

# THE LAWYERS WEEKLY

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Art lawyer Bonnie Czegledi offers her checklist for detecting art fraud, see story p. 8; photo by Paul Lawrence

8

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## Remember you're a lawyer when buying art on your summer holidays

By Bonnie Czegledi

The purchase of art is fraught with risks particularly from unknown sellers in other countries against whom it may be very difficult to obtain an effective legal remedy.

Art can be stolen in which case good title may not be acquired. Art may be a forgery or counterfeit, in which case it is not what it is presented to be. Art can be illicit in that its sale or export may be prohibited or otherwise restricted by the laws of including one or more jurisdictions: where the painting

originates, where the vendor resides, and where the purchaser resides.

Collectors may find it instructive to use the following "Czegledi's Due Diligence Checklist for Purchasers of Art" prior to completing an acquisition. This checklist is not a complete solution to ensuring that a purchaser is not the victim of stolen, forged or otherwise illicit art. Even if you have no reason to believe something is amiss, ask the necessary questions.

The questions rising from this checklist need to be further investi-

gated, answered and professionally verified. Here is the checklist:

### I. Seller

- a) Bill of Sale and Warranty
- b) Who is the Seller?
  1. What is the seller's reputation?
  2. References
  3. Internet search
  4. How long have they been in business?
  5. Bankruptcy searches
  6. Executions
- c) Independent Legal Opinion – good and marketable title or ensure it was not otherwise ille-

gally obtained.

### II. Item

- a) Determine it is not stolen
  1. Be suspicious if an object of art, book or antique is priced well below market value.
  2. Be critical if asked to pay cash for item, unless buying from a reputable dealer.
  3. Check "Art loss" registers
  4. Investigate "provenance" of piece; seek professional advice regarding gaps in provenance.
  5. Determine provenance is not a fiction.

6. If piece has no provenance, assume that it is stolen and take appropriate steps to satisfy yourself that it is not stolen.

- b) Determine that it is a genuine article
  1. Rely on warranty, or
  2. Rely on experts.
- c) Determine that it is not war loot undermining good and marketable title or otherwise criminally obtained.
- d) Country of origin
  1. Determine that the object is not cultural patrimony or otherwise subject to export restrictions.