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**^BC-EU-A&E-ART--Germany-Disputed Painting<**

**^Family, art experts in dispute over returned expressionist masterpiece<**

**%photo(^AP Photo<%)**

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**¶ BERLIN (AP) \_ This summer, the city of Berlin handed back a German Expressionist painting estimated to be worth up to \$25 million to the heirs of a Jewish collector whose family said the Nazis had forced them to sell the canvas in the 1930s.**

**¶ Berlin city officials call the return of Ernst Ludwig Kirchner's "Berlin Street Scene" a case of belated justice \_ in line with other handovers of art lost by Jewish owners to confiscation, theft or forced sale during Nazi rule.**

**¶ But some art experts disagree.**

**¶ They said the family of Alfred Hess, a shoe factory owner and art connoisseur, sold the canvas because of Hess' financial troubles during the Great Depression \_ not under pressure from the Nazis.**

**¶ With its "amateurish actions" the Berlin government has "severely damaged" German museum holdings, several critics said in a letter.**

**¶ "Berlin Street Scene" was taken down in late July from the Bruecke Museum, where it had been hanging since 1980. The museum is devoted to works by Kirchner and other members of the "Bruecke" or "Bridge" group of artists.**

**¶ The painting is to be auctioned Nov. 8 by Christie's in New York, which estimates its value as between US\$18 million and US\$25 million (euro14 million to euro19.5 million). Berlin officials say there is no evidence the Hess family even received payment for "Berlin Street Scene," which depicts two brightly dressed women on a crowded street.**

**¶ However, art experts said in a public letter that the painting's fate "had nothing to do with the Nazi persecution of Jewish citizens in 1933-1945" and called for a public review of the decision. They voiced concern that, if it stands, "further unfounded restitution claims will encounter open doors."**

**¶ The letter was signed by Ludwig von Pufendorf, a conservative former Berlin city culture official; Wolfgang Henze of the Ernst Ludwig Kirchner Archive in Bern, Switzerland; and Bernd Schultz, managing shareholder of Berlin's prominent Villa Grisebach auction house.**

**¶ Officials with the current city government, a left-wing coalition between Social Democrats and former East German communists, said Hess' family had taken the painting to Switzerland and sent it back to be sold by the Cologne Art Association in 1936 or 1937 \_ the exact date is uncertain \_ for 3,000 Reichsmarks to a collector friend of Kirchner's.**

¶ That was "a high price, in general, for a painting by a still-living artist," said Wolfgang Henze, an expert at the Ernst Ludwig Kirchner Archive in Bern, Switzerland. He said it was enough to buy a small house at the time.

¶ Attorneys for the heirs draw on a 1958 declaration by Tekla Hess, Alfred Hess' widow, that she was visited by two Gestapo agents who pressured her to send paintings from Switzerland, where the family had managed to take them, back to Germany.

¶ "I had no choice other than to give into the pressure being exerted by this all-powerful agency of the government in the hope that my own life and that of my family would not further be jeopardized," wrote Tekla Hess, who was in Germany at the time.

¶ The city said it was unable to disprove that the sale took place due to Nazi pressure on the family. "In a restitution case ... the city of Berlin bears the burden of proof," said Thorsten Woehlert, a spokesman for the Berlin's cultural department.

¶ Hess had encountered financial trouble during to the Great Depression before his death in 1931, and his family had already been selling paintings before the Nazis took power, the critics said in their letter.

¶ Andreas Hueneke, a freelance art historian and participant at the "Entartete Kunst" (Degenerate Art) project at Free University Berlin, told the AP that letters written to the Cologne Art Association and other documentation did not indicate a forced selling of the Kirchner. "There's nothing in the documents that says the paintings were sent under duress," he said.

¶ Hueneke questioned whether the Gestapo would have sought art the Nazis considered "degenerate" from outside the country. "In my studies I have never encountered such a demand by the Gestapo for art that is already out of the country," he said. "I cannot imagine such an act by the Gestapo."

¶ Generally, the Gestapo would destroy paintings that they confiscated in Germany or store them as historical documents, Hueneke added.

¶ Much of Hess' collection was lost or destroyed during the war. In the 1960s Hans Hess, Alfred Hess' son, filed a claim as a victim of Nazi persecution. His claim was approved and he received financial compensation \_ but only a small fraction of the collection's worth, the family's lawyers say.

¶ Other voices support the restitution. Chaja Boebel, spokeswoman for the Milk and Honey Association which promotes education on Jewish culture in Germany, said that Berlin "made the right decision."

¶ Of critics of the handover, she said, "I can understand that they want to keep a work of art available for the public, but their approach goes beyond moral boundaries."

¶ David Rowland, the family's New York-based attorney, said in a statement that Hess' factory did not simply go bankrupt but was confiscated by the Nazi government like other Jewish businesses.

¶ The city "has done the right thing," he said in a statement.

¶ "The people who are trying to raise other issues at this point in time, I think, they are really trying to rewrite history ... and they are trying to rewrite the restitution laws which have been in place for over 65 years," he said.