



The Advisory Commission on the return of cultural property seized as a result of Nazi persecution, especially Jewish property, chaired by Prof. Hans-Jürgen Papier, decided on 16 May 2023 in the case of the heirs of Hedwig Lewenstein Weyermann and Irma Lewenstein Klein versus Bayerische Landesbank, to recommend the restitution of the painting *Das bunte Leben* by Wassily Kandinsky to the heirs of Hedwig Lewenstein Weyermann and Irma Lewenstein Klein.

**Recommendation of the Advisory Commission  
in the case of the**

**Heirs of Hedwig Lewenstein Weyermann and  
Irma Lewenstein Klein**

**v.**

**Bayerische Landesbank**

1. The subject of the proceedings is the painting *Das bunte Leben* [*The Colorful Life*] (1907) by Wassily Kandinsky (1866–1944), tempera on canvas, measuring 130 cm x 163 cm x 2.2 cm.

The painting was acquired by the Bayerische Landesbank in 1972 and has since been on loan to the Städtische Galerie im Lenbachhaus and the Kunstbau in Munich (FH 225). The claimants are the heirs after heirs of Hedwig Lewenstein Weyermann and Irma Lewenstein Klein.

2. The family of the claimants were indisputably persecuted individually and collectively during the period of National Socialism. Emanuel Albert Lewenstein (1870–1930) was the director of the sewing machine factory A. Lewenstein Naaimachines Fabrik, which was founded by his father Adolph Lewenstein (1841–1907). In February 1901 he married Hedwig Weyermann [also Weijermann] (1875–1937). The marriage bore three

children, Helene Lewenstein (1902–1907), who died as a child, Robert Gotschalk Lewenstein (1905–1974) and Wilhelmine Helene Lewenstein, later da Silva, later de Castilho Serra (1912–2007). The family lived in Amsterdam.

The couple owned an art collection to which the painting in dispute had belonged since 1927. After the death of Emanuel on 10 June 1930, the entire marital property fell to his widow Hedwig. Hedwig subsequently moved with Wilhelmine from Laïressestraat 37 to a tenement house at Bachplein 13<sup>h</sup> in Amsterdam, where she lived until her death on 20 May 1937.

Robert was divorced from his first wife Henriette Ruth Opprower (1905–unknown) in 1933 – the marriage had remained childless – and in October of the same year married Irma Edith Ruth Klein (1907–1983), who had previously fled from Germany to Amsterdam in September 1933. The couple’s matrimonial regime was community property and they remained childless. After Hedwig’s death on 20 May 1937, Robert and Irma moved into the tenement house at Bachplein 13<sup>h</sup> where, from autumn 1937 onwards, Irma’s mother lived with them, having fled from Germany to Amsterdam herself in January 1936. In 1938 Robert met US citizen Shirley Winifred Goodman, later Lewenstein, later Ozgen (1913–2014). That same year, in August 1938, he separated from Irma; the couple did not divorce until 20 March 1944.

At the beginning of April 1939, Robert resigned from his position as director of the sewing machine factory N. V. Amsterdamsche Naaimachinenhandel, formerly A. Lewenstein. He was granted an annual payment of 3,500 Dutch guilders. At the end of April 1939, Robert left the Netherlands with his new partner Shirley. They first lived in the south of France. German troops occupied the Netherlands in May 1940. Before the Vichy regime came to power in France, Robert and Shirley left southern France and fled via Bilbao and Lisbon to New York, where they arrived on 14 July 1940. There they lived under difficult financial conditions, as the agreed payments from N. V. Amsterdamsche Naaimachinenhandel failed to materialise from at least May 1940, and Robert did not hold a work permit. The company itself was ‘Aryanised’ by resolution of the general meeting of 4 December 1940, and Robert and Wilhelmine’s shares were transferred to a German administrator in September 1942. Having divorced Irma, Robert married Shirley in New York in August 1945. The marriage produced the children Francesca Manuela Davis (\*1949) and Robert Colin Lewenstein (\*1951).

