

"47 *Relying on Nathan, the Husband submits that the assets that are held in his sole name, in particular, his shares and share options in the Fund, should be valued at the date of interim judgment. To this end, the Husband argues that the shares and share options in the Fund are "extremely volatile", and that it was "entirely fortuitous" that the value of the shares in the Fund had increased to the present extent, such that the Wife should not be made to bear the risk of any drop in value of the shares in the Fund but should also not be allowed to benefit from any corresponding rise in value.*"



BPC v BPB and another appeal [2019] 1 SLR 608; [2019] SGCA 3

Issues:

- Court disagreed

48 *In our judgment, however, the distinction drawn in Nathan between jointly-owned and separately-owned matrimonial assets does not rest on sound principle. Section 112(10) of the Women's Charter (Cap 353, 2009 Rev Ed) ("the Charter") defines a "matrimonial asset". ...*

49 *The purpose of the definition is to determine the pool of matrimonial assets. Once an asset falls within the pool, the section does not draw any distinction between it and any other asset in the pool on the basis of its ownership. Thus, as long as a property is a "matrimonial asset", regardless of whether it is jointly or separately owned, it should, according to the principle set out in TDT v TDS ([42] supra), generally be valued at the date of the ancillary matters hearing and hence be subject to the vagaries of movements in the property market during the period leading up to the hearing of the ancillary proceedings. This follows from the fundamental notion of all matrimonial assets constituting a "deferred community of property", which underlies the judicial exercise of dividing matrimonial assets pursuant to s 112 of the Charter.*



BPC v BPB and another appeal [2019] 1 SLR 608; [2019] SGCA 3

Issues:

- Court endorsed “deferred community of property”

50 *In Lock Yeng Fun v Chua Hock Chye [2007] 3 SLR(R) 520, this court endorsed this concept of matrimonial assets, observing (at [40]) that:*

- *... the very basis upon which s 112 of the [Charter] was premised [is] that matrimonial assets are not to be viewed as belonging to the husband or the wife exclusively, to be dealt with accordingly upon a divorce. On the contrary, the legislative mandate to the courts is to treat all matrimonial assets as community property (or, as one writer put it, 'deferred community of property' inasmuch as the concept of community property does not take place until the marriage is terminated legally) to be divided in accordance with s 112 of the [Charter] (and see generally Leong Wai Kum, Halsbury's Laws of Singapore: Family Law, vol 11 (LexisNexis, 2006 Reissue, 2006) ... at para 130.751). [emphasis added]*



BPC v BPB and another appeal [2019] 1 SLR 608; [2019] SGCA 3

Issues:

- Court endorsed “deferred community of property”

51 *The practical effect of adopting this conception of matrimonial assets has been described in Leong Wai Kum, Elements of Family Law in Singapore (LexisNexis, 3rd Ed, 2018) in the following terms (at paras 17.063 and 17.065):*

- *[17.063] Matrimonial assets are the gains of the marital partnership between the former equal marital partners who have both contributed their different personal efforts to enrich their marital partnership. It is mistaken to view the common directive to the court as to achieve the just and equitable division of property that has been acquired by the spouse who, as the main or only bread-winner, paid for the property. The correct view is that division of matrimonial assets is the division of surplus property, money or other financial resources acquired by both spouses' co-operative efforts during the course of their marriage whatever form their respective efforts may have assumed. ...*



BPC v BPB and another appeal [2019] 1 SLR 608; [2019] SGCA 3

Issues:

- Court endorsed “deferred community of property”

51 ...

- *[17.065] When all the matrimonial assets are properly identified by the court, what is reached is the material gains of the marital partnership. The equal marital partners co-operated with one another and, at the termination of their partnership, these are the material gains they have left. The net current value of these material gains should be calculated. When each matrimonial asset is accorded its net current value, the court has well and truly arrived at the net material gains accumulated by the spouses over the course of their marital partnership. It is these net material gains that the court is empowered to divide in just and equitable proportions between them. ...*



BPC v BPB and another appeal [2019] 1 SLR 608; [2019] SGCA 3

Issues:

- Court endorsed “deferred community of property”

52 *In our judgment, the court, in valuing the pool of matrimonial assets, ought simply to ascertain whether an asset falls within the definition of a “matrimonial asset” under s 112(10) of the Charter. If the asset does, then it should be divided between the parties in accordance with the notion that marriage yields, upon its termination, a deferred community of property. Drawing a distinction between jointly-owned and separately-owned property is antithetical to this treatment of matrimonial assets as community property, and would not assist in achieving an equitable division.*

As a matter of principle, therefore, both parties in a marriage should take the benefits or losses associated with a matrimonial asset that come with the lapse of time regardless of whether that matrimonial asset is jointly or separately owned. Neither party should be shielded from any potential risk associated with a solely-owned matrimonial asset by ring-fencing it to be valued at the date at which it is determined to be a “matrimonial asset” within s 112(10).



