

Art in Transit: The Unregulated Market of Art



Is art a risky asset? May one of the reasons behind such thinking include that it is normal for this particular type of asset to "travel" internationally from one place to another? Or, on the other hand, is investing in art risky because this kind of property may be restricted in mobility if the state exercises certain legal prerogatives over it? It has been argued before that one of art's disadvantages as an investment is the lack of market regulations. It would appear that there seem to be no clear-cut guidelines (yet) for the transit and, in more remote cases, the expropriation of artworks. The absence of rules has supported criticism against the art market as misleading towards investors, where anything may be validated as certain, and where everything is not ever completely clear.

Some would argue that behind the apparent anarchy and beyond the ultra-subjectivity, the lack of norms, and the ego games that characterize many different agents and components of the art world, there appears at least to be a solid international legal framework that offers a 180-degree contrast to all the disorder.

When an aesthetic manifestation stops being just an object of contemplation to become part of the "national" or "global heritage", it



becomes surrounded by a series of systematic limitations that, with the interest of ensuring the well-being of the artwork, restrict the mobility of the same for reasons which could be synonymous with cultural, social and economic wealth. This is exemplified by the legitimization and diplomatic regulation proclaimed by UNESCO through its different channels for the protection and preservation of cultural heritage, such as "The Convention Concerning the Protection of the World Cultural and Natural Heritage" and "The Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property".

But, while these well-intended measures are protective in essence, they may play as contributing factors towards the irregularity of the markets of art, giving as a result an unequal opportunity to profit with art. What happens when a collector acquires an artwork considered national heritage? Since such artwork is restricted in mobility, the collector, while crowned as the “legitimate” owner of the artwork –by title of purchase- would really have a role of a mere guardian. Control and jurisdiction over the artwork would be in the hands of the state or the national heritage’s regulatory institution. This clearly entails limitations in terms of the transit or trans-nationalization of artistic pieces. More regulation thus does not always mean equal treatment or more perfect markets. Such collector, notwithstanding, is given a superior opportunity. Collecting art in contemporary times does not imply only the accumulation of objects or the exacerbated acquisition of works of art, it also entails transforming into a trendsetter with an inherent intellectual and ethical responsibility over the aesthetic and commercial value of the acquisition. The collector, upon becoming the possessor of an artistic object of the magnitude described herein, acquires the right (and concurrent responsibility) to appear in the pages of history.