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Passing title to stolen goods

By Armen Vartian | 11-11-11

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It is an axiom of Anglo-American common law that nobody can pass good title to stolen goods.

The true owner of a stolen item may always recover it from its current holder, no matter how many times the item changed hands in between.

This is not the case in civil law countries such as Switzerland, where “innocent” buyers, who purchase goods without any reason to think they are stolen, usually get to keep them.

Some years ago, I represented a rare coin dealer — one of whose rarest U.S. gold \$20 pieces had been shipped by overnight courier to a New York dealer but never arrived there.

Offered own stolen coin

Several months after that incident, my client was offered his coin at a coin show.

The client managed to trace it back through a chain of dealers to a dealer in New York who had bought it over the counter for half its value from someone who was obviously not a collector.

While people who buy stolen art and collectibles in good faith (having no reason to think they were stolen) can almost always claim their money back from the dealer who sold them the items, they never acquire good title and they must surrender the goods to the true owner if a timely claim is made.

So in my client’s case the coin had to be surrendered, and the dealers along the chain of possession each claimed their purchase price from the one before them.

Without such a simple rule, of course, victims of theft could not be adequately protected, because thieves could put stolen items out of reach by selling them to innocent purchasers.

Now it gets complicated, and I deliberately used the words “timely claim” in one of the preceding paragraphs.

Regardless of the criminal laws punishing thieves, most states have statutes of limitations governing civil claims for replevin; for example, recovery of stolen property, such as the three-year statute on the books in the state of New York. But stolen art and collectibles often end up in private collections, out of public view for considerable periods of time.

An example is when a Marc Chagall gouache painting that disappeared from the Guggenheim Museum in New York in 1965 reappeared in a private art collection in 1985.

Does this mean that the victim of a theft is out of luck if the work doesn’t resurface until after the limitations period has run?

Modified statutes

Usually not, because many states have modified their statutes of limitations with “discovery rules” suspending running of the limitations period until the victim locates the stolen item.

The limitations period starts only when the true owner finds the item and knows against whom to assert his or her claim.

But fear of claims being brought decades after a theft led states to modify the modification and require the true owner to prove that he exercised due diligence in looking for the items.

In New York, the law is that an innocent purchaser of stolen art or collectibles will prevail only if he can prove that the true owner knew where the items were and unreasonably delayed in bringing suit.

In California, the true owner will have three years to sue once he or she has discovered "the whereabouts" of the stolen work.

With access to information provided by the Internet, it is easier than ever for victims of thefts to learn that their property is being sold at public auction or even privately.

This, however, makes it even more important that such victims search for their property diligently, or else lose their rights completely with the passage of time.

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