

The *Art of Painting*, Johannes Vermeer's luminous tribute to the tradition of history painting, is a primary attraction at the Kunsthistorisches Museum in Vienna. But should the 17th-century Dutch masterpiece have ended up there after World War II? Or is it yet another example of ill-gotten Nazi art that ought to be returned to its rightful owner?

These are not new questions. Jaromir Czernin-Morzin, an Austrian count who inherited the picture, estimated to be worth at least \$200 million today, sold it to Adolf Hitler in 1940 for 1.65 million reichsmarks, or about \$600,000. It was expected to be a highlight of the planned Führer-museum in Linz. After the war, the painting, which is among the finest of the 35 canvases accepted by scholars as Vermeer's work, was entrusted to the Vienna institution and eventually added to its permanent collection—but not without protest.

Czernin was notified that the painting had been retrieved from Hitler's storage, but when he arrived at the collection point in Munich, a representative of the Austrian government had already taken it to Vienna. Beginning in 1945, the count made several attempts to recover the Vermeer, but Austrian restitution tribunals rebuffed his claim that he had been forced to sell it well below market value. Czernin died in 1966 and his heirs continued the battle.

In the latest development, on March 18, the Austrian Art Restitution Advisory Board rejected arguments that the Vermeer was sold under duress and that the seller and his second wife—Alix-May Czernin, whose grandfather was Jewish—were persecuted by the Nazis. Sophie Huvos Czernin, the daughter of Alix-May and her former hus-

Vying for a Vermeer

Austria's restitution commission rejects a claim for a masterpiece in the Kunsthistorisches Museum

BY SUZANNE MUCHNIC



▲ **Vermeer's masterpiece *The Art of Painting*, 1665–66, was sold to Hitler in 1940. Now the heirs of its prewar owner want it back.**

band, and other Austrian heirs were represented by Wolf Theiss, a Vienna law firm. Helga Conrad, a U.S. citizen and New York resident who is a stepdaughter of Czernin, was represented by Los Angeles attorney E. Randol Schoenberg.

"Since summer 2009, two researchers investigated the case and checked archives in Austria, Germany, Czech Republic, and the United States for relevant documents, in spite of the fact that claims of Jaromir Czernin were rejected clearly by the courts after 1945," Christoph Bazil, head of the Austrian Department for Restitution Affairs, wrote in an e-mail response to

questions from *ARTnews*. "Based on the documentation available to-date, the Art Restitution Advisory Board saw no evidence for a sale under duress."

Schoenberg contends that the board ignored essential documentation that he submitted, including an article in *Der Stürmer*, a Nazi tabloid, containing anti-Semitic attacks on Alix-May. Although Czernin was a Catholic and his wife was only one-quarter Jewish, he had many reasons to be concerned about his safety, Schoenberg said in a telephone conversation. The Nazis declared that his wife was an unfit mother and an enemy of the state whose passport was to be taken away. His sister was married to one of Hitler's Austrian opponents, and in 1944 Czernin

himself was arrested and imprisoned by the Gestapo.

Schoenberg, a prominent litigator in cases of Nazi-looted art, scored a victory in Austria in 2006, when he recovered five paintings by Gustav Klimt for Maria Altmann of Los Angeles and her family. The most valuable work, a portrait of Altmann's aunt, Adele Bloch-Bauer, was purchased for a reported \$135 million by cosmetics magnate

Ronald S. Lauder for the Neue Galerie in New York.

The Vermeer case is more complicated. If the advisory board had concluded that Alix-May had been persecuted, and not merely "subject to anti-Semitic hostilities," her husband would not have had the burden of proving that he sold the painting under duress, Schoenberg said. "That's the linchpin." An additional sticking point is that Jaromir Czernin tried to find a buyer for the Vermeer for several years before he sold it to Hitler.

American industrialist Andrew W. Mellon is said to have offered \$1 million for the painting in 1935, but it couldn't be exported from Austria. Hitler made his first attempt to buy the Vermeer in 1939, through his agent, Hans Posse, but balked at the asking price of 2 million reichsmarks. Later that year German tobacco mogul Philipp Reemtsma's plan to acquire the painting for 1.8 million reichsmarks was subverted by a decree that it couldn't leave the

Czernin gallery without the Führer's permission. The following year, Czernin struck a deal with Hitler and even sent him a flowery thank-you note.

To the Austrian tribunal, the episode indicates that Czernin was not subject to coercion and the thank-you note proves it. To which Schoenberg responds: "So what? He was trying not to be put in jail. He did want to sell the painting, but if it's a sale to Hitler and you can't sell it to anyone else, you can't say that it's free from duress."

As for the heirs, the count had children with several wives. His stepdaughter Conrad is the daughter of his third wife, Gertrude, who supported him during their marriage and funded his attempts to recover the Vermeer, with the help of her mother. Jaromir Czernin transferred his claim to the painting to Gertrude in 1954 as part of a divorce settlement. In 1985, she ceded her claim to her daughter.

