El marco de Singapur para el deber de diligencia

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Singapur aplica un test único para la existencia de un deber de diligencia (duty of care) en materia de negligencia, fijado por la Court of Appeal en *Spandeck Engineering v Defence Science and Technology Agency*. Existe un requisito previo de previsibilidad fáctica del daño. A continuación, el tribunal examina si hay suficiente proximidad jurídica entre las partes, teniendo en cuenta la proximidad física, circunstancial y causal y cualquier asunción de responsabilidad y confianza. Si se acredita la proximidad, surge un deber prima facie que puede quedar excluido por consideraciones de política jurídica.[1] El test se aplica a todas las acciones por negligencia, incluidas las de daño puramente económico. Singapur rechazó la regla inglesa de exclusión del daño puramente económico. Por ello, el demandante que ha perdido dinero por el descuido de otro no queda excluido de entrada, sino que debe superar las fases de proximidad y de política jurídica.[2] Para las reclamaciones relativas a criptoactivos, que siempre lo son por daño económico, esto supone una ventaja significativa frente a un foro inglés.

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Notas

1. *Spandeck Engineering (S) Pte Ltd v Defence Science & Technology Agency* [2007] SGCA 37, en [73]–[86]. ↩
2. *Spandeck* [2007] SGCA 37, en [69]–[72], que se aparta del enfoque inglés que trata el daño puramente económico como una categoría especial. ↩

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