

# POSTERIZATION:



BATTLE  
FOR A  
LADY

**T**HE PICTURE JUAN CARLOS EMDEN WANTS FROM THE NATIONAL Gallery of Victoria hangs in a room of fine Dutch paintings. It's not the best of them by any means. A sulky woman with slightly crossed eyes stands in a patch of light. Her hostility is chilling. All the artist's love and care has been spent on her black satin dress. Dangling from one wrist is the fan that gives the portrait the name it's known by these days in the art world – and in the frosty letters New York lawyers write demanding its return to the Emden family: *Lady with a Fan*.

Dark little pictures like this one (at left) by Gerard ter Borch, painted in about 1660, were once prized by collectors, dealers and dictators. Galleries snapped them up at high prices. But taste has shifted over the years and *Lady with a Fan* is no drawcard at the NGV. Crowds wander by without pausing on their way to the Rembrandts. Yet this obscure picture is at the centre of a struggle that raises, in Australia, issues facing galleries all over the world as they deal with the unfinished business of a regime that combined, in a uniquely toxic brew, racial hatred and infatuation with art.

Juan Carlos Emden claims *Lady with a Fan* was one of several paintings the Nazis stole from his grandfather Max in the 1930s, paintings that now hang in galleries in Germany, America and Australia. He and his brothers have pictures worth more than \$50 million in their sights. "I really hope the Emden family will be considered seriously," he writes, "as one of the really looted families of Germany and Switzerland by the Nazi regime." But hearts are hardening against heirs like these, turning up with such claims so late in the day. Juan Carlos sees himself righting a great wrong. Others dismiss the Emdens of the art world as scavengers, pursuing vague claims on the off-chance of a windfall.

Until now, Holocaust restitution cases have hardly touched Australian galleries. Suspect pictures have been identified from time to time and directors – flanked by politicians – have said all the right things: prove this work is Nazi loot and it will be restored at once to its rightful owners. Recently, one claim was settled in South Australia, but so far no public collection has lost a picture. Then along came Juan Carlos, a quixotic Chilean of considerable charm who sees himself on a quest to renew the Emden family fortune.

"I have done well in life," Juan Carlos says from his house on the coast north of Valparaíso. He's been in the timber business for years and still has an interest in a mill across the continent in Brazil. But Juan Carlos has more or less retired to devote himself to the search for his grandfather's pictures. "It has taken a huge amount of time. A lot of travelling. A lot of research. Very interesting work I never thought I would be involved in because I always worked hard and never thought something would come from the sky."

He's no stranger to Australia. Back in the early 1970s Juan Carlos was here setting up offices for LAN Chile. "A lousy airline with lots of problems," he recalls. "We had old aeroplanes bought from Cathay Pacific. Owed money to everyone. So it was a very challenging business to open an office on Elizabeth Street in Sydney. Very tough." The connection has been kept up: his son has lately been polishing his English on the Gold Coast. All in all, Juan Carlos feels he knows Australia well – and wants something from the country: *Lady with a Fan*.

"Of a collection of about 100 paintings that we're searching for, we only found 12 around the world," he says. The big-ticket items are three city views by the 18th-century painter Bernardo Bellotto – two hanging in Germany and one in the Museum of Fine Arts in Houston. Not as valuable are two Bernhard Strigels in the National Gallery of Art in Washington; a ducal portrait from the studio of Lucas Cranach in the Allentown Gallery in Pennsylvania; a 17th-century Flemish picture of peasants drinking sold by Sotheby's in Amsterdam last November; and Melbourne's *Lady with a Fan*.

The rest of Max Emden's collection has disappeared, but the hunt for these lost paintings has not been abandoned. "There is a Monet and one Van Gogh which ... went through foundations in the US and are now hidden somewhere," says Juan Carlos. "We know that they showed up in some exhibits and we've done some research but the owners are very reluctant to put them to sight. So they are kept hidden by private collectors."

