

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 25-00277

PRESENT: BANNISTER, J.P., MONTOUR, GREENWOOD, NOWAK, AND HANNAH, JJ.

ROBERT OWEN LEHMAN FOUNDATION, INC.,
PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

ISRAELITISCHE KULTUSGEMEINDE WIEN, DEFENDANT,
NAVA BAR, ROBERT RIEGER TRUST, AND JACOB BARAK,
AS TRUSTEE OF THE ROBERT RIEGER TRUST,
DEFENDANTS-APPELLANTS,
SUSAN ZIRKL MEMORIAL FOUNDATION TRUST AND
MICHAEL D. LISSNER, AS TRUSTEE OF THE
SUSAN ZIRKL MEMORIAL FOUNDATION TRUST,
DEFENDANTS-RESPONDENTS.

NAVA BAR, ROBERT RIEGER TRUST AND JACOB BARAK,
AS TRUSTEE OF THE ROBERT RIEGER TRUST,
THIRD-PARTY PLAINTIFFS-APPELLANTS,

V

ROBERT OWEN LEHMAN, THIRD-PARTY DEFENDANT-RESPONDENT.

DUNNINGTON BARTHOLOW & MILLER LLP, NEW YORK CITY (CLAUDIA G. JAFFE OF
COUNSEL), FOR DEFENDANTS-APPELLANTS AND THIRD-PARTY PLAINTIFFS-
APPELLANTS.

BAKER & HOSTETLER LLP, NEW YORK CITY (OREN J. WARSHAVSKY OF COUNSEL),
FOR DEFENDANTS-RESPONDENTS.

Appeal from a judgment (denominated order) of the Supreme Court,
Monroe County (Daniel J. Doyle, J.), entered August 23, 2024. The
judgment, among other things, declared that defendants Susan Zirkl
Memorial Foundation Trust and Michael D. Lissner, as Trustee of the
Susan Zirkl Memorial Foundation Trust, are the rightful owners of the
subject artwork.

It is hereby ORDERED that the judgment so appealed from is
unanimously affirmed without costs.

Memorandum: In this litigation concerning the ownership of a
portrait made in 1917 by Austrian artist Egon Schiele of his wife,
defendants-third-party plaintiffs Nava Bar, Robert Rieger Trust, and
Jacob Barak, as Trustee of the Robert Rieger Trust (collectively,
Rieger defendants) appeal from a judgment, entered following a nonjury

trial, that, inter alia, declared that defendants Susan Zirkl Memorial Foundation Trust and Michael D. Lissner, as Trustee of the Susan Zirkl Memorial Foundation Trust (collectively, Maylander defendants) are the rightful owners of the artwork. We affirm. Viewing the record in the light most favorable to sustain the judgment and giving due deference to Supreme Court's credibility determinations (see *Dennis v Cerrone*, 229 AD3d 1116, 1119 [4th Dept 2024]), we conclude that, contrary to the Rieger defendants' contention, there is a fair interpretation of the evidence supporting the court's determination that the Maylander defendants are the rightful owners of the artwork (see generally *Matter of Roth v S & H Grossinger*, 284 AD2d 746, 747-748 [3d Dept 2001]). We note that we affirm the court's determination on the merits rather than on its alternative holding with respect to laches, and thus the Holocaust Expropriated Art Recovery Act of 2025 (Pub L 119-82, 140 US Stat 752 [119th Cong, 2d Sess, Jan. 3, 2026]) does not affect our analysis. We have reviewed the Rieger defendants' remaining contentions and conclude that none warrants reversal or modification of the judgment.

Entered: June 26, 2026

Ann Dillon Flynn
Clerk of the Court