

LEGAL MEMO:

Moral Rights - Gerhard Richter

The creator behind artwork will determine its value. Authorship has been a long controversy as each case varies, determining whether the art is fraudulent or simply the artist disclaims his association to previous work.

In 2013, Peter Doig, a well renowned landscape artist, disavows a painting owned by Robert Fletcher, a former corrections officer¹. Fletcher attempted to sell a landscape painting for millions claiming Doig had sold to him in the 1970's where they met in Thunder Bay, Ontario. After three years of litigation, Doig was given justice stating the painting was by a deceased artist Peter Doige, confirmed by his sister. This was a case of false identity, that in fact Doig had every right to disclaim but unfortunately had to prove.

In another instance, Gerhard Richter, a famous German artist, exercises his moral rights of authorship² differently. Disowning his earlier West German period work from 1962 to 1968³. He excludes earlier experimental work of realistic figurative painting from his collection. Disclaiming a piece greatly affects the value of sales, which inherently will affect those who currently own his artwork. Lawsuits will arise as collectors will simply have artwork attached without a creator.

Providing artist, the right to disclaim their work due to counterfeit or fraudulent claims are well within their rights. They have the right to protect their reputation if someone claims otherwise to discredit their name. Such as the case of Doig, it's unfortunate he had to go to trial but justice prevailed. Though, the right to authorship seems to have a shortcoming where it provides too much control to the artist. Richter takes advantage of this law, and slips the rug underneath collectors. Work that was once worth millions simply worth nothing without his name. Suddenly, his reputation is more valuable than those of loyal collectors who supported and admired his work. It is understandable that artists have the right to protect their reputation, therefore if they choose to sell it, it is a valid notion they are giving permission to showcase their work. If a collector invests money in their work, they should honor that.

¹ Rotenberg, Graham Bowley and Lori. "The Artist Peter Doig Wins a Case Involving a Painting's Attribution." The New York Times. August 23, 2016. Accessed September 23, 2017. <https://www.nytimes.com/2016/08/24/us/the-artist-peter-doig-wins-case-involving-a-paintings-attribution.html?mcubz=1>.

² Prowda, Judith B. *Visual arts and the law: a handbook for professionals*. Farnham, UK: Lund Humphries, in association with Sothebys Institute of Art, 2013., p. 104.

"The right of authorship, also known as the right of attribution, has evolved into three distinct rights. The first is the right of creators to be recognized as the authors of their works or, if they choose, to publish anonymously or pseudonymously. It is also the right to prevent their creations from being attributed to someone else. Finally, it is the right to prevent their names from being used on works they did not actually create."

³ Neuendorf, Henri. "Gerhard Richter Doesn't Acknowledge Early Works." Artnet News. July 24, 2015. Accessed September 23, 2017. <https://news.artnet.com/art-world/gerhard-richter-omits-art-from-catalogue-318665>.