



UNIVERSITÉ
DE GENÈVE

FACULTÉ DE DROIT
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June 2015

Le Grand Pont – Weinmann Heirs and Yale University Art Gallery

Josephine Weinmann – Max Silberberg – Yale University – Artwork/oeuvre d'art – Nazi-Looted Art/spoliations nazies – Negotiation/négociation – Settlement agreement/accord transactionnel – Due Diligence – Ownership/propriété – Procedural issue/limites procédurales – Loan/prêt – Donation – Symbolic Gesture/geste symbolique

The painting “Le Grand Pont”, by Gustave Courbet, was owned by Josephine Weinmann and her family, but after they were forced to flee Germany from Nazi persecution, the painting was purchased in an unclear context by Herbert Schaefer, a Nazi militant. When Schaefer later loaned the painting to the Yale University Art Gallery, Weinmann’s heirs sued for its return. The parties resolved the dispute by the clear transfer of title of the painting to the Gallery, facilitated by Schaefer’s donation.

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

- **1920s:** The painting *Le Grand Pont* by Gustave Courbet was owned by Max Silberberg.
- **1935:** The painting was sold at an auction in Berlin. According to art historians, this auction occurred in the context of a forced sale of Jewish property organized by the Nazis.¹ There is no known record of the purchase of the work from that auction.² However, Josephine Weinmann, a Jewish collector, claimed to have bought the painting at an auction in Berlin in the 1930s, a fact corroborated by her son Eric Weinmann.³
- **1938:** The Weinmann family fled Germany from Nazi persecution. The family's assets in Germany were seized and liquidated by the Nazis.⁴ Herbert Schaefer, a German lawyer and member of the anti-Semitic "brown shirts", acquired the painting around the same time.⁵
- **Around 1945:** Schaefer's art collection was dispersed and largely destroyed during the final days of World War II. The painting ended up in a museum in Hamburg, Germany.⁶
- **1948:** Josephine Weinmann wrote a letter to the United States occupation forces in Germany, enclosing a photo of the painting *Le Grand Pont* that she had clipped from a 1920s publication and asking for its return. She notified them that she had bought the painting in the 1930s. The letter was never answered or investigated by US authorities.
- **1968:** Schaefer brought a lawsuit to recover the painting from the museum in Hamburg, which was awarded to him by a Hamburg court.
- **1981:** Schaefer loaned his art collection, including the painting *Le Grand Pont*, to the Yale University Art Gallery (the "Gallery").⁷
- **2000:** Eric Weinmann filed an ownership claim against the Gallery.
- **2001:** The parties reached an agreement which comprised the temporary return of *Le Grand Pont* to the Weinmann family on a ten-year loan.⁸

¹ Ron Grossman, "1948 Letter Backs Claim of Nazi Theft," *Chicago Tribune*, February 11, 2001, accessed June 19, 2015, http://articles.chicagotribune.com/2001-02-11/news/0102110405_1_nazi-era-nazi-looted-nazi-party/2.

² Tom Conroy, "Gustave Courbet Painting Donated to Yale University Art Gallery," Yale University Office of Public Affairs, October 23, 2001.

³ Grossman, "1948 Letter Backs Claim of Nazi Theft"

⁴ Patricia Grandjean, "A Nazi Cloud Hangs Over a Painting on Loan to Yale," *The New York Times*, March 18, 2001, accessed June 5, 2015, <http://www.nytimes.com/2001/03/18/nyregion/a-nazi-cloud-hangs-over-a-painting-on-loan-to-yale.html>

⁵ Grossman, "1948 Letter Backs Claim of Nazi Theft"

⁶ Grandjean, "A Nazi Cloud Hangs Over a Painting on Loan to Yale."

⁷ Grossman, "1948 Letter Backs Claim of Nazi Theft"

⁸ Conroy, "Gustave Courbet Painting Donated to Yale University Art Gallery."

II. Dispute Resolution Process

Negotiation – Settlement agreement

- After learning from a friend that the painting was on exhibit at Yale University Art Gallery, Eric Weinmann filed an ownership claim against the Gallery. The Gallery notified Schaefer of Eric Weinmann's claim.
- Schaefer agreed that the painting would remain on loan to the Gallery while further historical research into the painting's provenance during and after the Second World War was completed. The Gallery conducted extensive research into the painting's provenance, but the results were inconclusive.⁹
- Eric Weinmann then offered to withdraw his restitution claim under the condition that the painting would be given to the Gallery so that it can remain on public display with a teaching institution. This decision was probably motivated by the fact that Eric Weinmann lacked proof of ownership. The parties also agreed that the painting would be placed on loan to the Weinmann heirs for a period of ten years, subject to recall during that time to the Gallery for inclusion in public exhibitions.¹⁰

