



**INSOL**  
INTERNATIONAL



# Secured Parties and Receiverships

Chapter 3

# Forms of security

- Legal mortgage
- Equitable mortgage
- Charge
- Pledge
- Lien

# Forms of security – Legal Mortgage



# Forms of security – Legal Mortgage



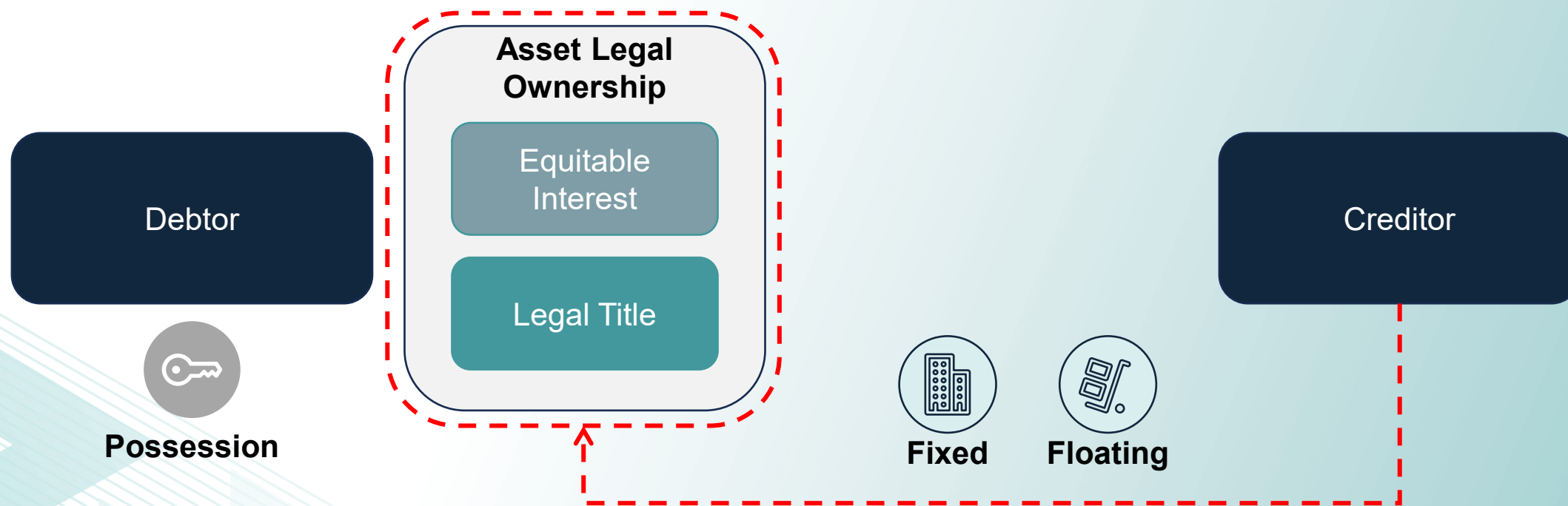
# Forms of security – Equitable Mortgage



