When Private Keys Mean Real Control: A Landmark Ruling on Crypto

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A recent decision in the Supreme Court of Tasmania, reported as **[2025] TASSC 2**, provides clear guidance on how principles of **possession** apply to cryptocurrency. The matter involved an **appellant** and a **respondent** who agreed that the appellant would invest ten thousand dollars of the respondent's money in **Bitcoin**. A dispute later arose when the appellant retained some of the purchased cryptocurrency as a fee, rather than transferring all of it to the respondent. In considering whether the respondent could successfully bring claims in **detinue** and **conversion**, the court turned to a principle that remains vital in physical and digital property cases alike: **it is trite law that a person is in possession of property if that person has actual control of the property and an intention to possess it**.

In this dispute, the court examined whether the appellant maintained actual control over the relevant Bitcoin and intended to possess it as his own. Although Bitcoin is intangible, the court emphasized that its owner is the one who controls the **private keys** for the digital wallet in which the currency is held. Because possession for legal purposes depends on excludability and control, having sole access to the private keys is essentially equivalent to having physical custody of a tangible item. Moreover, the appellant did not disclose or prove any arrangement suggesting that the appellant lacked such control or that another entity actually had possession of the keys.

An important dimension to the court’s reasoning was the fact that the appellant consistently acted as if he personally oversaw the Bitcoin and had sole authority regarding transfers. The respondent had trusted the appellant to invest the funds, and the court concluded that the appellant was the only individual capable of granting or denying access to the cryptocurrency. That exclusive ability to decide who received the Bitcoin, combined with evidence of the appellant’s intent to keep some of it as a fee, satisfied the requirement for possession as traditionally defined by **case law**. The intangible nature of Bitcoin did not undermine its status as **property** and did not invalidate claims that relied on principles of physical property law. The court made it clear that so long as something can be controlled, held, and excluded from others, it can be the subject of **detinue** and **conversion**.

The key lessons from this matter are straightforward. First, cryptocurrency is property and can be possessed in the eyes of the law. Second, a court will look closely at who actually controls the **private keys**. If a person has those keys and no one else can move the cryptocurrency without that person’s cooperation, that person is in possession. Third, to establish **detinue**, the respondent had to show that the appellant held the Bitcoin in a manner inconsistent with the respondent’s rightful claim and refused to return it after demands were made. Fourth, to demonstrate **conversion**, the respondent had to prove that the appellant’s actions were so inconsistent with the respondent’s ownership that it amounted to a denial of that ownership. In both these torts, actual possession by the appellant was crucial, and the court had little trouble concluding that he held the digital property under his sole control.

The judgment also touched on the appellant’s claim for a fee. The appellant insisted that a portion of the respondent’s Bitcoin constituted his fee, but the court determined that the appellant never secured express agreement that he could retain the cryptocurrency in that manner. Although it was recognized that the appellant was entitled to some compensation for his services, the judge refused to accept that the appellant could simply keep part of the digital currency as that fee. The judge took note of an original suggestion that any fee might be based on a “percentage over base,” meaning a fee on top of the ten thousand dollars. Since the respondent had wanted ten thousand dollars’ worth of Bitcoin, the court found it reasonable that an appropriate fee should be reflected in normal currency rather than in withheld cryptocurrency. The appellant’s unilateral decision to keep some of the Bitcoin was inconsistent with the respondent’s ownership rights, leading directly to liability.

Because the appellant maintained control over the private keys, the court found that he possessed the Bitcoin and was responsible for returning it upon demand. By refusing to do so, the appellant exposed himself to damages. The court observed that the demand and refusal elements had been established on several occasions. When the respondent requested the immediate transfer of the entire amount of Bitcoin, the appellant delivered only a portion. When further demands were made, the appellant again refused to hand over the remainder. These facts all supported the finding that the appellant both detained the currency unjustly (detinue) and dealt with it in a way inconsistent with the respondent’s rights (conversion).

The ruling demonstrates how digital assets, though intangible, are not beyond the reach of ordinary legal principles. The central premise continues to be that **actual control** plus the **intention to possess** qualifies as possession, no matter whether the subject property is a physical object or an electronic asset safeguarded by cryptography. The holder of the private keys enjoys the same kind of power that someone holding a physical item would have: it can be kept, transferred, or refused to others. Accordingly, courts can use familiar rules of property and tort to resolve disputes over cryptocurrency.

This matter reaffirms that individuals handling cryptocurrency for others should do so with clear agreements in place, especially regarding **fees** and **possession**. Failing to clarify whether any commission will be in cryptocurrency or in ordinary currency often sets the stage for these disputes. Above all, the court’s approach confirms that **the law does not require tangibility for an asset to be owned and possessed**, so long as those hallmarks of control and intention are in place.

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