

Historical Society of the New York Courts
2018 Garfinkel Essay Scholarship

Summary of *Guggenheim Foundation v. Lubell Case*

77 N.Y.2d 311, 569 N.E.2d 426, 567 N.Y.S.2d 623 (1991)

In 1912, Marc Chagall painted, “Le Marchand de Bestiaux,” (“The Cattle Dealer,” when translated). The painting was sold to Mrs. Rachel Lubell and her spouse in May of 1967 for \$17,000.00. In 1985, a former employee of the Guggenheim Museum saw a transparency of the painting. He recognized the painting as a piece from the collection at the Guggenheim that had disappeared in the late 1960s. The date the Museum discovered the painting was missing is approximately 1970. The museum director sent Mr. and Mrs. Lubell a letter in 1985 demanding the return of the painting. Mrs. Lubell refused, and the Guggenheim filed a lawsuit.

Mrs. Lubell’s attorney asked that the Supreme Court, New York County dismiss the lawsuit on the grounds that she was a good faith purchaser and the time period had expired for the Museum to make a claim of ownership for the stolen artwork. The Court agreed with the attorney’s claims and dismissed the action.

The Museum appealed the decision of the lower court to the Appellate Division, First Department on the grounds that Mrs. Lubell needed to demonstrate to the Court that the Museum’s delay in failing to search for the painting was prejudicial to her ownership rights. Mrs. Lubell appealed the finding of the Appellate Division. She believed that the Court had reached its decision in error.

The final appeal in the case was heard by the New York State Court of Appeals. The Court of Appeals held that the burden of proving that the painting was not stolen rested with Mrs. Lubell. The Court stated that in New York State the preference of the Court is to protect the stolen artwork and the rights of their owners.