Irma remained in Amsterdam throughout the Nazi occupation. She was subjected to severe anti-Jewish discrimination and state measures, and by her own account, was arrested on a number of occasions. There is also a record of her escape from the Gestapo, during which she fell and suffered damage to her health. Irma’s mother died

in January 1942; her brother Julius Dagobert Günther Klein (1898–1984) fled from Amsterdam to Switzerland in July 1942 together with her younger brother Hans Klein (1904–unknown). Günther's wife Eva Klein, née Schuit (1912–1942) and their two daughters Yvonne (1937–2015) and Renée Hanna (1939–unknown) were arrested while fleeing. The children managed to survive. Eva Klein was murdered in Auschwitz.

Wilhelmine married the Portuguese citizen José Augusto Rodrigues da Silva Jr. (1905–unknown) in May 1934 and subsequently lived with him in Portugal. The couple's matrimonial regime was separation of property and they resided in Lisbon until the end of January 1937. From February 1937, Wilhelmine and José stayed in Amsterdam and emigrated to Mozambique, a Portuguese colony, at the end of January 1938 after the settlement was reached over Hedwig's estate. The marriage remained childless and the couple divorced in December 1940. Wilhelmine returned to Portugal after the end of the war, where she married Eurico de Castilho Serra (1900–1984) in 1946. This marriage also remained childless. In Mozambique she had worked as a governess to the daughter of the Portuguese Governor General. At her request, the latter applied for an exit permit for her paternal aunts Betty Lewenstein (1880–1974), Rosa Lewenstein, former married name Goldstein (1872–1944) and Julie Frederika Goldsteen Lewenstein (1876–1944) as well as for Paul Goldsteen (1905–1983) with his wife Hester Tilly, née Knap (1910–1966) and their son Robert Max (\*1937). The application was rejected by the Chief of the Security Police and SD [Sicherheitsdienst des Reichsführers-SS] in April 1944. Paul Goldsteen and his family were taken from Westerbrok to Theresienstadt, but survived. Betty Lewenstein managed to escape. Rosa Lewenstein and Julie Goldsteen Lewenstein were murdered in Auschwitz on 31 May 1944.

3. Wassily Kandinsky (1866–1944) painted *Das bunte Leben* in the spring of 1907. Around 1919/1920, Paul Citroen (1896–1983) acquired it from the gallery *Der Sturm* for which he worked in the Netherlands from 1917. The Citroen family had family ties to the Weyermann family, as Alexander Roelof Citroen (1860–1915) was married to Mathilde Citroen Weyermann (1874–1946). The couple Emanuel A. Lewenstein and Hedwig Lewenstein Weyermann acquired a number of works for their art collection from Paul Citroen from at least 1920 onwards, including Kandinsky's *Bild mit Häusern* [Painting with Houses] (1909) for 500 Dutch guilders in May 1923, and in November 1927 Kandinsky's *Das bunte Leben* for 900 Dutch guilders. After her husband's death, Hedwig became the sole owner of *Das bunte Leben*. From 1933, she made it available to the Stedelijk Museum in Amsterdam by way of a loan.

In her will of 1 February 1937, Hedwig stipulated that the “schilderijen en etsen” [“paintings and etchings”] were to be divided into two equal parts by an expert and then distributed among her two children by lot. It is no longer possible to retrace whether this drawing of lots was actually carried out or not. In the notarised agreement on the division of the estate of Hedwig Lewenstein Weyermann of 24 January 1938, the art collection was not explicitly mentioned as being part of the assets to be divided. Each of the siblings received half of the stocks and bonds, while the “nog aanwezige inboedelgoederen, sieraden en verdere roerende lichamelijke zaken” [“goods, jewellery and other movable property still in the estate”] worth 14,250 Dutch guilders went to Robert, thereby settling Wilhelmine’s debt of 16,250 Dutch guilders and Robert’s debt of 2,000 Dutch guilders to their mother. Whether or not the word “goods” also included the “paintings and etchings” remains unclear.