BPC v BPB and another appeal [2019] 1 SLR 608; [2019] SGCA 3

Issues:

- Court rejected taking IJ date and any other date

53 *We therefore reject the Husband's submission that the assets held in his sole name, in particular, his shares and share options in the Fund, should be valued at the date of interim judgment.*

54 *The Husband's alternative argument is that the value of his shares and share options in the Fund should be valued as at December 2014.... The Husband then submits that valuing the shares as at December 2014 would conduce towards a more just and equitable division of the matrimonial assets between the parties because this valuation date strikes the right balance between giving due recognition to the care-giving efforts of the Wife before the granting of interim judgment, and not overcompensating the Wife to the detriment of the Husband.*



BPC v BPB and another appeal [2019] 1 SLR 608; [2019] SGCA 3

Issues:

- Court rejected taking IJ date and any other date

55 *This submission must be rejected. First, the suggestion that December 2014 is the most suitable valuation date lacks any legal basis. The Husband has not presented a single case that has valued the matrimonial assets of the parties at a date other than the date of interim judgment or the date of the ancillary matters hearing. We think that there is good reason for the dearth of such authority. The courts have been chary of adopting a date that is not tied to any legally significant event in the course of the divorce proceedings as that would often be akin to adopting "an unguided discretion" in the name of achieving justice and equity in each case (see *ARY v ARX* ([25] *supra*) at [36]), which is a practice that has consistently been frowned upon.*



BPC v BPB and another appeal [2019] 1 SLR 608; [2019] SGCA 3

Issues:

- Court rejected taking IJ date and any other date

56 *Second, the proposal for December 2014 to be selected as the operative date for valuing the matrimonial assets also lacks any factual basis. The Husband argues that the Wife should be deprived of the dramatic rise in the value of the shares in the Fund between 2015 and 2016 because the Wife's indirect contributions prior to interim judgment should not be taken to have contributed to the management and growth of the Fund. We disagree. As the Judge rightly observed, "the effort, resources, know-how and wherewithal for [the Fund] would have been invested [by the Husband] ... before the formal setting up of [the Fund]" [emphasis added]. This means that the Husband would have benefitted from the Wife's indirect contributions before the date of interim judgment and hence at a time when the Wife would have been caring for the Children qua spouse (and not solely qua mother). There is therefore no reason to prevent the Wife from enjoying the increase in value of the shares and share options in the Fund even if this increase came after the date of interim judgment, as long as the share and share options had been acquired before the date of interim judgment.*



BPC v BPB and another appeal [2019] 1 SLR 608; [2019] SGCA 3

Issues:

- Court rejected taking IJ date and any other date = only AM hearing date as operative date for valuation

57 *For these reasons, we reject the Husband's submissions that either the date of interim judgment or December 2014 should be adopted as the operative date for valuing the matrimonial assets, and we affirm the Judge's decision to select the date of the ancillary matters hearing as the operative date.*



BPC v BPB and another appeal [2019] 1 SLR 608; [2019] SGCA 3

Summary:

... no reason, let alone a cogent one, for the Judge to depart from the starting point of adopting the date of the ancillary matters hearing as the operative date for valuing the matrimonial assets. First, as long as a property fell within the definition of a "matrimonial asset" under s 112(10) of the Women's Charter (Cap 353, 2009 Rev Ed) ("the Charter"), regardless of whether it was jointly or separately owned, it should generally be valued at the date of the ancillary matters hearing and be subject to the vagaries of movements in the property market during the period leading up to the hearing of the ancillary proceedings. It should be regarded as a material gain accumulated during the marriage which should be divided between the parties in accordance with the notion that marriage yielded, upon its termination, a deferred community of property. Drawing a distinction between jointly-owned and separately-owned property was antithetical to this treatment of matrimonial assets as community property, and would not assist in achieving an equitable division: at [44], [49], [51] and [52].



Hidden digital assets

Obligation for full and frank disclosure of assets in matrimonial proceedings

- Discovery and Interrogatories process
 - request for discovery - need to describe the documents required and the reasons behind the request.
 - file interrogatories - pose concise questions to the spouse, supported by valid reasons for each interrogatory
 - Consider getting a digital forensic expert?
 - Should be done after discovery/ interrogatories and upon the Court making specific orders
 - Warning that trying to hack into your spouse's computer may constitute an offence under the Computer Misuse Act
 - <https://www.straitstimes.com/singapore/courts-crime/man-sues-wife-and-her-law-firm-over-alleged-hacking-in-midst-of-divorce>



Summary

Create a digital inventory

	Digital assets	Digital presence	Digital media / info
Examples	Online currencies Online trading accounts Digital wallets Cryptocurrencies - Bitcoin, Ethereum, Ripple, and Dogecoin NFTs (akin to collector's art)	Email accounts Facebook/ Instagram/ Twitter	Netflix, Disney+, Spotify eBooks Digital photographs and videos Digital documents Rewards points
Proposed method to deal with	Likely to fall under division of matrimonial assets ("DMA") Pool: IJ date Value: AM hearing date	Non-DMA private settlement between parties	Non-DMA private settlement between parties Content leased from an Internet Service Provider ("ISP") - different policies in their terms of service agreement Possibility of creating duplicates for digital photographs and videos

