

ARTnews

High Court Drama: Scholars, Christie's, and the Russian Oligarch

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A judge decided it was a fake, but some scholars say that a Russian painting sold at Christie's is genuine

On June 27, 2012, Justice Guy Richard Newey of the High Court in London ruled that the Russian oligarch Viktor Vekselberg was entitled to recover the £1.7 million his Aurora Fund had paid for the painting *Odalisque* at Christie's London on November 30, 2005. The judge agreed with Vekselberg and his experts that the work was not by Boris Kustodiev, the important Russian painter, as Christie's and a number of other experts had claimed. Christie's was also ordered to pay court costs.



Boris Kustodiev's *Odalisque*, 1919, became the subject of a long-drawn-out dispute over its authenticity.

The ruling ended a battle that began on December 18, 2006, when Vekselberg's Aurora Fund associate, Andrei Ruzhnikov, sent a letter to Alexis de Tiesenhausen, international head of Russian art at Christie's, demanding that the sale be cancelled. Attached to the letter were two expert opinions casting doubt on the work's authenticity. In response, Christie's called on another set of experts who vouched for the work, and the matter ended up in court, where a judge had to choose between the competing expertises.

The judge decided against the painting, but his decision wasn't greeted with universal approval among art historians and other experts on Russian art. A number of them believe the work is genuine, and they ask whether the courtroom is the best place to decide whether an artwork is authentic or not.

The question looms large as the quantity of fakes entering the art market grows and the controversies increase. The situation of Russian art is particularly complicated, experts say. Fakes of every kind, from icons and Fabergé objets d'art to 19th-century realist paintings and avant-garde canvases, flooded the market in the 1990s. Catalogues raisonnés for Russian artists are virtually nonexistent. The level of expertise is poor, according to observers, and experts are often corrupt. The leading auction houses are not immune from mistakes; in recent years, a number of "major" works have been removed from the lineup a few hours before they were scheduled to be sold.

The buyer of the Kustodiev, the BVI-based Aurora Fine Art Investments Fund, was established in 2005 and came to the world's attention when a partner, Viktor Vekselberg, purchased the Forbes collection of Fabergé eggs for \$90 million in 2004. The fund's purpose is to buy Russian art abroad. Aurora has avoided publicity but is known to have spent more than \$100 million in its first three years of operation, purchasing works through its branches in New York and London.

The bidding for the *Odalisque* was more dramatic than anyone had anticipated as the final offer for the painting soared to more than seven times its high presale estimate of £220,000 (\$354,000), setting an auction record for the artist at £1.68 million (\$2.9 million), including the buyer's premium. But a year later, the Aurora managers demanded the cancellation of the purchase, claiming that the picture was a forgery.



Christie's countered that Aurora had belatedly realized it had overpaid for a work that is genuine but not a masterpiece. The painting is small, only 13³/₄ by 18⁵/₈ inches, and depicts a reclining nude half covered by a blue quilt. In court papers, Christie's refers to it as "quite probably a bread and butter picture painted to sell quickly" by a "wheelchair-bound invalid, working hard to feed the family in a city still in the throes of the revolution."

The first shadow on *Odalisque* was cast by Vladimir Petrov, an expert on Russian art of the 19th and early 20th century. Petrov earned a reputation as a "fake hunter" in 2005 by revealing that hundreds of Western European paintings bought for modest sums at auction houses all over Europe had been reworked, attributed to well-known Russian painters, and sold for inflated prices to Russian buyers (as reported in ARTnews, January 2006). Petrov's disclosures embarrassed collectors who had purchased the paintings and curators who had authenticated them, and Petrov resigned from his curatorial position at the Tretyakov Gallery.

Petrov saw the *Kustodiev* in 2006 and stated his opinion succinctly: "The authorship of *Kustodiev* is categorically declined." The grounds for his rejection of the work were entirely stylistic. He didn't consider it good enough to be a *Kustodiev*.

A more detailed expertise came from Irina Gerashchenko, an expert with the Grabar All-Russian Art, Scientific, and Restoration Center in Moscow, who conducted a technical analysis of the painting as well as a stylistic examination. Gerashchenko didn't question the painting's date. She concluded that it had been created in the period from 1918 through the 1930s and that the signature had been added later. But she, too, rejected the work on stylistic grounds. Her report didn't mention the first monograph on *Kustodiev*, published in 1925 by his close friend Vsevolod Voinov, in which Voinov lists a work called *Sleeping*, which Christie's maintains is *Odalisque*.

Christie's was unconvinced by these opinions. Correspondence between lawyers for Aurora and the auction house resumed in December 2008, but the dispute remained unresolved. Christie's rejected Petrov's expertise because he was no longer associated with the Tretyakov. Gerashchenko's expertise was rejected because the Grabar Center is dedicated to restoration, not authentication.

Instead, Christie's asked for an expert opinion from the Tretyakov. This was strange because in 2007 the Russian government ordered the museum to stop authenticating paintings belonging to private individuals after a series of scandals arising from questionable certifications. But Christie's found no support at the museum. The expertise, signed by deputy director Lidia Iovleva as well as Lydia Gladkova, head of the department of scientific expertise, and curator Alla Gusarova, was another rejection. Their judgment was that "the authorship of *Kustodiev* cannot be confirmed on the basis of stylistic and technological analysis."

