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Case Adoration of the Magi – Gentili di Giuseppe Heirs and Museum of Fine Arts Boston

*Federico Gentili di Giuseppe – Museum of Fine Arts Boston – Artwork/œuvre d'art
– Nazi looted art/spoliations nazies – Negotiations/négociations –
Ownership/propriété – Statute of limitations/prescription – Donation –
Repurchase/rachat*

In February 2000, the heirs of the renowned Jewish art collector Federico Gentili di Giuseppe initiated negotiations with the Museum of Fine Arts (MFA) Boston on the restitution of the painting “Adoration of the Magi”, by Corrado Giaquinto. The painting had been sold at an auction in 1941. In October 2000, the heirs reached a part purchase-part donation agreement with the MFA Boston.

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

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I. Chronology

Nazi looted art

- **21 April 1940: Federico Gentili di Giuseppe**, a Jewish Italian and eminent art collector, died of natural causes in France¹. He left as heirs his two children, **Marcello and Adriana Gentili di Giuseppe**, who fled from Nazi occupied territory in **June 1940**.
- **24 October 1940**: An unpaid creditor, Julien Giraud, sued the heirs of Federico Gentili di Giuseppe in the Civil Court of First Instance (*Tribunal civil de la Seine*) in Paris blaming them “for showing absolutely no interest” in their estate².
- **29 October 1940**: By a Court order “*in absentia*” (since none of the heirs resided in Paris at that time), the *Tribunal civil de la Seine* assigned a certain Mr. Moulin with the management of the estate including the taking of related measures³. For these purposes, Mr. Moulin inventoried all personal property comprised in the estate of the Gentili di Giuseppe heirs.
- **17 March 1941**: By an order of the same Court, Mr. Moulin was authorised to proceed with the liquidation of the family estate by an auction sale and to use the collected sums for the payment of the estate’s debts⁴.
- **23-24 April 1941**: Several paintings of Gentili di Giuseppe’s art collection including the painting by Corrado Giaquinto “Adoration of the Magi” (1725) were sold at auction⁵.
- **1992**: The **Museum of Fine Arts (MFA) Boston purchased** the “Adoration of the Magi” from Thomas Agnew & Sons Ltd., a distinguished firm of art dealers in London, which had acquired the painting at Christie’s, Monte-Carlo, on **15 June 1990**⁶.
- **1998**: The heirs of Federico Gentili di Giuseppe filed a **lawsuit** against the Musée du Louvre and the State of France to have the 1941 auction sale declared void and to obtain the restitution of several paintings held by the Louvre⁷.
- **2 June 1999**: The **Court of Appeals Paris** ruled in favor of the plaintiffs and ordered the return of the litigious paintings⁸.

¹ See Leila Anglade, “Art, Law and the Holocaust: The French Situation,” *Art Antiquity and Law* 4 (December 1999): 309.

² *Christiane Gentili di Giuseppe et al. v. Musée du Louvre*, Court of Appeal of Paris, 1st Division, Section A, June 2, 1999, n. 1998/19209, p. 3 (translated version).

³ *Ibid.*; see also Véronique Parisot, “The Gentili di Giuseppe Case in France,” *International Journal of Cultural Property* 10 (2001): 265.

⁴ See Anglade, 309. As German law forbade the return of those who had left occupied territory, the Gentili di Giuseppe family was unable to settle the succession of its estate. Instead, the collection was managed by an appointed administrator, see MFA Boston Webpage, “Collections - Adoration of the Magi,” accessed August 7, 2012, <http://www.mfa.org/collections/object/adoration-of-the-magi-35361>.

⁵ Hôtel Drouot, Lot 24, Paris, then attributed to Pietro Berrettini, called Pietro da Cortona. Some of the auction lots were bought by Herman Göring, see Parisot, “The Gentili di Giuseppe Case in France,” 265.

⁶ Christie’s, lot 26, Monaco, (*ibid.*).

⁷ See Anne Laure Bandle, Alessandro Chechi, Marc-André Renold, “Case Five Italian Paintings – Gentili di Giuseppe Heirs v. Musée du Louvre and France,” Platform ArThemis (<http://unige.ch/art-adr>), Art-Law Centre, University of Geneva.

⁸ *Christiane Gentili di Giuseppe et al. v. Musée du Louvre*, Court of Appeal of Paris.

- **February 2000:** Following the successful execution of the decision concerning the Louvre Museum, the Gentili di Giuseppe heirs initiated negotiations with the MFA Boston.
- **19 October 2000:** The MFA Boston and the Gentili di Giuseppe Heirs announced that they successfully settled the dispute by a part purchase and part donation agreement.

