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January 2014

Case St. Agatha Statue – St. Martin’s Church and Private Person

Post 1970 restitution claims/demandes de restitution post 1970 – Settlement agreement/accord transactionnel – Mediation/mediation – Criminal Offence/infraction pénale – Due Diligence – Ownership/propriété – Repurchase/rachat – Symbolic gesture/geste symbolique

In November 2012, Sotheby’s offered at auction a meter-tall statue of St. Agatha, by the Dutch sculptor Jan van Steffieswert (1465-1530). It was stolen in 1976 from St. Martin’s Church, in Gronsveld, the Netherlands. With three weeks between the auction announcement and the sale, the Church chose to repurchase the statue. After 37 years of transferring between Germany, the Netherlands, Belgium and England, and other recovery attempts failed, the work returned to St. Martin’s in May 2013.

I. Chronology; II. Dispute Resolution Process; III. Legal Issues; IV. Adopted Solution; V. Comment; VI. Sources.

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I. Chronology

Post 1970 restitution claims

- **c. 1500:** Dutch sculptor **Jan van Steffeswert** created the colourful metre-tall **statue of St. Agatha**.
- **May 1976:** **Thieves stole St. Agatha from St. Martin's Church**, in Gronsveld, the Netherlands. The Police investigation did not succeed in tracing the culprits, and insurance compensation was paid, with a reduced fee.
- **1976-2000:** **St. Agatha travelled to various European countries**. Its earliest tracking was in Bad Godesberg, near Bonn, Germany. It was also known to have surfaced in Dortmund during the mid-1990s. Whilst in Germany, the appearance of St. Agatha was altered during restoration. 80% of the original neo-Gothic paint used is still visible, maintaining a good impression of the original condition. Moreover, during the mid-1990s, St. Agatha was sold again to a Maastricht art dealer.¹
- **2000:** An **exhibition** of Jan van Steffeswert at the **Bonnefanten Museum**, collaborating with the Diocese of Roermond, **featured the statue of St. Agatha**, which was owned by a Maastricht art dealer. After the exhibition, St. Agatha disappeared from sight, until 2012.²
- **November 2012:** **St. Agatha appeared in Sotheby's**, London to be re-auctioned. The identity of the seller was not disclosed to the public.³
- **December 2012:** St Martin's Church Council decided to purchase St. Agatha.
- **February 2013:** St. Agatha arrived in Maastricht for technical inspection and restoration, at the **Regional Historic Centre Limburg**.⁴
- **May 2013:** **St. Agatha returned to St Martin's Church**, accompanied by celebrations.

II. Dispute Resolution Process

Settlement agreement – Mediation

- St. Martin's Church had supposedly made attempts to recover the statue, but financially and legally this proved not feasible.⁵ Therefore, it was not until St. Agatha was put up for auction at Sotheby's in London that the Church became aware of a viable method to repurchase it. Having explained the situation to Sotheby's, this persuaded the owner (whose identity has not been disclosed) to move the transaction from a public auction to

¹ "Stolen Image after 37 Years Back in Gronsveld". Eijsden-Margraten.nu. May 21, 2013. Accessed January 12, 2015. (<http://eijsden.nu/home/?p=28788>).

² Ibid.

³ "Village Buys Back Stolen Statue." Dutch News. February 19, 2013. Accessed January 12, 2015. (http://www.dutchnews.nl/news/archives/2013/02/village_buys_back_stolen_statu.php/)

⁴ Henri Haenen, "Parish Gronsveld Buys Stolen Picture St. Agatha Back". Dichtbij (Near). February 19, 2013. Accessed January 12, 2015. (<http://www.dichtbij.nl/maastricht/regionaal-nieuws/artikel/2630851/parochie-in-gronsveld-koopt-gestolen-beeld-heilige-agatha-terug.aspx>).

⁵ "Stolen Image after 37 Years Back in Gronsveld".

a private sale. This ensured negotiations could take place, as the conduct of an auction is unpredictable.

- Sotheby's acted as a mediator between St. Martin's and the private seller.

III. Legal Issues

Criminal Offence – Due Diligence – Ownership

- The initial criminal investigation failed to find St. Agatha,⁶ either because of limited resources, lack of evidence or lack of concern. Presumably, once the investigations ceased in the 1970s and an insurance claim was provided for, St. Martin's believed St. Agatha to be untraceable and therefore lost.
- The 1976 theft of St. Agatha began years of illegal exchanges which created issues for provenance surrounding the work. St Martin's rightfully owned St. Agatha, but had to elect to buy it back in 2012, rather than legally enforce its return. St Martin's did not dispute that the vendor had made a good faith purchase. This decision would have most probably been influenced by Sotheby's research of title established by its client.

IV. Adopted Solution

Repurchase – Symbolic gesture

- Appreciating the cultural significance of the artwork and its theft, Sotheby's made a symbolic gesture of having the commission waived, which yielded a significant discount for St Martin's. However, this did not affect the vendor's profit. Whilst the price paid for St. Agatha was not disclosed, according to Church Council member Jacques van Rensch, "you can buy a nice car"⁷ with the amount.

V. Comment

- Sotheby's resolution to sale the statue through private means raises concerns for how it handles stolen works of art. Hoen explained that "Sotheby's does not sell stolen goods and St. Agatha could be redeemed in a sympathetic way".⁸ As Sotheby's did not have a vested interest in St. Agatha, it did not engage in or encourage court involvement to

⁶ "Stolen Image after 37 Years Back in Gronsveld", footnote 1.

⁷ "Parish Gronsveld Buys Stolen Picture St. Agatha Back". "Parish Gronsveld Buys Stolen Picture St Agatha Back", footnote 4.

⁸ Ibid.

resolve the sculpture returning to Gronsveld. A different story can be said of *Khmer Statue – Cambodia and Sotheby’s and the United States*.⁹

- Sotheby’s policy approach to dispute resolution is “one of responsible and ethical market behaviour and international cooperation between private and public entities”.¹⁰ Jane A. Levine, senior vice president and worldwide compliance director for Sotheby’s, said the auction house was “aware there are widely divergent views on how to resolve conflicts involving cultural heritage objects”.¹¹ As the laws governing the repatriation of disputed artefacts remain complex and differ between nations, the simplest and quickest method was for St. Martin’s to not challenge the vendor’s ownership of St. Agatha, and merely repurchase the work.

VI. Sources

a. Bibliography

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b. Media

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⁹ Ece Velioglu, Anne Laure Bandle, Marc-André Renold, “Case Khmer Statue – Cambodia and Sotheby’s and the United States,” Platform ArThemis (<http://unige.ch/art-adr>), Art-Law Centre, University of Geneva.

¹⁰ Tom Mashberg and Ralph Blumenthal. “Mythic Warrior Is Captive in Global Art Conflict.” The New York Times. February 28, 2012. Accessed January 14, 2015. (http://www.nytimes.com/2012/02/29/arts/design/sothebys-caught-in-dispute-over-prized-cambodian-statue.html?pagewanted=all&_r=0).

¹¹ Ibid.