判例与如何阅读新加坡判决

Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland and Germany),
Solicitor (England & Wales and Hong Kong)
Of Counsel, KGP Legal LLC
alexander.ressos@kgplegal.com.sg
www.ressos.com.sg

具有约束力的判例原则是纵向发挥作用的。上诉庭的判决对上诉分庭、普通庭和国家法院具有约束力。上诉分庭的判决对普通庭和国家法院具有约束力。上诉庭在1994年的一份实务声明中宣布，它不再认为自己受其先前判决或枢密院判决的约束。此后，凡认为遵循先例会造成不公正或限制法律发展时，上诉庭都背离了先前的权威判例。[1]新加坡以外法院的判决，包括其法律被新加坡继受的英格兰法院的判决，具有说服力，但绝无约束力。实践中，这些判决被频繁引用。关于USDT财产地位的ByBit判决借鉴了英格兰的AA v Persons Unknown判决和香港的Re Gatecoin Ltd判决，第J部分对这两项判决均有讨论。该判决还将英格兰及威尔士法律委员会关于数字资产的研究成果作为论证材料。[2]

瑞士读者必须学会区分判决理由（ratio decidendi），即根据案件事实作出判决所必需的法律命题，与附带意见（obiter dicta），即在论述过程中顺带发表的看法。只有判决理由具有约束力。新加坡高等法院普通庭的判决通常长达五十段或一百段，详细陈述事实，列出各方陈词，分析权威判例，然后得出结论并加以适用。具有约束力的命题可能只占两段。大陆法律师习惯于像阅读BGE判决要旨那样，把判决当作对规则的简短说理陈述来阅读，这种本能在这里会导致错误，因为法院往往作出范围很窄的判决，并有意将更宽泛

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的问题留待日后解决。ByBit案的法院认定，存放于特定钱包中的USDT是一种能够以信托方式持有的权利物（thing in action）。它并没有认定每一种代币在任何情况下都是财产。日后面对治理代币或NFT的法院，将以该判决的推理为起点，再向前推进。

注释

1. Practice Statement (Judicial Precedent)，1994年7月11日，上诉庭，载于1994 2 SLR 689。 ↩
2. ByBit Fintech Ltd v Ho Kai Xin, 2023 SGHC 199，第29–36段，引用AA v Persons Unknown, 2019 EWHC 3556 (Comm)及Re Gatecoin Ltd, 2023 HKCFI 914。 ↩

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Author contact: Dr Alexander Ressos, TEP · contact@ressos.com

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