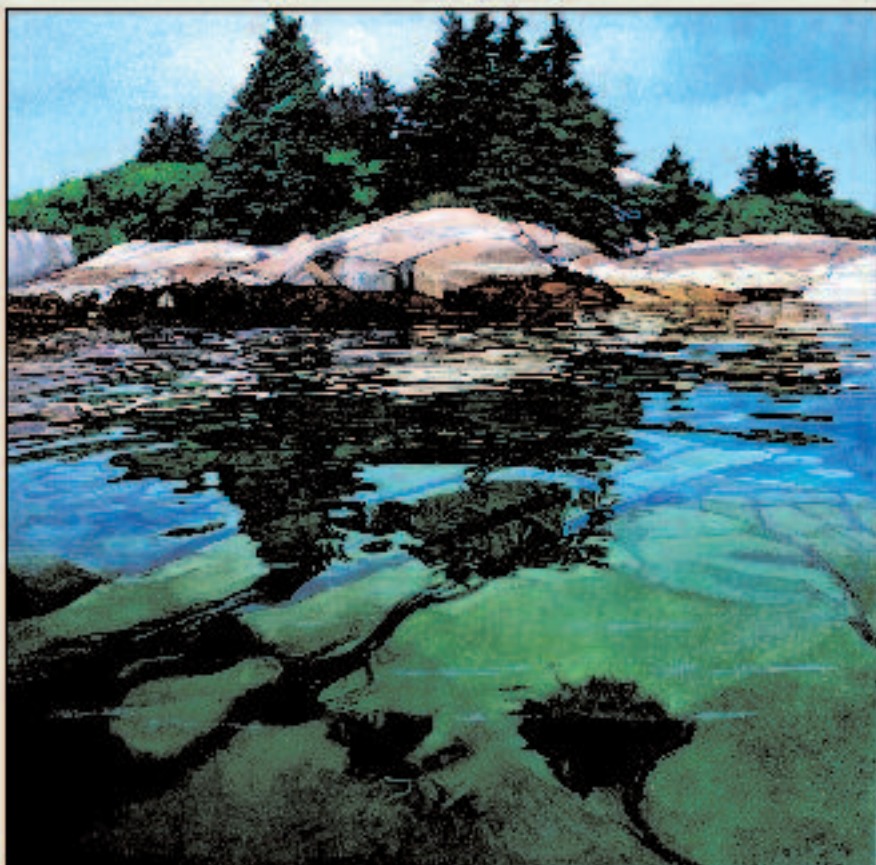
"I'm highly disappointed over the

recent rejection of our claim to the Vermeer painting by the Austrian tribunal," said Conrad, who has worked with Schoenberg since 2007. "It's not so much who gets the painting; it's that it doesn't belong to the Kunsthistorisches Museum."

Schoenberg hasn't given up. "We are exploring all possibilities to obtain a fair hearing on the merits of the case," he said. "There's a possibility of more evidence. There's an archive in the Czech Republic with hundreds of boxes that no one has looked through."

In Bazil's view, the Austrians have done a thorough job. "All available evidence was presented to the Advisory Board," he wrote. "As the investigations were exhaustive, it is hard to imagine that new evidence leading to a different decision will be found." ■

Suzanne Muchnic, former art writer for the Los Angeles Times, writes for many publications.



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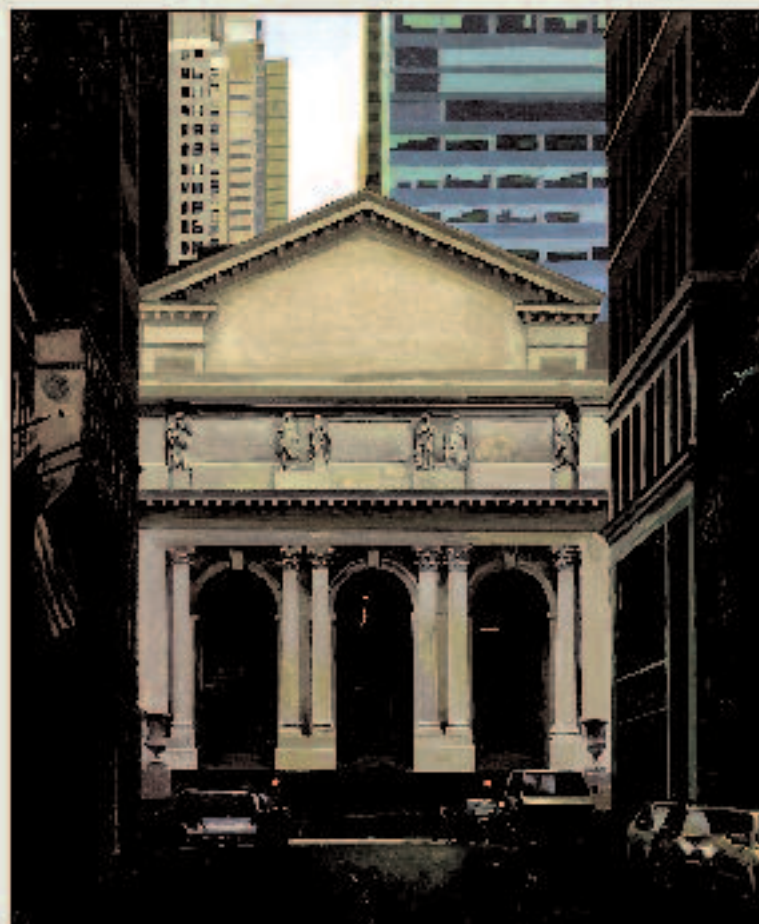
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