In a document dated 8 December 1938, the then director of the Amsterdam Municipal Museums stated that he had taken custody of a painting by Kandinsky entitled *Das bunte Leben* belonging to “Mevr. Lewenstein, Bachplein 13, Amsterdam”. For whom and on what occasion this notification was issued is not apparent: both the document itself and the carbon copy are in the museum archives but they do not indicate an addressee.

On 5 September 1940, the painting was handed over by an employee of the Stedelijk Museum to a messenger sent by Abraham Mozes Querido (1897–1944) on behalf of an unknown party and was offered on 9 October 1940 at the Amsterdam auction house Frederik Muller & Co as part of the “Nalatenschap L . . . . . , Amsterdam” [“Estate L . . . . . , Amsterdam”] as one of a total of 82 lot numbers at the auction *Catalogus van moderne Schilderijen Aquarellen, Teekeningen, etc. afkomstig van de Collectie van Wijlen J. Goudstikker, Amsterdam – Diverse Verzamelingen en Nalatenschappen* [Catalogue of modern paintings, watercolours, drawings etc. from the collection of the late J. Goudstikker, Amsterdam – Various collections and bequests]. It was acquired at the auction by Salomon B. Slijper (1884–1971) for 250 Dutch guilders, with commission for 275 Dutch guilders. Slijper, who was persecuted because of his Jewish ancestry, handed over *Das bunte Leben* to the Stedelijk Museum once again immediately after the auction; the museum noted the painting as being on loan from “Mevr. Lewenstein” and kept it until at least August 1943, but probably until January 1946. In January 1946, Slijper tried to sell the painting, but was only acting as an intermediary and not as its owner. After his death, his widow and heiress sold the painting to the Bayerische Landesbank in 1972 for 900,000 Dutch guilders (892,524.90

Deutschmarks). It has been on loan to the Städtische Galerie im Lenbachhaus and the Kunstbau in Munich ever since.

4. It is undisputed between the parties that *Das bunte Leben* was owned by Emanuel A. Lewenstein and Hedwig Lewenstein Weyermann from 1927 and that Hedwig became the sole owner after the death of her husband. However, it is not clear whether the property passed to her two children, Robert G. Lewenstein and Wilhelmine H. Lewenstein da Silva, later de Castilho Serra, after Hedwig's death, or only to one of them. Moreover, it is disputed at whose instigation and on whose behalf the 82 works of the Lewenstein estate, and therefore also the painting in dispute, were auctioned at the auction house Frederik Muller & Co, Amsterdam in October 1940.

a) The Bayerische Landesbank first asserts that the case is not to be assessed according to the *Guidelines for implementing the Statement by the Federal Government, the Länder and the national associations of local authorities on the tracing and return of Nazi-confiscated art, especially Jewish property, of December 1999* (New edition 2019) (hereinafter: *Guidelines*), but according to the Dutch regulations, since the events relating to the case took place exclusively in the Netherlands. It also asserts that the Dutch Restitutiecommissie's investigation reports should be consulted with reference to its decision regarding *Bild mit Häusern*, another painting by Kandinsky from the Lewenstein Collection.