The "we" Juan Carlos speaks of are his New York lawyers – Klein & Solomon of Madison Avenue, specialists in Holocaust restitution – and the mighty auction house of Sotheby's. "They were very keen in starting to help us," claims Juan Carlos, who speaks of art sleuths hired by lawyers and auctioneers scouring catalogues and gallery records looking for clues

**It's a little-known work by a little-known artist, but the NGV's *Lady with a Fan* is being fought over with a vengeance. The supposed rightful owners claim the painting is Nazi loot. Do they have a valid case? David Marr investigates.**

to any pictures once owned by Dr Max Emden of Hamburg and the Brissago Isles. Everything they recover will be sold. None will hang on the walls of Juan Carlos's "little place which is very nice in a village by the sea". This is a story where the interests of justice and commerce are intimately entwined.

Late last year the Emden team in Australia was reinforced by the appointment of George Newhouse, lawyer and Labor contender for Malcolm Turnbull's seat of Wentworth. Newhouse candidly admits he brings to the task of prising *Lady with a Fan* from the walls of the NGV superb contacts with Jewish leaders in Australia. "The question is, will the Jewish community intervene, and that is a very interesting question," he says. "Watch that space."

So far Newhouse has been hovering on the edge of the case. "I think the fact that I haven't done anything shows we are using the velvet glove not the stick," he says. "I'm letting Klein & Solomon handle it until it gets nasty."

We may be approaching that time. Ed Klein tells GOOD WEEKEND his law firm is taking no backward step in the fight: "This is all looted work, you know." But Melbourne is sitting tight. "We need evidence that the picture was stolen by the Nazis," says the NGV's director, Dr Gerard Vaughan. "At this stage there is no evidence." From Chile, Juan Carlos dismisses such talk as the game museums play to resist his family's just demands. He says he has produced all that's needed to show the Nazis looted *Lady with a Fan* from his grandfather, "Yet the gallery says, 'Give us more proofs. Give us more proofs. Give us more proofs.'"

THE SWISS END OF LAKE MAGGIORE IS ONE OF the most beautiful places on earth. Here in the late 1920s, having shed his wife and sold most of his department stores in Germany, Max Emden built himself a palazzo on the Brissago Isles. He filled the house with paintings and the island with women. Naked much of the time, they worshipped the sun. When the novelist Erich Maria Remarque, author of *All Quiet on the Western Front*, came over to dinner a few days before Christmas 1938, he found his host suffering from what he called "millionaire's disease": afraid he couldn't afford to eat because he was down to his last millions. Remarque wrote: "Emden wants to sell his pictures."

Max Emden's exile doesn't tug at the heart strings. He was safe in Switzerland well before Hitler came to power. So was much of his immense fortune. He never set foot in Nazi Germany. Emden was hit by the Depression and lost a good deal of property back home to the Nazis – including the Hamburg polo ground – but he lived an entirely idle life in this corner of paradise until his death in 1940. All this time he was selling pictures. Juan Carlos claims this was necessary to survive the depredations of the Nazis.

He has mixed feelings about his grandfather: "He was selfish and probably quite unhappy. But he had his style." Among the casualties of the old man's style was his neglected son Hans Erich. "My father suffered from that. He was the single child of that man." While Max sunbaked on Lake Maggiore, his son managed the family's store in

**Whose lady is it anyway?:** (left) Gerard ter Borch's 1660 painting, *Lady with a Fan*.



Budapest, fleeing to South America in 1942 with nothing. He returned briefly in 1949 to sell the palazzo and what was left of its contents – he is said to have done poor deals on a low market – then returned to Chile, putting the past behind him.

The family's failure to regain its stolen properties in Germany after the war is rather a mystery. Juan Carlos talks of betrayals, Nazi threats and his father's attention being focused elsewhere: "He was too busy trying to survive in Chile, starting a new tough life." Hans Erich talked little about the past. "But in his last days – two years before he died in 2001 – he started talking a little further and when he died I found all these files with papers on a claim he had made successfully with the German government on a building in Potsdam near Berlin."

The fall of the Berlin Wall had made that payout possible, but Juan Carlos was struck, as he went through his father's papers, by the fact that no claims had yet been made for the family's lost pictures. "I sat down at my computer in my little house by the sea investigating through JewishGen, the genealogical organisation of the Jews. When I punched in my name which is quite unusual – my family is very small – immediately five attorneys came to me saying, 'We didn't know your family existed.' They thought all the Emdens had disappeared." He says he negotiated with several before choosing the New York firm of Klein & Solomon.