III. Legal Issues

Due Diligence – Ownership – Procedural issue

- This case raises the question whether the Gallery fulfilled its due diligence obligations before accepting Schaefer's loan in 1981. Due to inaction on the part of US authorities, who did not follow up on nor investigate about Josephine Weinmann's first claim over the painting in 1948, the Gallery was allegedly not aware of the painting's disputed ownership history when it accepted Schaefer's loan and agreed to display the painting.¹¹
- It was not clear how Schaefer acquired the painting. Indeed, the detailed date of acquisition by Schaefer was unknown and the documentation pertaining to the sale was lost. However, the Weinmann heirs emphasized that the painting was first stolen from their residence without their consent.¹² Since in the United States, you cannot acquire good title to an object that was stolen, they argued that how Schaefer acquired the painting was not relevant.
- The painting's ownership was previously disputed between Schaefer and the heirs of Max Silberberg, who owned the painting before Josephine Weinmann. Indeed, Silberberg's art collection was, according to scholars, disposed of at a forced sale of Jewish property in or

⁹ Ibid.

¹⁰ Ibid.

¹¹ Grossman, "1948 Letter Backs Claim of Nazi Theft".

¹² Grandjean, "A Nazi Cloud Hangs Over a Painting on Loan to Yale."

around 1935. Schaefer and Silberberg's heirs amicably settled this ownership claim in the 1970s.¹³

- There were also problems of proof of ownership, since Eric Weinmann had no documentation, receipts or photos of the painting in his parents' house. He based his claim entirely on his memory of the painting hanging in their home, which raised burden of proof issues.¹⁴

IV. Adopted Solution

Donation – Loan – Symbolic Gesture

- Following Eric Weinmann's decision to withdraw his restitution claim, Schaefer officially donated the work to the Gallery, which he had previously only loaned. Therefore, the Yale University Art Gallery received clear title to the painting.¹⁵
- In a symbolic gesture that acknowledged the prior ownership of *Le Grand Pont* by the Weinmann family, Eric Weinmann was also permitted to possess the painting on loan for ten years.

V. Comment

- The Yale University Art Gallery began investigating the provenance of two other works of art loaned to the Gallery by Schaefer, *Banquet in Temple Ruins*, by Hubert Robert, and *Drinne und Draussen (Inside and Outside)*, by George Grosz, in line with its larger effort to determine the provenance of all of its European paintings and drawings.¹⁶
- The Gallery is a participating institution in the non-profit American Association of Museums' Nazi-Era Provenance Internet Portal (NEPIP).¹⁷ There are currently 29,079 objects from 176 participating US museums listed in the portal, which is "a searchable registry of objects in US museum collections that changed hands in Continental Europe during the Nazi era (1933-1945)".¹⁸ While it is important that such a database exists, its existence does not guarantee that all paintings from this time period will be investigated. Although provenance has become a mandatory notation in the sale of works in the art world, many of the records are still incomplete, often because museums do not have the dedicated staff to do the research. Jack Reynold, the Director of the Yale University Art Gallery, commented that it is "an extremely

¹³ See Grossman, "1948 Letter Backs Claim of Nazi Theft"; and Conroy, "Gustave Courbet Painting Donated to Yale University Art Gallery."

¹⁴ Conroy, "Gustave Courbet Painting Donated to Yale University Art Gallery."

¹⁵ Ibid.

¹⁶ Yale University Art Gallery, "Provenance: Research on World War II-Era History of Ownership," July 20, 2010, accessed June 5, 2015, http://artgallery.yale.edu/pages/collection/permanent/pc_provenance.php.

¹⁷ Ibid.

¹⁸ "The Nazi-Era Provenance Internet Portal Project," accessed June 8, 2015, <http://www.nepip.org>.

expensive, time-consuming proposition” for museums to make information about their Nazi era collections available to the public to help expedite the location of lost art.¹⁹

VI. Sources

a. Documents

- Conroy, Tom. “Gustave Courbet Painting Donated to Yale University Art Gallery.” *Yale University Office of Public Affairs*. October 23, 2001.

b. Media

- Yale University Art Gallery. “Provenance: Research on World War II-Era History of Ownership.” July 20, 2010. Accessed June 5, 2015. http://artgallery.yale.edu/pages/collection/permanent/pc_provenance.php.
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- Nazi-Era Provenance Internet Portal. “The Nazi-Era Provenance Internet Portal Project.” Accessed June 8, 2015. <http://www.nepip.org>.

¹⁹ Grandjean, “A Nazi Cloud Hangs Over a Painting on Loan to Yale.”