The Bayerische Landesbank further assumes that after Hedwig's death, the collection came into the possession of Robert and therefore also to his (then) wife Irma, the couple's matrimonial regime being community of property. The Bayerische Landesbank says that Irma auctioned *Das bunte Leben* voluntarily in the course of the ongoing divorce proceedings, without being forced to do so as a result of actions by the National Socialists. It asserts that the purchase price of 250 Dutch guilders was reasonable and that she had free use of this money. Furthermore, the Bayerische Landesbank says that it is not possible to establish whether a planned seizure of Jewish assets took place in this early phase of the occupation. In Irma's case, the Bayerische Landesbank's assertion continues, it should also be taken into account that she moved into a smaller apartment, so she no longer had sufficient space to house the collection. It notes that Robert's lawyer also complained in the course of the divorce proceedings in 1946 that Irma had sold the inventory on her own account. Finally, the Bayerische Landesbank claims, the behaviour of the family in the post-war period also suggests that the sale was voluntary, since a claim

for restitution was never made for *Das bunte Leben* even though its whereabouts could have easily been traced. This, says the Bayerische Landesbank, is to be interpreted as an admission that, from the family's point of view as well, it was not a case of seizure as a result of Nazi persecution. In addition, so the Bayerische Landesbank's assertion, not making such a claim until decades after the end of the war makes it more difficult for the Bayerische Landesbank to provide evidence.

b) From the point of view of the claimants, the detailed assessment under inheritance law is irrelevant. They say that all eligible heirs are involved in the proceedings and have contractually agreed to divide all traceable works of art among themselves at a share of 37.5% : 37.5% : 25%. For this reason, they say, there is no possibility of an outside party asserting rights. With regard to the auction of the Lewenstein estate at the auction house Frederik Muller & Co on 9 October 1940, a link with National Socialist persecution as a result of the occupation of the Netherlands has not been disproved, they say: it has not even been possible to determine on whose behalf and for whose benefit the auction took place. Only a few weeks before the auction, they say, the Stedelijk Museum had handed over the painting to the art dealer Abraham M. Querido, who was in contact with Alois Miedl (1903–1990). Miedl was involved in National Socialist art looting in the Netherlands: this, they say, also establishes a clear link between the Lewenstein case and National Socialist art looting in general. For this reason, they say, the sale has to be considered a seizure as a result of Nazi persecution.

5. In the opinion of the Advisory Commission, the painting *Das bunte Leben* is to be restituted to the claimants. Even if it cannot be conclusively clarified who arranged the auction of the estate at the Frederik Muller & Co auction house on 9 October 1940, there are numerous indications that this was a case of a seizure as a result of Nazi persecution as defined in the *Guidelines*. The arguments put forward by the Bayerische Landesbank are not capable of disproving this.

a) The Advisory Commission bases its assessment of the facts of the case at hand on the *Guidelines* valid in Germany along with § 6 para. 3 of its Rules of Procedure. The provenance of cultural property held in German institutions is to be assessed based on the German *Guidelines* without regard to the original scene of action or the nationality of the participants at the time. This principle is established in the Guidelines themselves, in that they state that in addition to transactions within the German Reich and the territories

annexed by it, those losses of property that took place after 1 September 1939 in the territories occupied by the German Reich can also be subject to restitution (p. 21). Since the *Guidelines* nevertheless implicitly presuppose the validity of German law, the principles contained therein for the examination of a seizure as a result of Nazi persecution are not directly applicable to territories outside the German Reich but only in terms of how the case is assessed. The actual conditions and normative evaluations that apply in the place where the event took place – in this case the Netherlands – must also be included in this overall view.

b) *Das bunte Leben* was indisputably owned by the Lewenstein family from 1927 onwards. Whether the painting passed into the possession of Robert or Wilhelmine or both after Hedwig's death cannot be stated with absolute certainty. This is irrelevant with regard to the present claimants' right to bring an action. The eligible heirs are all represented in these proceedings. There is therefore no need to determine whether the contractual agreement that they reached among themselves reflects the actual circumstances under inheritance law; there is no possibility of there being other beneficiaries of the inheritance who could potentially confront the Bayerische Landesbank with restitution claims.