"I have no money to pay those fees of attorneys," Juan Carlos explains. "They take about a third of the proceeds of what we can recover. That is the game with them, actually. They play very strongly, put in a lot of resources themselves." When it's all done they will negotiate over expenses, but the bottom line is that Klein & Solomon will keep "33 per cent of the net proceeds of what comes out of the art".



**Emden says he has produced all that's needed to show the Nazis looted *Lady with a Fan* from his grandfather, "Yet the gallery says, 'Give us more proofs. Give us more proofs. Give us more proofs.'"**

"Emden wants to sell his pictures": (from top) Max Emden's grandson Juan Carlos; playboy millionaire Max Emden on the Brissago Isles

For the German arm of the search, Emden engaged a Weimar attorney, Markus Stötzl, who also specialises in Holocaust restitution. Stötzl's discoveries drew the highest echelons of German politics into the Emden story. Found hanging in the dining room of the president's residence in Bonn was an elegant view of 18th-century Dresden painted by Bernardo Bellotto which had once belonged to Max Emden. This was one of three Bellottos he had sold in mid-1938 to the Nazi regime. "That was not a voluntary sale," claimed Stötzl, who argued the Bellottos had been put on the market only after Emden's income from his remaining department stores in Germany "dropped because he was discriminated against as a Jew".

In 2004, the Emden team made a formal claim for the Bellotto in Bonn and another still in the hands of the German government: a view of Vienna hanging in a Düsseldorf gallery. A great deal of money is at stake here. As a nephew and imitator of Canaletto, Bellotto was once considered an also-ran on the art market. Now, with so few of his uncle's works left in private hands, good Bellottos are fetching somewhere between \$10 million and \$20 million each.

Later in 2004, Sotheby's came forward to offer the Emdens a hand. "They had learnt of my existence and my search," says Juan Carlos, who talks of a mutual assistance deal with the auctioneers. "We came into a very, very correct and decent agreement with the people who took us out to dinner in Berlin three years ago, which was the whole team of Sotheby's that wanted us to join them in the search." (Sotheby's has not responded to inquiries from GOOD WEEKEND.)

From the start, German officials were sceptical of the Emden claim. Many artworks have been restored to the heirs of Jewish refugees who, in acute distress, had sold paintings in order to survive. But Max Emden remained cocooned in his comfortable exile. The joke was that the greatest hardship Max faced towards the end on the Brissago Isles was finding petrol for his speedboats.

**D**ISCUSSING THE EMDEN CLAIM IS NOT Gerard Vaughan's idea of the best way to spend a busy morning at the NGV. At least he's talking and, after a slow start, helping the story along. American galleries in Emden's sights are icy and tight-lipped. The Houston, Allentown and Washington claims have generated almost no press reports. The responses of those galleries to GOOD WEEKEND were terse. A pall of embarrassment hangs over the Emden story in America. "We're not embarrassed," insists Vaughan. "We're simply not embarrassed."

Draped over a grey chair in his room at the NGV, the director holds his glasses in his hands and chooses each clipped word carefully. Everything about his office – even the view of the gallery moat – is in Melbourne shades of grey, except for a couple of huge yellow paintings. One is a Whiteley of Sydney. Vaughan is battle-hardened. Already this year he has weathered a storm over the Van Gogh portrait that's not a Van Gogh. He doesn't rate a Holocaust restitution claim his primal nightmare. "It's a particularly awkward aspect – I cannot deny that – of what I would call a day, a year, a decade in the life of a great art museum."

His position is simple: *Lady with a Fan* belongs to the people of Victoria and the burden of proving otherwise lies on Juan Carlos Emden. The cash value of the picture is irrelevant, and Vaughan scoffs at the million-dollar hopes the Emdens have for *Lady with a Fan*. His curators believe less than \$100,000 might be nearer the mark – loose change

in a collection valued at more than \$2.5 billion.

