



COURT OF JUSTICE

LEGAL EXECUTION ON DIGITAL ASSETS



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WHAT ARE DIGITAL ASSETS?

- ANYTHING CREATED AND STORED DIGITALLY THAT HAS OR PROVIDES VALUE
- CAN BE ASSIGNED A VALUE—MONETARY OR INTANGIBLE
- NEWER DIGITAL ASSETS ARE BASED ON BLOCKCHAIN OR SIMILAR TECHNOLOGIES
- NON-FUNGIBLE TOKENS (NFTS), CRYPTOCURRENCIES (SUCH AS BITCOIN), TOKENS, CRYPTO ASSETS, TOKENIZED ASSETS, SECURITY TOKENS, AND CENTRAL BANK DIGITAL CURRENCIES

STATUS OF DIGITAL ASSETS UNDER THAI LAWS

- **EMERGENCY DECREE ON DIGITAL ASSET BUSINESSES B.E. 2561 (2018)**

Section 3 In this Emergency Decree:

“digital asset” means cryptocurrency and digital token.

“cryptocurrency” means an electronic data unit created on an electronic system or network for the purpose of being used as a medium of exchange for the acquisition of goods, services or any other rights, or the exchange between digital assets, and shall include any other electronic data units as specified in the notification of the SEC.

“digital token” means an electronic data unit created on an electronic system or network for the purpose of:

- (1) specifying the right of a person to participate in an investment in any project or business;
- (2) specifying the right of a person to acquire specific goods, specific service, or any specific other right under an agreement between the issuer and the holder, and shall include any other electronic data units of right as specified in the notification of the SEC.

STATUS OF DIGITAL ASSETS UNDER THAI LAWS (CONT.)

The Thai Civil and Commercial Code

Section 137

Things are physical objects.

Section 138

Property includes things as well as incorporeal objects, susceptible of having a value and of being appropriated.

Therefore, digital assets are not things, but can be deemed “Property” according to section 138 of The Thai Civil and Commercial Code.

LEGAL EXECUTION UNDER THAI LAWS

The Thai Civil and Commercial Code

Section 214 Right to Debtor's Property

Subject to the provisions of Section 733, the creditor is entitled to have his obligation performed out of the ***whole of the property of his debtor including any money and other property*** due to the debtor by third person.

LEGAL EXECUTION UNDER THAI LAWS

**THE CIVIL PROCEDURE CODE
B.E. 2477 (1934)**

Section 272

If the Court has rendered any judgment or order requiring an execution be carried out against a judgment debtor, the Court shall issue a decree immediately after such judgment or order is pronounced or deemed to have been pronounced, and it shall be deemed that the judgment debtor is informed of the decree on such date...

LEGAL EXECUTION UNDER THAI LAWS

THE CIVIL PROCEDURE CODE
B.E. 2477 (1934)

Section 274

If the party or person losing the case or the person subject to the court's judgment or order to perform an obligation (the judgement debtor) fails to comply with the decree issued under the judgement or order of the court, in whole or in part, the party or person winning the case or the person entitled to the performance of an obligation by the judgement or order of the court (the judgement creditor) shall be entitled to apply for execution by means of **seizure of properties**, **attachment of claims** or **other measures** of execution in accordance with the provisions of this Book within ten years from the date of the judgement or order...

LEGAL EXECUTION MEASURES UNDER THAI LAWS

SEIZURE OF PROPERTIES

**Section 303 - 315 of The Civil Procedure Code
B.E. 2477 (1934)**

Thai Supreme Court Judgment no. 1897/2490

Seizure of properties is taking property of a judgment debtor into the custody of an executing officers to carry out legal actions to achieve results according to the judgment or order of the court.

ATTACHMENT OF CLAIMS

**Section 316 - 321 of The Civil Procedure Code
B.E. 2477 (1934)**

Attachment of claims is when a court or an executing officer has an order prohibiting a third party not to pay debts to a judgment debtor in the case. However, the payment must be made to the executing officers.

Examples of Legal Execution on Incorporeal Objects Under Thai Laws

Section 305 In seizing securities under the law on **securities and exchange** of a judgment debtor, the executing officer shall carry out the seizure by taking the following actions:...

Section 307 In seizing shares of a judgment debtor who is a limited partner in a limited partnership or a shareholder in a limited company, the executing officer shall carry out the seizure by taking the following actions:...

Section 308 In seizing judgment debtor's **patent rights, trademark rights** or **other rights of the similar nature** or related to such rights which have already been registered or listed, the executing officer shall carry out the seizure by taking the following actions:...

Section 309 In seizing judgment debtor's rights in unregistered trademark, copyrights, rights to apply for a patent, rights in tradename or brand or other rights of similar nature or related to such right...

Section 310. In seizing a judgment debtor's **right to hire a property or right to services which are susceptible of having a value and of being appropriated**, e.g. telephone and telecommunication services or any other service which may be received from a property or service of other persons...

Can digital assets be legally executed under the Thai law?

A digital asset is 'Property' under Thai law (section 138 of Thai Civil and Commercial Code), and the judgment creditor is entitled to have his obligation performed out of the whole of the property of his debtor including any money and other property (section 214 of Thai Civil and Commercial Code). As a result, a digital asset can be legally executed under the Thai law. Also, the Thai law do not prohibit executing incorporeal objects as can be seen from section 305, 307, 308, and 309 of the Thai Civil Procedure Code which give rise to execute on the intangible properties such as securities and exchange.

Can digital assets be legally executed under the Thai law? (cont.)

A possible implementation of legal execution on digital assets may involve courts issuing a decree that orders a judgment debtor to provide the **password** to their **digital wallet** to the court and the executing officer using the court's power under section 273 of the Civil and Procedure Code.

This section states that if a decree requires payment of money or delivery of property or performance of or abstinence from performing an act, the court shall expressly specify in such decree the period of time and other conditions for the payment of money, the delivery of property, the performance of or abstinence from performing the act (...).

CHALLENGES

- There are no specific regulations governing the legal execution of digital assets under the Thai law.
- As of today, there are no cases adjudicated by Thailand's Court of Justice relating to the legal execution of digital assets.
- The problem of seizing digital assets arises when executing officers have seized and received digital assets from a judgment debtor, but there are no government digital wallets available to securely store and keep such assets.

RECOMMENDATIONS

- Adding 'Digital Assets' to be one of the 'Property' under the Thai Civil and Commercial Code
- Amending or prescribing the law specifically for the legal execution of digital assets.
- Establishing a government digital wallet to facilitate the seizure of digital assets in the future
- Developing knowledge and understanding on digital assets among Thai judges and legal personnel

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