In terms of assessing the circumstances of the loss, on the other hand, it is certainly relevant who was entitled to dispose of the property at the time of the sale. It is no longer possible today to determine whether the instruction contained in the will to divide the collection into two equal parts and to assign them to Robert and Wilhelmine by drawing of lots was actually carried out. The notarial settlement agreement of 24 January 1938 concerning Hedwig Lewenstein Weyermann's estate mentions this instruction but does not state whether or not it was implemented. With regard to the assets to be distributed, the settlement agreement stipulates that the "goods, jewellery and other movable property still in the estate" worth 14,250 Dutch guilders be allocated to Robert, while Wilhelmine received nothing of this because of the cancellation of her debts to the testator. It is therefore conceivable that the art collection came into the possession of Robert and Irma as "other movable property".

It is not possible to reconcile the actions taken by members of the family after 1945 with this line of inheritance, however. In particular, it was Wilhelmine who went in search of the painting. In a letter to the Stedelijk Museum dated 31 May 1948, in which Betty Lewenstein enquired on behalf of her niece Wilhelmine about the whereabouts of the *Das bunte Leben*, she remarked: "Dit schilderij behoort nu de erven Lewenstein en bovengenoemde nicht is één van de 2 erven." ["This painting belonged to the Lewenstein

heirs, and the aforementioned niece is one of the two heirs.”] A proxy of Wilhelmine, probably her cousin Karel Alexander Citroen (1908–2011), submitted another request for information about the painting to the Stedelijk Museum in 1999. On the same visit, Wilhelmine is also said to have stated that she was only interested in *Das bunte Leben* because Robert had inherited *Bild mit Häusern*. These circumstances do not result in a clarification of the ownership situation. The theory that Wilhelmine alone might have inherited the work seems not to have arisen until decades after the war. Up until that time, the parties involved had apparently been in agreement that, in any case, none of the possible heirs had sole entitlement to the estate, since the picture had gone either to both siblings or only to Robert and therefore also to Irma.

c) According to the *Guidelines*, a transactional loss that occurred in Germany during the period of persecution is generally considered to be a seizure as a result of persecution if the owner at the time was persecuted. It is then up to the present owner to disprove such a presumption. This fundamental reversal of the burden of proof in favour of the former owners reflects the pressure exerted on those persecuted by the Nazi regime from 30 January 1933 onwards and even more so from 15 September 1935. Applied to the Netherlands, such a statutory presumption has to apply from 10 May 1940, the day the German troops invaded the Netherlands. Irrespective of the proof of when the actual persecution measures were initiated in the occupied territories, it must be taken into account that the Jewish population in the Netherlands had been able to observe the systematic exclusion, disenfranchisement and dispossession of German Jews in their neighbouring country for years beforehand and were bound to expect that comparable measures would be applied on a daily basis after the invasion. The principle to be applied in the Netherlands set out in the recently reformed *assessment framework* underlines this view. This states: “If the original owner is a private individual belonging to a persecuted group, involuntary expropriation is presumed if it occurred in the Netherlands after 10 May 1940, in Germany after 30 January 1933 or in Austria after 13 March 1938, unless expressly stated otherwise.” It goes without saying that no other assessment can be applied to the fact that the auction held only months after the invasion, on 8/9 October 1940, which led to the definitive loss of ownership of the painting *Das bunte Leben*.

d) In the view of the Advisory Commission, the assertion that Irma Lewenstein Klein sold the disputed painting voluntarily and in the context of her divorce proceedings with Robert G. Lewenstein is not supported by the available sources. *Das bunte Leben*, which was on loan from “Mevr.[ouw] Lewenstein” [“Mrs. Lewenstein”] to the Stedelijk



Museum, was collected on 5 September 1940 by a messenger sent by the art dealer and restorer Abraham M. Querido. This is evidenced by a handwritten note dated 5 September 1940 on the reverse of a business card of Querido's art dealership which requests that the painting be handed over to the bearer of the business card: "5/9 '40 Gelieve brenger mede te geven 1 Schilderij. 'Das Bunte Leben' v. Kandinsky / Hoogachtend A.M. Querido" ["5/9'40 Please give the bearer one painting 'Das bunte Leben' by Kandinsky / Sincerely A. M. Querido"]. This handover is also noted in handwriting in an internal museum document concerning the loan of the painting, though without naming a client: "afgegeven. Querido's Kunsthandel Waalstr 104 5-9-40" ["delivered. Querido's art dealership Waalstr 104 5-9- 40"].