Vaughan is one of the figures crucial to this story: an art sleuth. “I have spent my life researching the provenances of works of art. It’s exactly what I do. It is very exciting. It’s detective work. It’s no different to an Agatha Christie novel. It really isn’t.” Tracking the provenance of a picture – its line of title from one owner to another – is work scholars and dealers have done for centuries. Old pictures rarely have an entirely unbroken provenance. That’s understood in the trade. But a gap in the ownership of works between 1933 and 1945 – the years of the Reich – raises a warning flag that these pieces may have passed through the hands of Nazi looters and collectors. Scholars estimate 600,000 artworks did so, roughly one-fifth of the world’s Western art.

Late in the 1990s, in an effort to clean up outstanding restitution claims, galleries began posting on the net all that they knew about pictures with suspect gaps in their provenance. The lists of these questionable – but not necessarily guilty – pictures were shorter here than in Europe and North America, but the Art Gallery of NSW posted 42; the Queensland Gallery 59; and Canberra’s National Gallery 20. Among the 24 listed by the NGV in 2001 was *Lady with a Fan*.

THIS GLUM LITTLE PICTURE HADN’T BEEN SEEN for nearly a century when it emerged in a London exhibition of Dutch paintings in 1903. According to the NGV it entered the collection of a German banker named Martin Bromberg just before World War I. After that came a long gap in the picture’s provenance. At some point it passed into the hands of a Dr Gründen of Hamburg and was first shown to the Melbourne gallery in 1939 by a London dealer, Wildenstein & Company. The same dealer finally sold *Lady with a Fan* to the Melbourne gallery in 1945.

Identifying this as a possible Emden picture was a brilliant stroke. Juan Carlos explains: “I am very good in smelling and in feeling names, family names.” The first clue was the name Bromberg, for that family was connected to the Emdens by marriage: “It’s the same family.” This made Juan Carlos curious about “Dr Gründen”, and in his first letter to the NGV in 2004 he suggested that name should read “Emden”. He was right. The NGV searched its archives and found the name had been mis-typed by the gallery in the late 1930s and then morphed through various ver-

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“We’re not embarrassed. We’re simply not embarrassed”: (above) Gerard Vaughan, director of the NGV; (below) Bellotto’s *The Zwinger Palace Moat*, exiled from German President Horst Köhler’s dining room to the old master’s gallery in Dresden.



sions in books and catalogues until it went up on the internet in 2001 as “Gründen”. Vaughan wrote to Juan Carlos in March 2005: “I have amended the details on our website to restore Dr Emden’s name to the painting’s provenance.”

But this victory still left the Emden team with a formidable challenge: to find documents proving the painting was indeed owned by the sun-loving lord of the Brissago Isles, and that the Nazis were in some way responsible for its appearance on the art market. The Emdens faced the same challenge in America. Washington’s two Strigels and Allentown’s *George Duke of Saxony* were also said to have passed from the Bromberg collection to Dr Emden and then through the hands of a Parisian dealer called Ali Loebel – documents showing this intermediate step turned up recently in the Getty Museum in Los Angeles – before reaching the Wildenstein stock room in London in the late 1930s.

But where was *proof* of Emden’s ownership? Arts sleuths have spent thousands of hours searching. Perhaps the only point on which the combatants agree is that this riddle might have been solved long ago if only Wildenstein & Company – which remains an immensely powerful player in the international art world – could explain why the Emden name became attached to all these paintings.

When the NGV bought *Lady with a Fan*, Wildenstein wrote: “A more detailed origin of the work is presently being prepared, and it will be sent to you upon its completion.” Sixty years later it has yet to arrive. The NGV went back to Wildenstein when Juan Carlos appeared on the scene. “We have requested information and they have not been able to give us information,” says Vaughan. “And that’s all I can say. I can’t say any more than that. We have asked for it and it has not been forthcoming.” The Washington gallery has also been knocking on Wildenstein’s door over the Strigels. In 2005, the dealer told the gallery their records can’t explain the source of the Emden name.

Juan Carlos toyed with the NGV for two years, giving snatches of his family story and keeping the gallery abreast of Emden claims being fought elsewhere in the world. He dropped Sotheby’s name. The Emden strategy was to concentrate first on the big-money Bellottos. The other claims would “fall logically”, says Juan Carlos, “once we get them out from the hands of the government in Germany”.

