

Grand master lost to history: Namatjira's legacy stifled by deal



Albert Namatjira with wife Robina, grandchildren and his father Jonathon in Namatjira Project.

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In the 1940s and early 50s, Australia could not get enough of Aboriginal landscape painter Albert Namatjira. The former camel-leer and initiated Aranda man from central Australia was the subject of three documentaries, his exhibitions sold out regularly and he was presented to the Queen during the 1954 royal tour.

Yet the father of the modern Aboriginal art movement was 54 before he was quietly granted citizenship (along with his wife Robina and four other Northern Territory Aborigines) on May 13, 1957. Once he became a citizen, Namatjira could travel without government permission, drink alcohol legally and transact business deals for the first time.

But given the racial double standards of the time — as a “full-blood” Aborigine, Namatjira had been forbidden from building a house in Alice Springs in 1951 — even the prize of citizenship would prove to be tainted. The painter’s adult children were not granted citizenship and it has been widely documented that his drinking rights put him on the wrong side of the law — with devastating consequences.

What is less appreciated is that Namatjira’s newly conferred right to conduct his own business affairs was also sharply double-edged — its ramifications continued for

decades. Indeed, the story of what happened to Namatjira's estate is fast becoming the country's most notorious copyright case.

This story has its genesis in a highly controversial deal struck by the semiliterate Namatjira in the late 1950s, less than a month after he became a citizen.

Sixty years on, that deal has been superseded but the still-evolving copyright saga has drawn in the nation's leading galleries, the artist's impoverished descendants, who live in central Australia, and a small art publishing company, Legend Press, based on Sydney's up-market north shore. In recent weeks the saga has sparked allegations that the legacy of Namatjira, who died in 1959 in tragic circumstances, is being stifled, along with counterclaims of copyright breaches by leading institutions.

Meanwhile new research has come to light revealing that in June 1957, just three weeks after he was granted citizenship, Namatjira, who had a limited grasp of written English, signed away a key asset — a majority share of his copyright — to the white-owned Legend Press, then run by art dealer John Brackenreg, for £10.

The 1957 deal would last 26 years and it has been estimated that it generated hundreds of thousands of dollars (in today's money) for Legend Press. This deal has often been cast as beneficial for the Namatjiras as it delivered them a 12.5 per cent royalty on reproductions of the landscape painter's works for more than two decades.

However, lawyer and former university lecturer Paul Watson alleges that the contract was "unconscionable" and "exploitative" — and could give Namatjira's descendants grounds for taking legal action against the commonwealth.

Watson has been conducting research into Namatjira's copyright — the nation's best-known indigenous artistic estate — for four years. This week the semi-retired solicitor, who lives in Victoria and plans to write a book on the copyright conflict, told *The Weekend Australian*: "It was obviously an exploitative deal. Albert had just been made a citizen and so got contractual capacity, and he was signing away seven-eighths of his only major asset." (Archival records show that the year before Albert had been forced to sell his paintings to pay his debts, including his purchase of a Holden sedan.)

According to Watson, under the 1957 contract — a copy of which is held in the National Archives — out of every \$8 generated by net sales of Namatjira reproductions, the artist received \$1 and Legend Press received \$7. "Albert was paid a grand total of £10 for that transaction. You can see it was a clearly exploitative deal," he says. He believes Namatjira's descendants have "suffered huge financial loss" as a result of a contract that Albert could "not have possibly understood".

The lawyer says Namatjira's descendants could bring legal action against the commonwealth (then running the Northern Territory) for a breach of fiduciary duty as senior Territory officials approved the contentious deal so soon after Namatjira — who did not ask for citizenship — had it "thrust upon him".

Legend Press now operates under a different copyright deal but in recent weeks the art publisher has been accused of diminishing Namatjira's legacy by taking a highly restrictive approach to reproductions of his images in everything from overseas exhibition catalogues to documentaries and state gallery websites.



Albert Namatjira's niece Ivy Pareroultja, left, and granddaughter Gloria Pannka.

Now overseen by John Brackenreg's son, Phil Brackenreg, the company strenuously denies these claims. "We disagree that the Legend Press's copyright terms are restrictive," Brackenreg said yesterday, claiming they were "no different to (those of) any other owners of copyright".

However this week the National Museum of Australia in Canberra and the Art Gallery of NSW joined a growing list of leading cultural institutions speaking out about how their attempts to promote Namatjira are being stymied by Legend Press's unusual copyright restrictions.

Art Gallery of NSW director Michael Brand told *The Weekend Australian* that restrictions on his gallery's use of Namatjira images on its website and in its publications were "unfortunate" and needed to be resolved. Brand confirmed that "of the five Albert Namatjira works in the Gallery's collection only one, *Palm Valley* (1940s), is reproduced online due to copyright restrictions".

He also cited two instances of Namatjira works being withheld from books about the indigenous art movement Albert inspired. The gallery chief pointed out that "Namatjira's works have not always been included in gallery publications due to copyright restrictions. (The book of) our major survey of indigenous Australian art *One Sun One Moon* from 2007, for example, does not include works by Namatjira (a fact we felt important enough to point out in a note to readers)."

