



Protecting Fine Art Investments with Title Insurance

When investing in fine art, collectors often worry about the potential decrease in value if the art or artist were to fall out of favor. While this is a reasonable concern, it will not result in an entire loss of the asset investment. Collectors need to be wary of two other risk factors when buying fine art: authenticity and clear title. While authenticity cannot be insured against, collectors can usually purchase title insurance to protect against potential loss due to a reclamation claim.

Contested ownership cases have gone to trial where title insurance could have protected owners from suffering an unexpected loss. It is especially important to consider whether title insurance can be obtained when the gallery or seller is having difficulty demonstrating clear legal title for the work. Works of fine art may have histories that are difficult to substantiate. Without such substantiation, there is no way of being sure that clear title exists. If a work is discovered to have been stolen or illegally imported, then it could be subject to a reclamation claim either by its original owner or by a foreign government.

Aside from title risks, title insurance may also protect against creditor liens and encumbrances. Works of art can be subject to liens when the art has been used as collateral, and in addition they are often subject to estate disputes. It can also be a consideration for trustees of trusts, art foundations and other structures. Title risks for buyers also include the seller's lack of authority to sell. When title is insured, collectors can be recompensed for their loss and legal defense fees. Additional benefits of title insurance include its indefinite duration and policy extension to heirs.

Anchin's art specialty group, part of Anchin Private Client, can assist in determining the best course of action for art collectors to protect their investment acquisitions.

Please contact your Anchin relationship partner or Gary Castle, a senior advisor in Anchin's Art Specialty Group, at 212.840.3456 or info@anchin.com.



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