The Bayerische Landesbank interprets these documents in connection with a letter from the Stedelijk Museum to Betty Lewenstein dated 2 June 1948. In this letter, the deputy director at the time gave her the information, on request, "dat dit werk op verzoek van de eigensresse, Mevrouw Lewenstein-Weyermann, op 5 September 1940 door ons wird afgeleverd aan de kunsthandel Querido, Waalstraat 104 te Amsterdam." ["that this work was delivered by us to the Querido art dealership, Waalstraat 104 in Amsterdam, on 5 September 1940, at the request of the owner, Mrs. Lewenstein-Weyermann."] Since Hedwig Lewenstein Weyermann had already been dead for several years in 1940, the Bayerische Landesbank concludes that the letter was actually referring to Irma Lewenstein Klein since, unlike Robert and Wilhelmine, she was still in Amsterdam. This is only one possible interpretation, however. There is no document that mentions Irma Lewenstein Klein by name in connection with the auction of the painting. The investigation reports issued by the Dutch Restitutiecommissie relating to another picture from the Lewenstein collection, *Bild mit Häusern*, which the claimants submitted after the parties were heard by the Advisory Commission, do not contain any indications of a voluntary sale on the part of Irma or of any new findings relating to the events at that time.

Likewise, the correspondence between Robert and Irma does not document any voluntary sale of the painting or of the estate as a whole. In a letter dated 2 November 1939, Robert's lawyer suggests to Irma that the inventory be sold and the proceeds placed in trust. However, Irma rejected this on 2 January 1940 through legal representation: "Geintimeerde vindt het immoreel als zy de kostbare familie-eigendommen, antiek en schilderyen than zou verkoopen, nu voer deze goederen geen koopers (buitenlanders) op de markt zyn, en slechts afbraskryzen voor te krygen zyn." ["The respondent considers it immoral that she should sell the precious family properties, antique furniture and paintings now, especially as there are no buyers (foreigners) on the market for these goods, and one could only get knock-down prices for them."] As late as June 1940, the

court determined the couple's separation and annulled the regime of community of property for the future. The verdict became legally binding on 27 September 1940. It provided that a notary was to be appointed to divide the property eight days after taking legal effect. This sequence of events makes it seem less plausible that Irma might have started to sell the family estate independently at the same time. In addition, she applied for an increase in her monthly maintenance payments as late as June 1942, also arguing that she was responsible for the inventory and that she was not allowed to sell the latter as she was Jewish. Finally, in June 1943, the administrator in absentia, who had been appointed to manage Robert's assets from November 1941 at Irma's request, registered Robert's furniture as enemy property stored with Irma at the new apartment. The Bayerische Landesbank nevertheless concludes that Irma sold the art collection.

In support of its view that Irma voluntarily sold the collection, and therefore also the disputed picture, in connection with the divorce, the Bayerische Landesbank refers to a document dated 19 December 1946 and also the agreement between Robert and Irma which was drawn up in the course of the settlement over their previous community of property regime. The document of December 1946 is an objection by Robert to a provisional attachment that Irma had effected. Robert's lawyer writes that Robert had given no cause for the attachment, "te minder nu eischeres den zeer kostbaren inboedel van partyen, ryk aan waardevolle meubelen, schilderyen en antiquiteiten, steeds onder zich heeft gehad en gehouden, voor soover zy dezelve niet – misbruik makend van hare macht – heeft vervreemd en de daardoor verkregen gelden zich toegeeigend" ["the less so since the claimant has always had and kept in her possession the very precious inventory of the parties, rich in valuable furniture, paintings and antiques, provided that she has not – in abuse of her power – disposed of it and appropriated to herself the monies acquired therefrom"]. The Bayerische Landesbank interprets this as evidence that Irma did indeed misappropriate parts of the inventory, including the painting in dispute here. This interpretation does not necessarily follow, however. Apart from the fact that no specific work of art is mentioned in the document, the letter can also be interpreted as a pointed criticism of the attachment, which Robert claimed was unjustified because Irma had the attached objects in her possession anyway. The orders of attachment were subsequently suspended.

