

Digital Property Law. Categorization of Digital Assets?

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Concept of property

- Property must be definable, identifiable, capable of assumption by third party, having some degree of permanence or stability (in *National Provincial Bank v Ainsworth*).

A statutory entitlement that is transferable and has value is certainly 'property' (In *Celtic Extraction Ltd*, a case involving waste management licenses).

The general attributes of property are:

the subsistence in them of a right control, enjoyment, or use, lato sensu – defined as the ownership, legal title,

controllable by a certain person,

transferrable from one person to another.

Concept of Digital Assets

Narrow understanding of virtual assets: equivalent of cryptoasset

Broad understanding of digital assets: any record or representation of value that fulfils the following criteria: exclusivity, rights, transferable.

Ownership v Access: ownership on digital assets only which are a legal things, right of access on digital assets which are a legal claims?

Concept and Test for categorizing of Digital Assets

Concept of digital assets categorizing.

Test for digital assets categorizing as: concept of property, type of digital property, subject of special interest (legal title, control, security, remedy, etc.)

Conclusions

- Most types of digital assets potentially capable to be a property as they meet key criteria of property, namely they exist as a digital account or representation, capable to be subject to control, rights to access, enjoy, use, have monetary value, capable to be controllable by certain person and able to be transferred from one person to another. If so, it means that mentioned digital assets could be treated as a property.