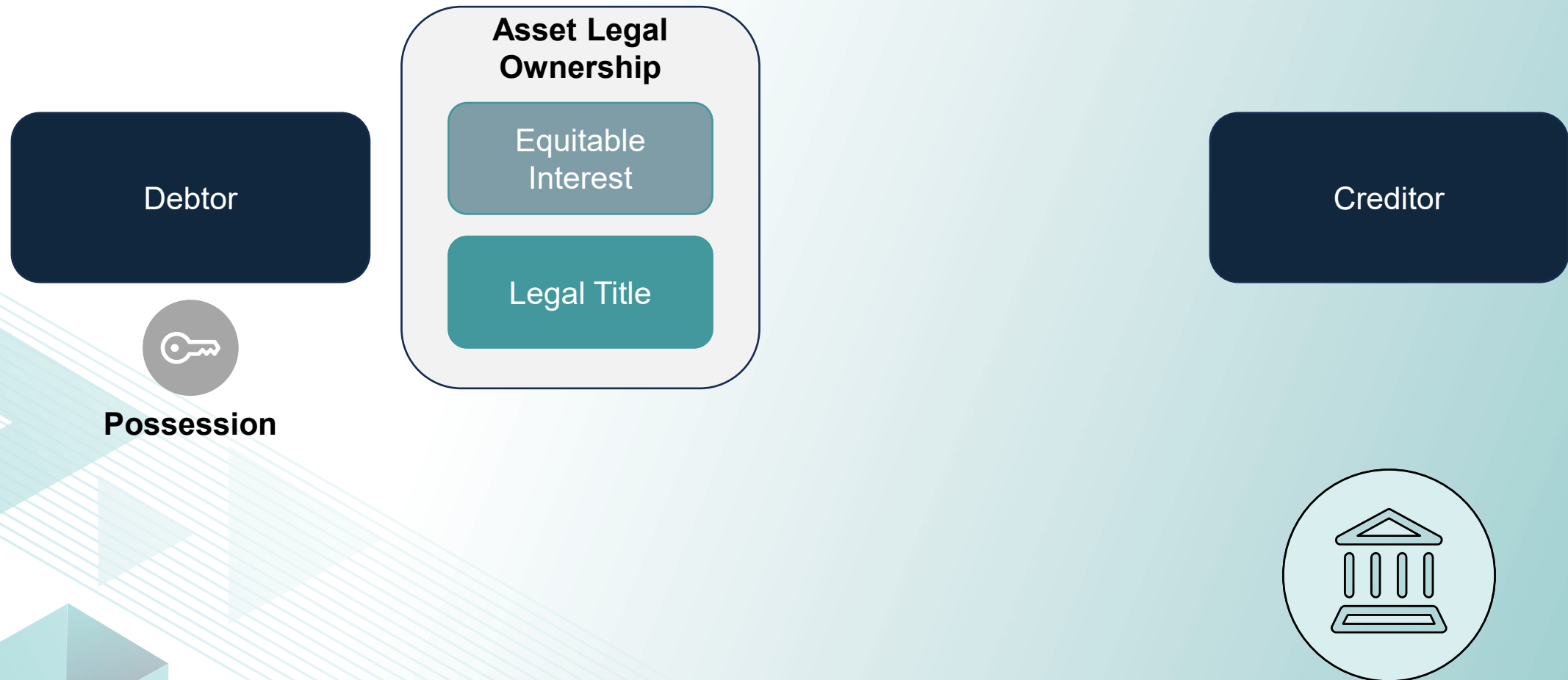
# Forms of security – Equitable Mortgage



