

Top ten tips for buying art

London is one of the key centres of the international art market and home to leading international art fairs, auction houses, art galleries and dealers. It also has a thriving contemporary art scene and many artists sell artworks directly from their studio. There are many opportunities to tempt collectors and investors in the primary and secondary markets, but also a number of important legal issues to bear in mind.

Here are our top ten points to consider when buying art.

Legal Title

Ensure that the seller is entitled to sell the artwork and that it is free from liens and third party rights. When purchasing from a dealer or through an agent, it may not be clear who the seller is so make detailed enquiries of the intermediary and, ultimately, the seller and ask for evidence in writing establishing clear title.

Provenance

Gaps in the ownership history of an artwork may give rise to third party claims in future. Provenance also has an impact on market value. Undertake due diligence, including checking public databases where appropriate, to establish that the artwork has not been recorded as lost or stolen.

Authenticity

Consider taking expert advice if there is any cause for doubts about the authenticity of an artwork, in particular, when buying art on the internet. Seek contractual representations and warranties. Buying from a reputable gallery or dealer provides some protection against fakes and forgeries. Challenging authenticity post purchase can be difficult and expensive. Any enquiries should be made beforehand.

Documentation

Obtain a written contract of sale and invoice including full details of the artwork as well as any supporting provenance documentation, import/export history, authenticity and condition reports. Review any terms and conditions of sale before buying and ensure that you understand the remedies available to you, particularly in relation to the return of an artwork that has undisclosed title, authenticity or condition issues.



Condition & Risk

Investigate and record any problems with condition before buying and transporting artworks and review any condition reports that have been prepared. Ensure that insurance cover is in place at the point when risk passes from the seller to the buyer according to the terms of the contract, including during transport, delivery and installation.

Price & Fees

Consider obtaining an independent valuation or check art market data on pricing if an artwork has previously been sold at auction, although bear in mind the differences between auction and gallery sales channels, the service you receive and the price you can expect to pay. Enquire about commission arrangements and insist on transparency about fees.

Import & Export

Before taking artworks across international borders, seek guidance on import and export rules/restrictions and ensure that customs procedures are complied with. Import and export of certain cultural objects may be prohibited because of their composition, origin or value and importance. Artworks may be imported temporarily into the UK for sale, so check that all applicable import duties and taxes have been paid.

Copyright & ARR

Purchasing an artwork does not automatically transfer copyright ownership to the buyer and there may be restrictions on the use of the artwork if copyright subsists. The artist may also retain personal moral rights in the artwork for a period of time and may be entitled to artist's resale right (ARR) royalties when artworks are sold on the secondary market.

Commissioning Artworks

Special considerations apply to commissioning new artworks from an artist and written contractual safeguards should be put in place, including as to when the work is going to be completed, whether the commissioner has a right to reject and when staged payments are due.

Buying Online

Whether buying online from an artist or dealer's website or via Instagram and other social media platforms, treat the purchase with due formality. Ensure that you have reviewed any terms and conditions of sale before completing a purchase, and that you receive an invoice or written sale contract.

About Hunters

Founded in 1715 and based in Lincoln's Inn, Hunters operates at the heart of legal London. The firm provides effective, discrete advice to individuals, businesses, trusts, landed estates and charities, preserving and protecting our clients' interests and their artworks. Hunters shares its clients' passion for art and is recognised as a leader in the field of art and

cultural heritage law, bringing its lawyers' experience and expertise to bear when clients want to transition art to the next generation, buy or sell artworks or are involved in disputes in both the UK and international art markets. Hunters' specialist and diverse legal service is acknowledged in the top legal directories.

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"The team is very knowledgeable, approachable and well-connected within the art world with a profound understanding of the issues that concern both its private and professional clients."

- The Legal 500



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