

# Reinventing the conveyancing process with blockchain

The technology can potentially facilitate real estate transactions for a faster, easier and more secure transfer process. **BY BEN CHESTER CHEONG**

IT'S worth exploring how blockchain technology can modernise the real estate industry. Blockchain can be used to facilitate transfer of title to immovable property (real estate) as it allows for faster and cheaper property transactions with far reduced paperwork. There is also a possibility of automated testamentary transfers of property pursuant to wills.

This is not a far-fetched proposition. A central coordinating entity, the Smart Nation and Digital Government Group, was set up under the Prime Minister's Office in May 2017 to accelerate the process of integrating online transactions between citizens and government. The Government Technology Agency (GovTech) has also designed tools that leverage blockchain technology to enable the distribution and usage of decentralised, tamper-proof records.

Recently, the Immigration and Checkpoints Authority announced that it would no longer issue physical birth and death certificates from May 29 this year as part of the government's attempt to streamline and digitise services for Singaporeans.

## The process of tokenisation

Asset tokenisation is the process of digitalising the ownership rights to an asset and then breaking it up into fractions, or security tokens, using blockchain technology. Each token represents a proportion of the digitised asset, which could, in this case, be a piece of real estate.

Asset-backed tokens are different from digital payment tokens such as cryptocurrencies, which are used for payments and can be speculative in nature.

Unlike non-fungible tokens (NFT) -- which represent verifiable ownership of a single unique asset, such as an art piece that cannot be replaced by another -- security tokens are fungible, meaning every token is interchangeable with other tokens of the same asset.

Given steep property prices, tokenising real estate would lower the barrier to entry for property ownership. This would provide lower income households the opportunity to purchase, own, and invest in property which they may otherwise not have.

Tokenisation allows huge potential to improve the management of real estate investments and securities.

There are a few major concerns, including dealing with the lack of familiarity in the technology, overcoming regulatory burdens, and implementing measures to safeguard ownership.

In the digital space, jurisdictional issues may also surface. For instance, it may be difficult to ascertain where the buyer is located or whether the buyer meets the eligibility requirements to purchase the property.

The volatility and uncertainty around cryptocurrencies add to the scepticism.

But it may be argued that the situation is different for real estate tokens as the value of these tokens can be derived from tangible real estate assets. This would allow for better regulation around distribution and ownership.



Tokenisation allows huge potential to improve the management of real estate investments and securities. PHOTO: PIXABAY

## Digitising documentation

In order for blockchain real estate transfers to occur, a number of conveyancing documents would need to be digitised so that they can be attached to a blockchain to record the various transactions, such as the option to purchase, instrument of transfer, stamp duty certificate, title deeds, and notice of transfer to the property tax department of the Inland Revenue Authority of Singapore (IRAS).

The Singapore Land Authority (SLA) is the statutory body that registers any change of ownership and issues a new title deed in respect of a property. In the conveyancing process, various filings have to be made with the SLA.

In addition, stamp duty would need to be paid to IRAS and a notice of transfer lodged with it. Hence, to digitise the real estate transfer process using blockchain, these processes have to be integrated with both IRAS and SLA.

SLA also validates the contents of both the soft and hard copies of the transfer instrument. This involves both an online and offline process. The development of an alternative method of validation would be required to remove the offline portion and to entirely digitise the validation process.

In real estate transfers that are complex, such as those involving charges, mortgages and other encumbrances, further integrations with other entities such as banks and the Central Provident Fund Board would be required. If the property concerned is a Housing and Development Board property, then this would also involve the HDB.

## Property rights as NFTs

There is a strong case to be made for reinventing the conveyancing process with blockchain technology to make it easier for property transfers. However, it would take some time for changes like these to be implemented at the national level. Hence, another possibility would be to "mint" property rights as a NFT.

On 10 February 2022, a blockchain-focused real estate company, Propy, sold a NFT of a 2,164 square foot property in Florida for around 210 Ether, which was worth some US\$653,000. This was the first US transaction where the ownership of the real estate asset was minted as an NFT and then sold on the blockchain.

At present, most land registries globally are not currently integrated on the blockchain. As such, it is not possible to tokenise physical land directly from the land registry. Instead, an intermediary to hold the property is required. Token holders will most likely own an interest in a company that is the owner of the property.

The Florida property had a similar structure. Ownership in the property was transferred by the seller into a limited liability company (LLC) that was incorporated by Propy, and then ownership of that LLC was minted on the blockchain as an NFT. The NFT was then put up for auction to bidders that were pre-approved and vetted by Propy.

Prior to the auction, the LLC owned the property. Ownership of the LLC was represented through the NFT. The NFT was owned by the seller. After the auction was complete, the ownership of the LLC, represented through the NFT, was automatically transferred on the blockchain to the successful bidder. The seller then received a payment of cryptocurrency in their wallet.

The due diligence for the real estate transaction, such as title insurance and inspections, was completed by Propy prior to the transaction.

There are a number of benefits. Firstly, tokenisation of real estate ownership would allow for sales of interests in real estate on the secondary market. Secondly, it would automate real estate transactions. Thirdly, it would reduce transactions costs. Fourthly, smart contracts can automate property development terms and leasing agreements. Fifthly, fractionalised NFTs can represent partial ownership in physical property.

Thus, blockchain technology has the potential to automate the real estate transfer process for a faster, easier and more secure conveyancing experience.

To recap, in order to tokenise physical land directly from the land registry and permit blockchain transfers of property, the SLA, as Singapore's land title regulator, must recognise a title transfer on the blockchain. In addition, there must be integration with the various relevant agencies, and digitisation of all conveyancing documents, for this to happen.

The writer is lecturer of law at the Singapore University of Social Sciences and of counsel at RHTLaw Asia LLP.