

THE 2017 CLAY AWARDS

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ARTS

ENSURING HISTORIC ART IS IN THE RIGHT HANDS

Von Saher v. Norton Simon Museum at Pasadena

The case had all the makings of a historical art heist film, complete with a Bolshevik looting and the forced Nazi sale of a German Renaissance painting. More than 60 years later, Munger, Tolles & Olson LLP partner Luis Li found himself untangling the intricacies of postwar Dutch restitution law as the family of dealer Jacques Goudstikker tried to reclaim the stolen art from Pasadena's Norton Simon Museum of Art.

After nearly a 10-year legal battle that dug deep into the troubled history of World War II, the museum was granted summary judgment last summer by U.S. District Judge John F. Walter, who ruled the Netherlands rightfully acquired the paintings, thus making the museum the sole owner of the title.

The two pieces, titled "Adam" and "Eve," were painted by Lucas Cranach the Elder in the 16th century and are believed today to be worth tens of millions of dollars. They were eventually acquired by Goudstikker, a Dutch Jewish art dealer, but sold to the Nazis in a coerced sale. Goudstikker's daughter-in-law, Marei von Saher, argued the paintings should be returned to her family. Many of those who laid claim to stolen art after the war got it back through the Dutch government's restitution process, but the judge's ruling rested on the idea that von Saher's family passed on the opportunity to get the art back for financial reasons, in turn missing his chance to reclaim it.

"The bottom line is because of its unique history, because of the fact that it involves both a Bolshevik looting and a forced sale by the Nazis, and because the prior owners availed themselves of a bonafide restitution system and it specifically declined to claim these paintings, we felt the moral and legal situation compelled us to defend the claim," said Li, whose case had stops at the 9th U.S. Circuit Court of Appeals and the U.S. Supreme Court.



LUIS LI, FRED ROWLEY, E. MARTIN ESTRADA and ERIC TUTTLE of Munger, Tolles & Olson LLP

Prior to Goudstikker acquiring the paintings, they were claimed to be property of the noble Stroganoff family or of a Ukrainian church. What is known is they were stolen during the 1917 Bolshevik Revolution and eventually bought at a Berlin auction by Goudstikker in 1931. Years later, during World War II, Nazi Commander Hermann Goering forced a sale of the paintings, along with several hundred others.

They were eventually returned to the Netherlands after the war, but Goudstikker never reclaimed them through the postwar restitution process. All of this was revealed via discovery proceedings through old primary source documents, which were rarely in English. "It was fascinating. We got documents from U.S. National Archives, Amsterdam,

National Archives of the Netherlands, the German Federal Archives, and using all those sources we were able to put together from original sources the way the restitution system in the Netherlands worked after the war."

Although it is disputed whether the Stroganoff family actually possessed the paintings, it acquired them years later through a settlement with the Dutch government, then sold them to prominent Los Angeles art collector Norton Simon in 1971. They continue to sit, at least for now, in the Pasadena museum named after him. The family of Goudstikker has appealed the U.S. District Court decision.

— Justin Kloczko