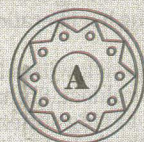


Art market focus *Colin Gleadell*



The £75m Picasso with an uncertain fate



A grainy black-and-white photograph from a 1921 magazine shows a sparsely decorated dining room in Cologne with just one painting hanging on the wall. At six and a half feet tall, Picasso's imposing painting *The Actor*, painted in 1904 during his Rose period, is one of the earliest to reveal his interest in theatrical subjects – acrobats, saltimbanques and the like. The figure, dressed in a pink body suit, is seen from backstage, gesticulating towards an unseen audience. It was clearly the pride and joy of its owners, Paul Leffmann, a German Jewish industrialist, and his wife Alice.

Almost 100 years later, it hangs in the Metropolitan Museum of Art in New York, next to Picasso's portrait of the celebrated collector Gertrude Stein and among early works by his great rival, Matisse. How it got there, though, has become a matter of concern over the past two years, as the Leffmanns' great-grandniece, Laurel Zuckerman, struggles to persuade the New York courts that her forebears had to sell it to fund their escape from the Nazis in 1938. As a forced sale it could rightfully be hers.

The Actor's journey from the shadows of fascism to the bright lights of the Met begins in 1932. Vulnerable

High-performance: *The Actor*, from Picasso's Rose period, will be the subject of a US Supreme Court petition aimed at reuniting it with the descendant of its former owners

The Jewish owners had to sell it to make their escape to South America



because classifiable as “degenerate art”, it was sent for safekeeping that year by the Leffmanns to a friend in Switzerland, where it stayed until 1938. By then, they had been forced to sell their homes, business and property investments and had escaped to Italy. But Italy under Mussolini was no safer than Germany, and so the Leffmanns decided to sell their most valued possession and escape to South America.

The Actor was sold to the Paris dealers Hugo Perls and Paul Rosenberg for just \$12,000 (£9,190). Prices were low in Europe then, especially if the seller was Jewish and on the run.

The painting was next seen in 1939 in an exhibition at the Museum of Modern Art in New York, where it was insured for \$18,000. Then, in 1941,

Nearly one third of all art changed hands during the Second World War

with Paris occupied, Perls emigrated to New York where *The Actor* reappeared consigned to the Knoedler Gallery, which sold it to the Chrysler Corp heiress, Thelma Chrysler Foy, for \$22,500 dollars – an 87.5 per cent increase over three years.

Foy, once described by *Time* magazine as “one of the world’s 10 best dressed women”, hung it in her Park Avenue mansion alongside her Impressionist paintings and 18th-century French furniture – the fashion followed by the newly wealthy at the time. There it stayed until, in 1952, not long before she died, she gifted it to The Met, where it has hung since.

According to MC Sungaila, Zuckerman’s lawyer, the Met accepted the gift without checking the provenance, even though one of its staff (James Rorimer) had been one of

the “Monuments Men” who were employed to track down Nazi loot after the war. It was not until 2010, when Zuckerman staked her claim to the painting, that the museum acknowledged it had belonged to her great-grandparents continuously for 26 years before they sold it.

Zuckerman’s case has been before the courts twice and dismissed twice; firstly in 2018, because the judge was not convinced that sufficient duress had been demonstrated. The sale, she said, was between individuals not directly involving the state. Then, in the second hearing last year, the museum won because its lawyers invoked the doctrine of laches (an unreasonable delay in bringing a claim), arguing that too much time had elapsed since the forced sale. This doctrine has been used by several institutions to contest the mounting number of restitution claims.

“Nearly one third of all art changed hands during the Second World War,” Sungaila explains, and when institutions found they were losing chunks of their collections, “they looked for ways, like the time lapse argument, to fight back.” However, in 2016, President Obama signed into law the Holocaust Expropriated Art Recovery (HEAR) Act, which set a nationwide standard timeframe in which to bring these claims, allowing six years to make them. This is what Sungaila is focusing on this month when she petitions the Supreme Court to reconsider the verdicts of lower courts. “HEAR trumps the doctrine of laches,” says Sungaila, “because it places the merits of the case above any technical objections.”

Today, *The Actor* is valued at more than £75 million. But it is how the court interprets the HEAR Act that will determine the outcome of the petition. If Zuckerman wins, *The Actor* could end up, like so many other restituted art works, on the auction block, where it will create a sensation.