# Forms of security – Charge



# Forms of security – Pledge

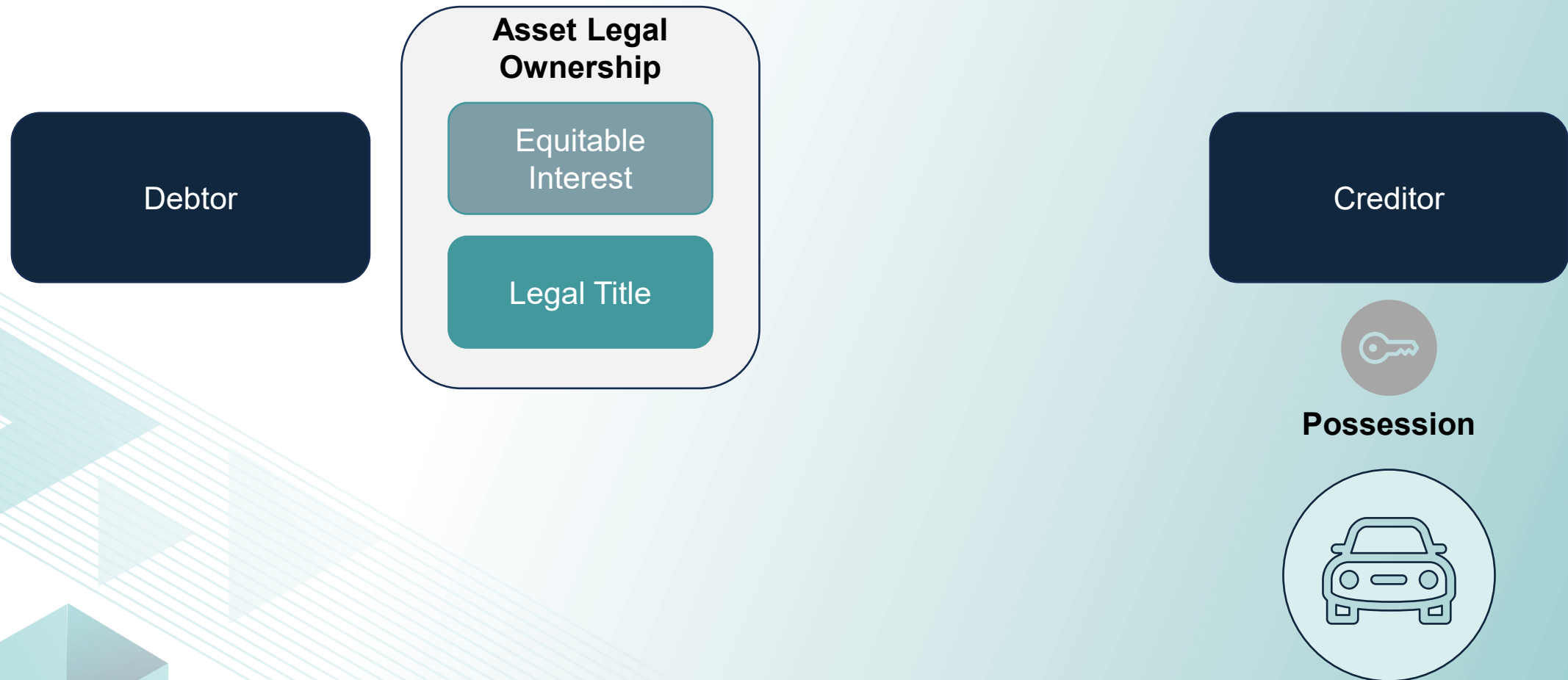




# Forms of security – Pledge



# Forms of security – Lien



# Security over personal or moveable property

- Intangible property
- Tangible property
- Security over real property

# Enforcement of security – Real Property

## Legal mortgage



Possession



Receiver



Power of Sale

## Equitable mortgage



**Power of Attorney =**

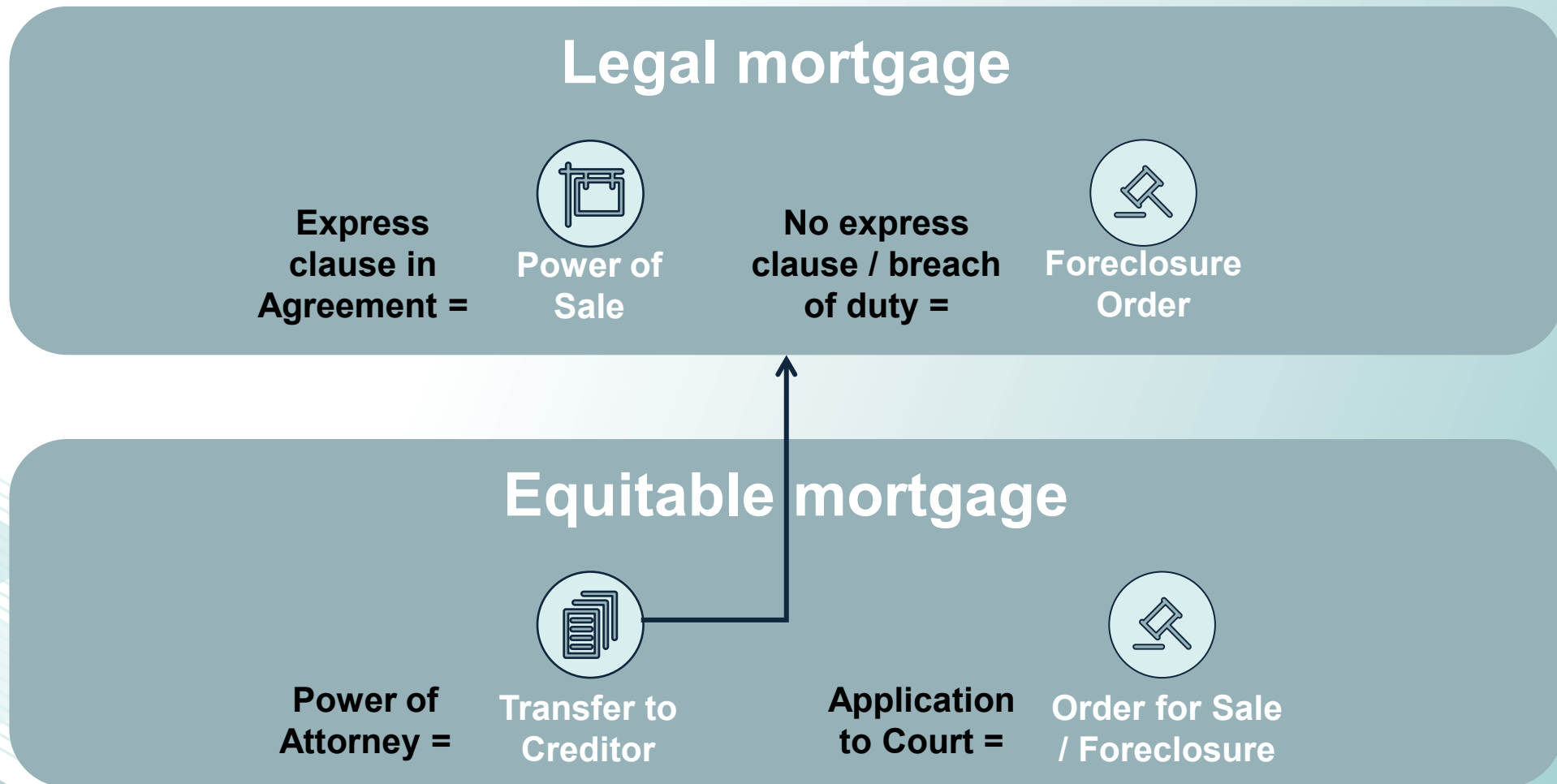
**Transfer to Creditor**

**Application to Court =**

**Specific Performance**



# Enforcement of security – Shares



# Enforcement of security – Shares (cont.)

## Charge

**Express  
terms or by  
application  
to Court =**



**Receiver**



**Power of Sale**

## Pledge



**Power of Sale**

## Lien



**Possessory Right to  
Collateral**

# Enforcement of security rights

- Official/Provisional liquidation and RO appointment
- Scheme of arrangement

# Security deemed as void or preferential

- Avoidance of dispositions from date of the winding up order
- Voidable preferences
- Fraudulent dispositions at undervalue



# Other topics

- Rights of a creditor against a non-debtor guarantor
- Perfection of secured interests and non-compliance
- Sale of collateral
- Additional liens on collateral
- Distribution to secured creditors
- Over or under-secured claims