II. Dispute Resolution Process

Negotiations

- On the basis of the Court of Appeals decision of June 1999⁹, the heirs approached the MFA Boston with their request for the restitution of the painting “Adoration of the Magi”.
- Since the Museum had acquired the painting before a claim had been filed with the French government, the heirs conceded that the Museum had acted in good faith and “without the knowledge that the 1941 sale was suspect”¹⁰.
- During negotiations, the heirs had expressed their wish for the painting to remain in the MFA Boston’s collection for public exhibition¹¹. In April 2000, the MFA Boston published on its website a list of all European paintings with concerning ownership history. However, the painting at issue was not included in the list as the heirs requested for all negotiations to remain confidential until their settlement¹². A settlement was ultimately reached satisfying of all their desires.

III. Legal Issues

Ownership – Statute of limitation

- Hypothetically, if the case had been litigated, a court of law would have addressed the issue of whether the MFA Boston acquired a valid ownership title to the painting. The clear provenance of the painting, in that it was offered for sale by Christie’s in Monte-Carlo and by a distinguished London gallery, may have supported a good faith purchase by the Boston Museum. Considering this and the fact that the Museum’s acquisition of the painting occurred before the court ordered cancellation of the litigious 1941 auction sale, the heirs conceded the Museum had acted in good faith.
- On the other hand, if the heirs had filed a legal action, the suit might have been barred by the statute of limitations.

⁹ The transcript and summary of the Court of Appeals decision is provided on ArThemis: Anne Laure Bandle, Alessandro Chechi, Marc-André Renold, “Case Five Italian Paintings – Gentili di Giuseppe Heirs v. Musée du Louvre and France,” Platform ArThemis (<http://unige.ch/art-adr>), Art-Law Centre, University of Geneva.

¹⁰ Boston Museum of Fine Arts Press Release, “Museum of Fine Arts, Boston Reaches Agreement Concerning Holocaust-Era Settlement of Giaquinto Painting,” October 19, 2000, accessed August 20, 2012, <http://www.mfa.org/sites/default/files/giaquinto%20release.updated2001.doc>.

¹¹ Ibid.

¹² Ibid.

IV. Adopted Solution

Donation – Repurchase

- The parties reached the following agreement: the MFA Boston paid the heirs for a partial interest of the painting, while the heirs donated to the museum the remaining partial interest. The settlement allowed the MFA Boston to retain possession of the painting.

V. Comment

- The MFA Boston acknowledged the annulment of the 1941 auction sale by the French court decision. Clearly, this constituted the *condicio sine qua non* of the ensuing negotiations. The ultimate settlement was reached within a remarkably short time, certainly due to the cooperative attitude of the MFA Boston. Without a doubt, the French court order allowed the Gentili di Giuseppe heirs to support their restitution claim on a moral level. The court emphasized that the painting had been lost by the Gentili die Giuseppe family as a result of the racial discrimination and persecution against Jews in France under Nazi occupation. Such court decisions generally lead to an all-or-nothing outcome. Thus, the MFA Boston maintained an interest to engage in negotiations by seeking an agreement with more flexibility and in a timely and cost efficient manner. It goes without saying that the French court order would not have *per se* allowed the heirs to retrieve “Adoration of the Magi” from the Museum.
- By their settlement, under which neither party retained the full property title of the painting, some sort of middle ground was reached. Considering that the painting was lost by the Gentili di Giuseppe family due to the dire circumstances of Jews under Nazi occupation and, obtained by good faith acquisition of the MFA Boston, the parties managed to reach an agreement proportional to each party’s interest in the painting.

VI. Sources

a. Bibliography

- Anglade, Leila. “Art, Law and the Holocaust: The French Situation.” *Art Antiquity and Law* 4 (December 1999): 301 – 311.
- Parisot, Véronique. “The Gentili di Giuseppe Case in France.” *International Journal of Cultural Property* 10 (2001): 264 – 275.

b. Court decisions

- *Christiane Gentili di Giuseppe, Emmanuele Maupas, Daniel Salem and Lionel Salem v. Musée du Louvre*, Court of Appeal of Paris, 1st Division, Section A, June 2, 1999, n. 1998/19209 (original and translated version).

c. Documents

- Bandle, Anne Laure, Alessandro Chechi and Marc-André Renold. “Case Five Italian Paintings – Gentili di Giuseppe Heirs v. Musée du Louvre.” Platform ArThemis (<http://unige.ch/art-adr>), Art-Law Centre, University of Geneva.

d. Media

- MFA Boston Webpage. “Collections - Adoration of the Magi.” Accessed August 7, 2012. <http://www.mfa.org/collections/object/adoration-of-the-magi-35361>.
- Boston Museum of Fine Arts Press Release. “Museum of Fine Arts, Boston Reaches Agreement Concerning Holocaust-Era Settlement of Giaquinto Painting.” October 19, 2000. Accessed August 20, 2012. <http://www.mfa.org/sites/default/files/giaquinto%20release..updated2001.doc>.