The settlement of the joint marital property took place on 10 June 1947. The preamble to the relevant agreement stated "dat de tot degemeenschappelijke boedel behorende roerende lichamelijke zaken reeds door partijen zijn verdeeld, hebbende ieder het hem of haar toebedeelde ontvangen, [...] behoevende er terzake van een of ander geen verrekening plaats te hebben" ["that the movable items belonging to the common

property have already been divided by the parties, each party having received the part to which it is entitled, [...], so no offsetting has to take place in this respect”. The Bayerische Landesbank interprets this as a subsequent approval of the sale previously carried out independently by Irma. This interpretation is not credible: there is no mention in the agreement of either the art collection or *Das bunte Leben*. Moreover, if the painting was considered Robert and Irma’s marital property in connection with the divorce proceedings, it would remain incomprehensible why Wilhelmine began to search for it shortly afterwards. If Irma had misappropriated family property belonging to Wilhelmine on the other hand, Robert could not have authorised this at all in connection with the divorce proceedings. It is also hardly conceivable that Robert would fail to mention to Wilhelmine that Irma had misappropriated the collection, in particular since all those involved – Wilhelmine, Robert and Irma, as well as Betty – jointly applied for the restitution of the family’s real estate assets at the same time as Wilhelmine carried out investigations into the painting. In 1999, on a personal visit with her cousin Karel Alexander Citroen, Wilhelmine inquired about the whereabouts of the work at the museum; at this time it was stated that the person who had commissioned the sale was unknown. It was not until 2003 that she told her nephew Moritz Schmid-Drechsler of her suspicion that Irma might have independently arranged the sale of those paintings “die dem Zugriff der Nazis entgangen waren“ [“which had escaped the Nazis’ grasp”]. If Schmid-Drechsler’s notes from 2003 are to be consulted, it must be taken into account that Wilhelmine also assumed that some of the art collection “den Nationalsozialisten in die Hände gefallen sei“ [“had fallen into the hands of the National Socialists”]. Beyond these speculations, no internal family evidence is available.

In assessing the sale of the *Das bunte Leben*, it is also important to consider the context of the auction in order to judge the likelihood of the sale having been made voluntarily. The auction on 8/9 October 1940 was the first major sale auction of the “Aryanised” Goudstikker collection. The art dealership J. Goudstikker had previously been forcibly sold to Alois Miedl and Hermann Göring (1893–1946) from July 1940 onwards. This in itself casts a suspicious light on the sales transaction behind the anonymised offer of “Estate L . . . . . , Amsterdam”. It is not particularly likely that Irma would have consigned the estate she is presumed to have misappropriated to this particular auction. Likewise, there is no evidence of contact between the art dealer Querido and the Lewenstein family, while evidence does exist of communications between Querido and Miedl from at least September 1940. The auction of the Lewenstein estate on 9 October 1940, including a total of 82 lot numbers, brought total proceeds of 14,000 Dutch guilders. Besides the acquisition of *Das bunte Leben* by Slijper and *Bild mit Häusern* by the

Stedelijk Museum, all that is known is that lot number 234, Aert van der Neers' *Landschap bij maanlicht* [*Landscape in Moonlight*], was acquired by the art dealer Gebr. Douwes for 4,650 Dutch guilders and was resold to Dienststelle Mühlmann just one month later for 6,250 Dutch guilders. Whether the amount of 250 Dutch guilders obtained for *Das bunte Leben* was an appropriate purchase price cannot be decided based on the documents presented, but nor is this necessary. It has not been possible to prove on whose behalf the painting was auctioned, nor to whom the proceeds went.