# Questions?



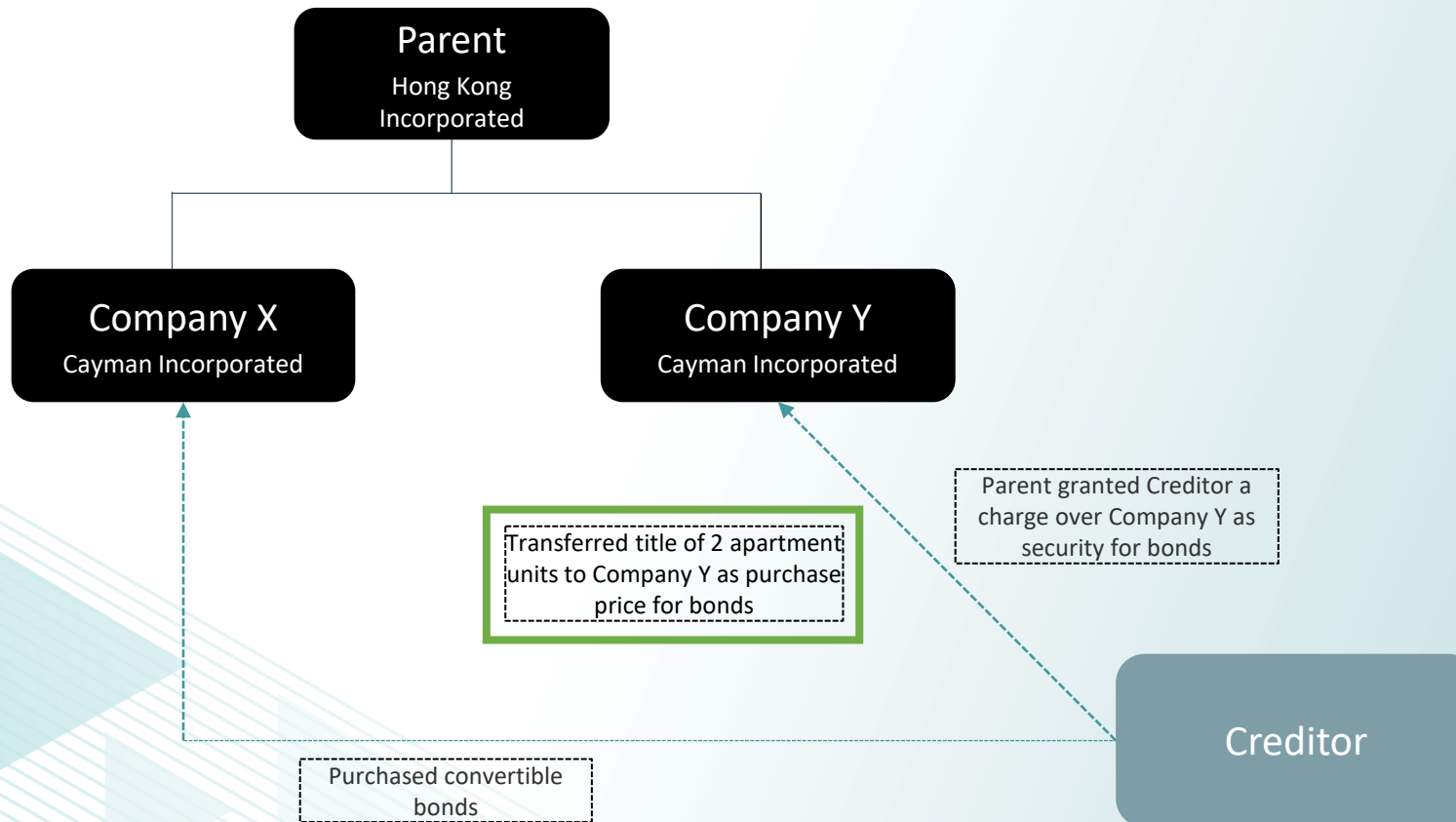
# Receivership

- Private appointment vs Court appointment
- Privately appointed receiverships
  - Self-help remedy for secured creditors
  - Powers derived from security agreement
  - Receiverships governed by Registered Land Act
- Court-appointed receiverships
  - General jurisdiction under Grand Court Act
    - Support a freezing injunction
    - Equitable execution
  - Receiver over a segregated portfolio

# Receivership roadmap



# Case Example 1



## Steps Taken

- Entered into a management and letting agreement for the properties to be let and earn rental income for the benefit of the Creditor
- Managed all ongoing expenses of the properties
- Reported to Court (including R&P)
- Assisted the Creditor and Company Y reach a settlement agreement to transfer the two properties back to the Creditor

# Questions?