**B**ELLOTTO BATHED THE DRESDEN PALACE IN soft morning light. A pale sky is reflected in a still moat. Nothing stirs. It’s a work of great beauty and great value. But once President Horst Köhler heard the Emdens were after the painting, he had it removed from his dining room. Nazi loot has a taint no one, least of all the German head of state, wants rubbing off on them. The picture was exiled to the old masters’ gallery in Dresden. The companion view of Vienna remained in the Düsseldorf gallery while the Emden claim for both Bellottos was resolved one way or the other.

Even while the war was being fought, the principles compelling restitution of artworks were laid down by the Allied governments. All Nazi seizures “however these may be cloaked” were considered invalid. After the war, the rules continued to evolve. Outrage in the 1990s over Swiss banks sitting for so long on the fortunes of slaughtered Jewish families revived a flagging determination to settle the last claims for looted art. The net was thrown wider. What followed were fine victories for dispossessed Jewish families and a public backlash as the paintings were fed into a booming art market.

Both came to a climax last year. Five Gustav Klimts hanging in Austrian galleries were



restored in January to the heirs of their original owner. When one of these – a famous portrait of Adele Bloch-Bauer – later sold for \$US135 million, *The New York Times* art critic Michael Kimmelman wrote: “How sad – if unsurprising – to hear that the heirs of Ferdinand and Adele Bloch-Bauer are indeed cashing in ... A story about justice and redemption after the Holocaust has devolved into yet another tale of the crazy, intoxicating art market.”

Controversy flared again after the restitution of a much-loved Ernst Ludwig Kirchner that had hung in Berlin’s Brücke Museum for more than 25 years. The city authorities were accused of accepting the claims of the heir, Anita Halpin – as it happens, the chairman of the Communist Party of Great Britain – despite evidence that *Berlin Street Scene* was sold by its Jewish owners in the 1930s for a fair price in a commercial transaction. Essentially, the museum lost the picture because it could not produce receipts from all those years ago. In November, Christie’s auctioned the picture for \$US38.1 million.

The German Chancellor, Angela Merkel, was about to call the nation’s culture ministers and gallery directors together to review restitution laws as the Federal Office for Unresolved Property Issues (BADV) settled down to decide the Emden claim. They had the receipts for the Bellottos. Indeed, every detail of the 1938 transaction was available in German archives. The documents showed that Max Emden sold the pictures for 60,000 Swiss francs to a dealer stockpiling paintings for the massive Führer Museum planned for Hitler’s home town, Linz. The three paintings left Switzerland via London for Germany. They survived the war hidden deep in an Austrian salt mine. One made its way afterwards to the Museum of Fine Arts in Houston while the other two remained the property of Germany.

BADV concluded the sale had nothing to do with Nazi oppression and Germany would not be giving up the pictures. “Max Emden did not find himself facing dire financial straits,” the restitution office’s senior lawyer, Harald König, explained to GOOD WEEKEND. “The sale was not a result of persecution.” The Emden lawyers don’t accept the verdict. Markus Stötzler filed a petition for restitution with the German parliament. Ed Klein talks of taking the fight to the European Court of Human Rights. “It’s not over by a long shot.”

But that setback was followed by a sweet victory in Amsterdam late last year. One of the Emden sleuths had noticed Sotheby’s was about to auction a 17th-century scene of peasants roistering – *Interior of an Inn*, by Flemish artist David Teniers – with huge gaps in its provenance in the vital years. After passing through the Brombergs to Max Emden some time in the 1930s, it disappeared from sight until it turned up after the war in a country house in Essex.

When Juan Carlos was shown the provenance, he fired off a spirited email to his “really good” friend Lucian Simmons, a Sotheby’s executive: “As we talked in Berlin in 2004 we are not unknown as a collectors family dynasty ... this report really left me astonished this morning while opening my mails early Chilean time in Valparaiso!!!! It all sounds as a big hypocrisy to me!! ‘Une magnifique comédie’!!!! A real shame!!!”

What happened next is hidden beneath layers of confidentiality. The auction went ahead with the Emdens receiving 40 per cent of the very healthy proceeds of €527,200, with which Juan Carlos says he paid his German attorneys and then split the rest with his two brothers. “It has



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The other claims would “fall logically once we get them out from the hands of the government in Germany”: (above) Juan Carlos Emden.

been fabulous as a first, as a principle that an auction house like that is ... convincing people that we are the original owners of a collection that was lost.” He claims museums were not happy with the Sotheby’s deal: “Actually the Washington museum was furious.” All tight-lipped Washington will say is: “The gallery is aware that a settlement was reached in order to permit the Amsterdam work to be sold at a Sotheby’s auction.”

