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
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Case Summary

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DeWeerth v. Baldinger

DeWeerth v. Baldinger, 658 F. Supp. 688 (S.D.N.Y. 1987), *rev'd*, 836 F.2d 103 (2d Cir. 1987), *cert. denied*, 486 U.S. 1056 (1988), *remanded*, 804 F. Supp. 539 (S.D.N.Y. 1992) (*mem.*) (granting relief from judgment), *rev'd*, 38 F.3d 1266 (2d Cir. 1994), *cert. denied*, 513 U.S. 1001 (1994).

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Case Summary

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Précis

The DeWeerth case, which took twelve years and two rounds in federal court to resolve, pitted a New York good faith purchaser of a Monet painting, "Champs de Blé à Vétheuil," against a German citizen who claimed the work was stolen by American soldiers just after World War II. The federal court, where the case was brought, interpreting New York law, determined that the original owner had not exercised due or reasonable diligence in trying to locate her work and that the [statute of limitations](#) to claim it had, therefore, expired. The court did not define "reasonable diligence." In the later case of *Guggenheim v. Lubell*, the New York state court did not impose a [due diligence](#) requirement on the demand and refusal rule, saying that the three year statute of limitations does not begin to run until the owner has demanded his property from the possessor and been refused; the original owner's diligence in seeking his property, the state court said, was a fact to be considered only in connection with a [laches](#) defense at trial.

Associated Statutes and/or Legislation

> [New York Statute - Civil Practice Law and Rules § 214, \[Statute of Limitations\], Actions to be Commenced within Three Years . . . to recover chattel](#)

Facts

During World War II, plaintiff Gerda Dorothea DeWeerth sent the Monet painting, owned by her family since 1908, to her sister in Southern Germany for safekeeping. In 1945, the work was apparently stolen by US soldiers quartered in the sister's house. After their departure, the sister noticed that the painting was missing and informed the Plaintiff. From 1946 to 1957, DeWeerth made several efforts to locate the painting or make an insurance claim. None of these efforts was fruitful. After 1957, she made no further attempts to recover the work. Defendant, Edith Marks Baldinger, purchased the painting, in 1957, from the New York gallery, Wildenstein & Co. (a third-party defendant), who had acquired the work in 1956 from a dealer in Geneva, Switzerland. In the early 1980's, a nephew of DeWeerth learned that his family had once owned the Monet, and shortly thereafter, identified the work in a catalogue raisonné as having been sold by Wildenstein and later exhibited by the gallery in 1970. In 1982, DeWeerth retained New York counsel who requested the Wildenstein Gallery identify the purchaser of the work. After it refused, a New York court compelled Wildenstein to identify the defendant. A demand to Baldinger for return of the painting was made in December 1982 and refused in February 1983.

Court History

In 1987, the [Federal District Court](#) ordered Baldinger to return the painting to its original owner, DeWeerth on the grounds that DeWeerth had exercised reasonable diligence in finding the painting. On appeal, the Second Circuit reversed this decision finding that