

Exhibit towards and against the artist: Yes we can

US district Court September 21, 2007 Mass MoCA vs Christoph Büchel

Query: You are a museum, you are confronted with the artist's refusal to finish the work in situ in your largest exposition space. What do you do? Response from the U.S. District Court : you expose the work !

In this case the Mass MoCa museum of contemporary art of Massachussetts, United States, had executed an agreement with Swiss artist Christoph Büchel. It was agreed that the artist would create, on site, an installation of titanic proportions in the museum's largest exposition gallery, the institution charged with financing the bulk of the project. The creation going both well and badly, the museum decided to expose the work in its unfinished state. The unhappy artist filed a civil suit against the museum claiming that exposing the work to the public in an unfinished state against his will was a deformation of his art. The American judge had to wonder : how can something be deformed before even being created ? In other words, is the unfinished worked protected ? The solution finally found in the form of a compromise; compromising for the artist was due primarily to the facts in the case (notably exorbitant project costs, disagreement on the financing between the artist and the museum, slowness of work, artist distanced himself during their production, absence of any explicit testimony as to his will to not modify the work...). The judge recognized the right of the museum to expose but with the obligation to inform the visitors that the installation was "an unfinished project which does not embody the author's original intentions."

Before the French jurisdictions, the artist to whom a moral right is recognized on his work, including during the creative phase, would certainly sue for damages not only for a violation of the integrity of the work but also for a violation of his right to disclose. The misunderstood prerogative of the Visual Artists Rights Act (American federal law does not recognize any moral right of the artist on his work) the opportunity of disclosure under French law belongs to the artist. Furthermore, it is not here about a discretionary right for the benefit of the author. It is a strong bet in this case that French case law would stand on the side of Büchel. It should be noted, anecdotally, that the exposition was dismantled less than two months after the judgment was handed down, yet in the museum's favor... Feeling guilty ?

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