Victory in Amsterdam has played to Juan Carlos’s suspicion that the museums are plotting for reasons he can’t fathom to delay the Emden claims. “All these fellows at the museums – curators – they meet each other constantly. I call them the museum mafia. They all know each other and they all know the game and they all get together and swap information with each other. So when they say, ‘Ah, Emden is knocking at the door in Houston, he is knocking at the door in Washington, checking Pennsylvania and Australia; they all get together. So it is very difficult for me to go inside and see what they are making me wait for.”

**T**HE NGV’S GERARD VAUGHAN IS WAITING for evidence: “We need some very, very hard evidence.” Though he had been calling for proofs for two years, a dossier of documents from Klein & Solomon only landed on his desk in February this year. Further questions were asked and more documents provided. In March, the New York lawyers wrote confidently: “There is no question that apart from Nazi persecution, Emden would not have sold any of his art works.”

The lawyers point to familiar patterns: a Jew in exile dispossessed of vast properties at home; gaps in the picture’s provenance; and the appearance in the story of Ali Loeb, whom they condemn as a “known Nazi collaborator”. But the lawyers admit they have found no documents to prove how or when or where *Lady with a Fan* was seized and sold. Ed Klein told GOOD WEEKEND, “Our gut assumption is that Emden left his paintings in Germany and his property was ransacked.”

Gut assumptions don’t impress gallery directors like Vaughan. “There is no evidence on the Emden side that the picture ... was stolen by the Nazis or was sold under extreme circumstances under massive pressure from the Nazis,” he says. When the trustees of the NGV met in late August, they confirmed Vaughan’s view that nothing has been provided so far to justify beginning the process of handing the picture to the Emdens. “That requires evidence of a nature sustainable in court to be brought forward. At this stage there is no evidence. So we can take the matter no further.”

Juan Carlos is facing similar rebuffs in America. Klein says the claim for the Bellotto in Houston is the biggest Holocaust restitution case currently being fought in the US. But Houston says its sleuths have established a “clean provenance” for the painting. Pennsylvania’s Allentown Gallery is still researching its case for hanging on to its Cranach portrait. Washington told Klein & Solomon in May this year that Emden’s case for restitution of the Strigels was “either unproven or contradicted by known facts”.

Juan Carlos and his backers are entirely under-terred. “It’s so little I’m claiming after I’ve seen the worth and the interest in art of a whole family behind me,” says Juan Carlos. His attorney, Ed Klein, is now contemplating a major shift in direction: arguing worldwide that there is no proof Max Emden was ever *paid* for any of the pictures that passed through his hands in the 1930s. “In the dance with the museums,” says Klein, “I don’t concede anything.”

Klein is undeterred by accusations that the heirs of a notoriously idle playboy are testing the limits of public sympathy. “Theft is theft,” he says. “It doesn’t make any difference if your victim is rich. It’s not about Robin Hood stealing from the rich and giving to the poor. It’s kind of insulting to say that it’s okay to steal from a rich Jew. The anti-Semitic overtones are so obvious as to defy description ... Theft is theft and it came in the context of the murder of six million Jews and the world hegemony that Hitler wanted to impose. This is the leftover justice that has to be done after 60 or 70 years.”

*Lady with a Fan* is staying just where she is for now: all but ignored among the NGV’s Dutch masterpieces. The door is not closed on the Emden claim but the NGV will do no more until they come up with fresh documents. This impasse has not been challenged so far by Australia’s Jewish leaders, whom Vaughan has been briefing carefully as the contest over the painting continues all but unreported behind closed doors. So far, they’re happy. But George Newhouse has been engaged to put another point of view to the same constituency. “Part of my brief is to keep decision-makers informed,” says the solicitor and Labor candidate. He admits so far he’s had little impact. “Let me say this: I haven’t yet begun to fight.” **GW**

Additional research by Andrew McCathie in Berlin.