

ANTIQUES

It's 'buyer beware' for artwork, too



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There's an old saying that a picture is worth a thousand words. But if those words question the provenance or history of that picture, collectors could find themselves on uncertain legal grounds.

That's the opinion of one local attorney who spoke recently at the Silvermine Collectors Club, a two-year-old organization designed to help collectors learn about the intricacies of assembling a collection.

As Westport attorney Patrick Begos puts it, "Is possession really nine-tenths of the law?" The answers won't be found in Connecticut law books. If it is determined that a work of art was stolen at some point in its history, even without the knowledge of the current owner, then chances are good that legal action can be taken by a previous owner to get it back, Begos says.

"In Connecticut, there really is no case law dealing with actions to recover stolen art or actions to recover stolen property in general," says Begos, whose experience includes a stint as a litigator for the New York auction house Sotheby's. For precedent, Connecticut residents must look to neighboring states for guidance. Begos illustrates his point by recounting landmark cases such as a 1991 New York Court of Appeals ruling involving the Guggenheim Museum's attempt to reclaim a Marc Chagall watercolor purchased by a private collector.

"This New York case is a very important decision, and given New York's preeminent position in the art world, I would think Connecticut residents would want to look closely at it," Begos explains. "Plus, many Connecticut people buy artwork in New York or have a place in New York, so they could be sued in New York."

The Guggenheim case involved



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Buying a piece of artwork doesn't necessarily make it yours, Westport attorney Patrick Begos warns. It's prudent to do a little research before plunking down your money, he says.

the museum suing a private collector for the return of the Chagall painting. The painting was believed to have been taken by a former employee in the early 1960s, but the theft was never reported to authorities. The museum filed an unsuccessful claim with its insurance company, which ruled there wasn't enough evidence to support the notion that the painting had been stolen. Meanwhile, a New York couple had purchased the work from a New York art gallery, which represented a private collector.

Typically, an artist with Chagall's reputation would be the subject of a catalogue raisonné that traces the history and location of each of his works. The gallery had contacted Chagall for information about the watercolor it was commissioned to sell. But Chagall provided little information. The couple bought the painting from the collector, who

turned out to be the former museum employee suspected in the theft.

Begos says the new owners were sued by the Guggenheim after the whereabouts of the painting became known when they sought to have the work appraised by Sotheby's. The auction house appraiser was a former Guggenheim employee who knew of the theft.

"The owner refused to return the painting and that started an eight-year legal battle over who was entitled to get this painting," says Begos.

"There are two legal issues to understand," he says. "Only in the United States ... regardless of how many hands the item passes through after the theft, can the original owner sue buyer No. 5 and have superior right to the property. In Europe, it's the opposite. If you buy without the knowledge that it's stolen and you paid fair market value, you can retain ownership," Begos says.

What is apparently the more important issue is whether there is a statute of limitations on bringing legal action to recoup a lost artwork. In 1991, after a series of challenges in the Guggenheim case, the New York Court of Appeals ruled that New York's three-year statute of limitations would apply if the collector could prove the museum wasn't diligent in trying to find the watercolor after it was discovered missing.

The case ended in an out-of-court settlement before a retrial in 1994. Although the settlement was confidential, it is believed the collector kept the painting and paid the Guggenheim \$212,000, the painting's fair market value, Begos says.

"Knowing that's what the law is, and assuming a Connecticut court would find that relatively persuasive ... it's up to the individual to buy art from an established, reputable dealer who will issue a warranty of title," Begos says. "Everytime you buy property, art, a car, house or jewelry, the person that you buy it from automatically warrants title ... they're implicitly telling you they have the right to sell it to you."

"If that proves untrue, you have to prove what you paid, and you have the right to recoup the purchase price," Begos says.

He also suggests that collectors contact law enforcement agencies such as the FBI, the New York City Police Department's art theft squad, the Art Loss Register in New York, which publishes lists of stolen art, and the Internet when seeking information about specific artwork.

"Try to contact the artist or the artist's estate," Begos says. "Artists usually have pretty good ideas of where their artwork is. A catalogue raisonné or the cataloguer usually have substantial information on where works have been."

"There will be gaps — lot of art is bought anonymously or sold anonymously," Begos says. "But these are some of the things you can do before buying art to make sure you're getting good title."