

# ART MARKET

## Restitution

# Critic's heirs sue over 'destroyed' paintings

Previous settlements do not annul further claims, court rules

### UNITED STATES

**New York.** It has become an all too familiar story: the German art critic Paul Westheim was led to believe that his extensive collection of paintings and prints had been destroyed during the Second World War. Now, Margit Frenk, his stepdaughter, says that this is not true.

She is suing to recover four of those paintings, all German Expressionist works that have allegedly resurfaced in New York, half a century after his death. She is also seeking damages for the loss of a fifth painting that sold at

Christie's in 1998 for close to \$1m.

Westheim, who was Jewish, was vilified by the Nazis for supporting "degenerate" art and fled Germany in 1933. Frenk's lawsuit, filed in New York state court last year, alleges that he entrusted his collection to Charlotte Weidler, a friend in Berlin, and that when he tried to retrieve his art after the war, Weidler broke off all communications. Weidler's sister later said that all the works had been destroyed in bombing raids.

In fact, according to the complaint, some works did survive, which Weidler "embezzled" and brought to New York. They were rediscovered by Westheim's family only when Weidler tried to sell

them after Westheim's death in 1963. These include, the complaint says, a portrait by Oskar Kokoschka that sold through Serge Sabarsky, the co-founder of New York's Neue Galerie museum, in 1971. When Westheim's widow learned of the sale, she sued Weidler and Sabarsky's gallery and reached a settlement with them. Then, in 1976, the complaint says, Weidler attempted to sell a painting by Otto Dix through a German dealer. Weidler and Westheim's widow again reached a settlement.

Charlotte Weidler died in 1983, and in her lawsuit, Frenk alleges that four further paintings from Westheim's collection—including Max Pechstein's *Portrait of Paul Westheim*, 1928, and a water-colour by Paul Klee—are now in the possession of the executors of Weidler's estate and Weidler's heirs. These are the defendants in the current lawsuit.

Frenk also alleges that Erich Heckel's *Geigerin* (violinist), 1912, came from Westheim's collection, and that the work sold through Christie's in 1998 (for \$987,000) via the defendants or a consignee who had obtained it from Weidler. The catalogue from the auction states the provenance as "Paul Westheim, Berlin", then "Charlotte Weidler, Berlin". (The painting has since sold again—in June 2012—for the equivalent of \$1.6m, also through Christie's, although Frenk is not seeking damages from this re-sale.) The auction house's 2012 catalogue records the work as "presumed to have been destroyed" while in storage with Weidler, after which, the catalogue says, it went into an unspecified "private collection".

The defendants moved to dismiss the lawsuit, arguing that the earlier settlement agreements with Weidler foreclosed Frenk's claims. On 18 December, the court ruled against them.

"A settlement was offered but was not acceptable," says David Rowland, Frenk's lawyer. Tom Kline, the lawyer



Erich Heckel's *Geigerin* (violinist), 1912, is allegedly part of the Westheim collection

for the defendants, would not comment on any settlement, but says that his clients "acquired some work from Charlotte Weidler. A lot of the rest is deeply muddled [and] has to be unravelled."

Separately, Frenk is seeking a painting in the Berlinische Galerie, a Modern art museum, and three more of her claims in Germany have been settled. Rowland says "there were a lot of other works", as Westheim owned around 50 paintings and sculptures and more than 3,000 prints. "Did they survive, and where are they? We don't know," he says. Laura Gilbert



The critic Paul Westheim, as portrayed by Ludwig Meidner in 1920

## Looted Pissarro for legitimate sale

### UNITED KINGDOM

**London.** A work that was restituted to the heirs of a collector who was murdered at Auschwitz is coming to auction for the first time this month. Camille Pissarro's *Boulevard Montmartre, matinée de printemps*, 1897, was originally owned by Max Silberberg, a Jewish industrialist who lived in Breslau (now Wrocław, Poland). His high-quality collection of 19th- and 20th-century art included works by Claude Monet, Pierre-Auguste Renoir, Paul Cézanne and Vincent van Gogh.

Between 1935 and 1937, Silberberg's collection was dispersed in a series of forced sales (known as "Jewish auctions") in Berlin; the painting by Pissarro was among the earlier sales, in 1935. Soon after 1937, the collector and his wife were deported to concentration camps in Grüssau, then Theresienstadt and, finally, in 1942, to Auschwitz.

Their only son, Alfred, was arrested and taken to the Buchenwald concentration camp in 1938, but he was released soon after, on the condition that he left the country immediately (it is believed that his release was due to a secret deal struck between Max and the authorities). Alfred had his parents declared dead—a legal necessity when there is



The painting (est £7m-£10m) is due to be sold at Sotheby's in London this month

no direct proof of death—in 1945.

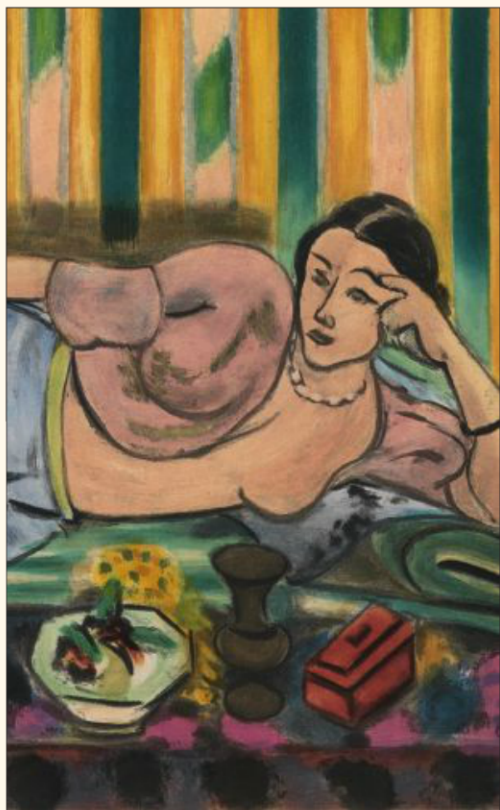
*Boulevard Montmartre, matinée de printemps* resold several times, before being bought by John and Frances Loeb in 1960. In 1997, the Loebes bequeathed the painting to the American Friends of the Israel Museum, in Jerusalem, where, following research, the work was restituted to Alfred's widow, Gerta

(he died in 1984). She loaned the painting back to the museum until her death last year.

Her heirs are selling the painting (est £7m-£10m) at Sotheby's in London on 5 February "to benefit people and causes close to Gerta's heart", according to the auction house.

Melanie Gerlis

SWANN  
AUCTION GALLERIES



Henri Matisse (after), *Odalisque au Coffret Rouge* (detail), color aquatint and etching, circa 1952. Estimate \$30,000 to \$50,000.

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