Other considerations

additional factors to look at

s 112(1) of the Women's Charter ("WC")

confers the Court a broad discretion to divide the matrimonial assets "in such proportions as the court thinks just and equitable"

s 112(2) of WC

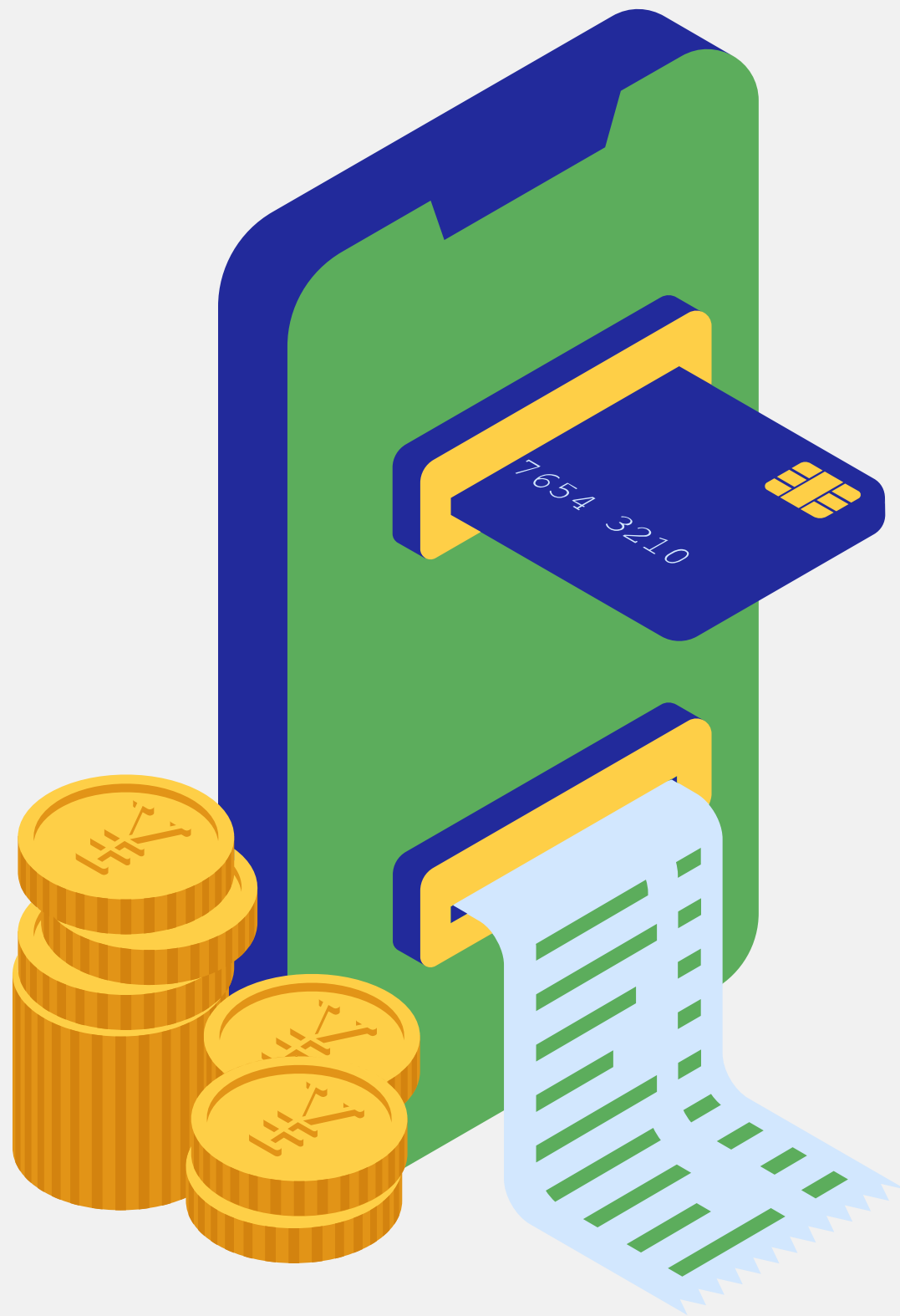
(a) the extent of the contributions made by each party in money, property or work towards acquiring, improving or maintaining the matrimonial assets;

Structured approach in ANJ v ANK [2015] 4 SLR 1043

Step 1 - Direct Financial Contribution

Step 2 - Indirection Contributions

Step 3 - Weightage



Conclusion

- Division of digital assets as unchartered waters
 - Likely that the court will take an incremental approach towards dealing with digital assets, adapting from established legal principles
- With advent of technology permeating our lives, may be sooner than later that more people board the digital assets/ cryptocurrency bandwagon
 - However, need to take a cautious approach given that there have been various instances of the cryptocurrency market crashing overnight / bubble bursts
- Government stance is still largely cautious also
- Akin to gambling

Any questions?

We hope you learned something new.





The End

or is it really just the beginning?