e) As far as is known, the Lewenstein family did not take any legal steps after 1945 to recuperate either *Das bunte Leben* or the art collection as a whole. In the view of the Advisory Commission, however, this cannot be interpreted as an implicit admission that the loss was the result of a proper legal transaction. For decades after 1945, the ancestors of the claimants repeatedly tried to clarify the whereabouts of the disputed painting but received insufficient information. In response to her enquiry to the Stedelijk Museum on 2 June 1948, Betty Lewenstein was only informed that *Das bunte Leben* had been handed over to Querido's art dealership on 5 September 1940 at the owner's request. The museum did not provide a reference to the auction at the Frederik Muller & Co auction house, even though it itself acquired the picture *Bild mit Häusern* from the Lewenstein estate at this auction and had held *Das bunte Leben* from at least December 1940 onwards during the war on behalf of the purchaser Salomon B. Slijper, although in the museum's records it continued to be listed as Lewenstein's property. As late as 1947, in response to a request from César Domela (1900–1992), who had been commissioned by Nina Kandinsky (c. 1896–1980) to investigate works by Kandinsky in Dutch private collections, the Stedelijk Museum provided the information that *Das bunte Leben*, which formerly belonged to Lewenstein Weyermann, was now in the possession of "S.B.S. Slijper, Dorpstraat 14, Blaricum". The Lewenstein family thus received less information than was available, which may also have complicated possible restitution proceedings. This kind of information policy at the expense of the previous owners even raises the conceivable suspicion that the museum itself – possibly under pressure from the occupying power – acted to the detriment of the Lewenstein family in connection with the auction of October 1940. In any case, nothing emerges from this process that would suggest that the family had become resigned to the loss, let alone believed it to be legitimate. As late as 2003, Wilhelmine stated that her cousin Karel Alexander Citroen, who had supported her in her search in 1999, was still fighting to recuperate the collection.

f) The Bayerische Landesbank claims that the outstanding sentimental value of the painting to the City of Munich is not outweighed by any equivalent interest on the part of the claimants, but this argument is irrelevant to a recommendation in favour of restitution. In view of the historical responsibility to which Germany committed itself in the aftermath of the Shoa, one might say that there is no such thing as a “positive prescription” of cultural property held in public institutions. The beneficiaries of restitution are free to dispose of the restituted painting as they wish. If they choose to sell in order to provide compensation for a family group and bear the costs of proceedings, this would be perfectly reasonable given that current restitution practice involves unavoidable research and procedural costs.

g) Taking into account all the submissions of the parties involved and all the circumstances of the individual case, the Advisory Commission therefore arrives at the recommendation that the painting *Das bunte Leben* be restituted to the heirs of Hedwig Lewenstein Weyermann and Irma Lewenstein Klein.

In the event of disputes concerning cultural property seized as a result of Nazi persecution, the function of the Advisory Commission is to mediate between those currently in possession of the cultural property and the former owners, or their heirs, if requested to do so by both parties.

Contributors to the above recommendation as members of the Commission in an honorary capacity were Prof. Dr. Hans-Jürgen Papier (Chair), Prof. Dr. Wolf Tegethoff (Deputy Chair), Marieluise Beck, Marion Eckertz-Höfer, Prof. Dr. Raphael Gross, Dr. Eva Lohse, Prof. Dr. Jürgen Rüttgers, Dr. Sabine Schulze, Dr. Gary Smith and Prof. Dr. Rita Süssmuth.

Beratenden Kommission im Zusammenhang mit der  
Rückgabe NS-verfolungsbedingt entzogenen Kulturguts,  
insbesondere aus jüdischem Besitz

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