In the meantime, the painting was officially branded a fake; it was included in the fifth volume of the *Catalogue of Forged Paintings*, published in 2009 by Rosokhrankultura, the Russian federal agency for the protection of national cultural heritage.

Experts at the State Russian Museum in Saint Petersburg agreed with their colleagues in Moscow. Curator Vladimir Kruglov, research fellow Alisa Lyubimova, and Svetlana Rimskaya-Korsakova, head of the department of technological research, also rejected the painting, mainly on stylistic grounds. They, too, thought it wasn't good enough to be a *Kustodiev*.

Kruglov had included a color reproduction of the painting in the 2007 edition of his monograph on the artist. He did not explain why he had changed his mind about the work.

Aurora also commissioned Art Consulting, a Moscow firm that specializes in appraisals and authentication of art and antiques, to conduct another technical analysis of the painting. Director Denis Lukashin claimed that *Kustodiev*'s signature and the date were painted over the craquelure in aluminum stearate, a pigment that was not available before the 1940s. That was his only observation.



Armed with these opinions, Aurora filed a complaint in the High Court of Justice in London in 2010. Christie's then marshaled an entirely different phalanx of experts, who disputed the conclusions the Russians had come to.

Establishing the date of the painting was contentious. Petrov maintained that *Odalisque*—on the basis of its style—had to have been painted in the 1930s or '40s, although the painting is known to have been exhibited in Riga in 1932. Lukashin of Art Consulting didn't question that the painting had been created in 1919, but he believed that the signature and the date had been added in the 1940s.

Christie's approached Nicholas Eastaugh, director of research at Art Access & Research in London, a firm he cofounded. Eastaugh, a pigment specialist, was asked to analyze an unquestioned painting by Kustodiev, *Portrait of Peter Kapitza* (1926), in the Fitzwilliam Museum in Cambridge, England, and compare its style and materials with those of the *Odalisque*.

Eastaugh did not believe that *Odalisque* was a forgery. He wrote: "X-ray imaging of the *Odalisque* . . . supports the notion that it would have been difficult for a hypothetical forger to have produced this painting since hesitations associated with lack of familiarity of Kustodiev's working methods, or a wholly different approach to developing the painted composition would have been apparent."

Eastaugh also contested Lukashin's opinion that the signature was a later addition. According to a court document, "Eastaugh considers that the date is highly plausible and, on the basis of the materials used in the Painting, it is unlikely to have been produced much after the artist's death in 1927; the range of pigments employed is highly consistent with the proposed date; and the signature is contemporaneous with the creation of the Painting."

Aurora's experts confined themselves to stylistic and technical examinations. They didn't consider the painting's provenance. *Odalisque* belonged to Leo Maskovsky, a Russian who emigrated to Latvia after the revolution. The Russian art historians Natalia Semenova and Vladimir Poliakov found evidence that the picture was exhibited in Riga, the capital of Latvia, in 1932, along with 42 other paintings from the Maskovsky collection, and was reproduced in Russian newspapers published there.

Maskovsky's collection included works by such important Russian painters as Fedor Rokotov, Vasily Surikov, Valentin Serov, and Mikhail Nesterov. In 1939, before he emigrated from Latvia to Germany, he sold most of his collection, taking with him only small paintings, among which was the *Odalisque*. Maskovsky's widow sold the painting at Christie's in 1989. Its authenticity was not questioned, and it fetched £19,000 (\$51,000).

Semenova is a well-known historian of Russian private collections. She is not involved in authentication. "Expertise is not my profession," she told ARTnews. "My arguments are historical and biographical." She believes that *Odalisque* is a genuine Kustodiev.

"Why fake things that are not expensive?" she asks. "In the 1920s–1930s, prices for Russian art were low. The *Odalisque* is not even a painting but a sketch produced to earn the artist a crust of bread. Kustodiev died in 1927. Until that year, it would have been cheaper to commission this painting from the artist than to produce a fake."

Semenova says that in the last years of his life Kustodiev was disabled and confined to a wheelchair, but he continued to paint for 12 hours a day, producing endless repetitions of each image. The quality of these works was not very high. "During his lifetime and immediately after his death," Semenova says, "faking his paintings could be quite risky—his works were well known and documented. There is not a single falsified work dated to the 1920s or '30s that is documented and known to art historians."

Semenova adds that the high level of the Maskovsky collection supports the claim that this painting is by Kustodiev. Many of the works Maskovsky left in Riga when he emigrated made their way into



Russian museums and private collections. The paintings he took to Germany were eventually sold by major auction houses. None of them has ever been questioned.

The rejection of this painting by Russian museum experts is based primarily on its quality, which doesn't match the quality of the artist's masterpieces. But, Semenova asks, doesn't a good artist ever paint a bad painting?

That is a question for scholars, not judges. "I do not think certainty on the point is possible," wrote Justice Newey, "but my task is to determine authenticity on the balance of probabilities and the likelihood, in my view, is that Odalisque is the work of someone other than Kustodiev."

The attempts of Christie's experts to prove that an important Russian painter sometimes produced inferior pictures failed. Official Russian art expertise triumphed. The question, however, remains open in both Russia and the West.