Brand also said that *Tradition Today*, a popular book showcasing indigenous art from the gallery's collection and updated in 2014, "has been altered over time to reflect copyright clearances, or lack thereof (for Namatjira's work)".

"This is an unfortunate situation and one that I hope will be resolved quickly ... As a state art museum, our role is to ensure we make our collection accessible to the widest possible audience."

The National Museum of Australia revealed that “like other cultural institutions, the NMA is restricted in its use of images of Albert Namatjira’s works by the existing copyright arrangements”.

The NMA has 17 Namatjira artworks and objects in its collection. While some objects, including a painted boomerang and spear-thrower, can be partially viewed on the museum’s website, a collection of four prints — ironically, reproduced by Legend Press — are represented by blank squares.

In March the museum on the banks of Lake Burley Griffin signalled its support for the Namatjira family when it hosted the launch of the Namatjira Legacy Trust. It is hoped this trust will raise funds so the copyright can be sold or handed back to the Namatjira family and their wider community.

Phil Brackenreg asserts that the NMA “set up the parameters” of its Namatjira licence. The AGNSW, he said, had failed to follow up a copyright issue that arose under previous practices of the gallery.

In regard to the gallery books, he said a copyright agreement should have been drawn up before publication and that “the Art Gallery of NSW did not do so”.

However, other major galleries, including the National Gallery of Victoria, the Araluen Arts Centre and National Gallery of Australia, also face tight restrictions when it comes to reproducing and promoting Namatjira’s work. *The Weekend Australian* recently - revealed that Legend Press had not responded to the NGA’s copyright requests aimed at promoting Namatjira’s paintings and objects for the past eight years. This means that none of his works can be reproduced in any medium by the gallery.

In 2013 two Namatjira works from the NGA collection were omitted from a catalogue accompanying the landmark *Australia* exhibition at London’s Royal Academy of Arts. This year copyright concerns prevented the production of a catalogue to celebrate a new bequest of 40 previously unseen Namatjiras at the NGA. Marilyn Darling, phil-anthropist and donor (with her husband Gordon, who died in 2015) of these paintings, called the lack of a catalogue “heartbreaking”.

The businessman who started this chain of events, art dealer and publisher John Brackenreg, died in 1986. There are two conflicting views about Brackenreg, with the first being that he popularised Namatjira and turned him into a household name with reproductions of high-quality prints and placemats, calendars and Christmas cards in the 1950s and 60s.

Watson says Brackenreg was “a good marketer” who built Namatjira’s profile, “but not in a good way” as the Christmas cards and placemats burdened the trailblazing painter with “a problematic overlap with kitsch. Namatjira originals sold themselves so he was an art world superstar without (needing) to hang on every grandmother’s lounge room wall.”

The lawyer argues that the commercialisation of Namatjira undermined his reputation as a serious artist. Indeed, while the painter’s exhibitions commonly sold out during his lifetime, the state galleries snubbed him as old-fashioned and derivative. In the 1950s the Art Gallery of NSW’s Hal Missingham said, notoriously, that the gallery would display a Namatjira “when he does one good enough”.

The copyright drama has refocused attention on how Namatjira was mistreated during his lifetime. Certainly his final years symbolised the gulf between the rhetoric and reality of assimilation policy. After gaining citizenship, he was permitted to drink alcohol but his relatives were not, and this led to a tragedy that contributed to his premature death at 57. In 1958 he was found guilty of “supplying alcohol to an Aboriginal”. He pleaded not guilty but was jailed. Following a public outcry, he served out his sentence in the remote community of Papunya, effectively exiled from most of his family and friends. His spirit broken, he died three months later.

His work was embraced by the art establishment from the mid-1980s onwards, and this saw prices for his paintings rise steeply. But this resurrection of the painter’s artistic reputation coincided with yet another twist in the copyright drama.

In 1983 the Northern Territory Public Trustee, which was managing Namatjira’s estate, sold Albert’s copyright to Legend Press for \$8500 without consulting the Namatjira family. This meant an end to the 12.5 per cent royalties that had been paid to Albert’s family between 1957 and 1983. Since then, Namatjira’s grandchildren, some of whom are homeless, have not received a cent from reproductions of his works.

Namatjira descendants and watercolour artists Kathy Inkamala and Ivy Pareroultja told Inquirer from Alice Springs recently: “If Aboriginal people owned the copyright, when the old fella passed away so many years ago, in Aboriginal culture they would feel sorry and shame for Albert’s grandchildren and would return it back to them.”

This year the copyright saga has been highlighted by the establishment of the trust and a new documentary by the Big hART theatre company called *Namatjira Project*. The reignited debate has focused on the 1983 decision and in March the man who sold off the Namatjira copyright, former Northern Territory public trustee John Flynn, admitted to *The Australian* that in retrospect he would have done things differently.

The trust has since engaged high-profile law firm Arnold Bloch Leibler to recover the copyright. Inquirer understands that Flynn’s admissions opened a new pathway to legal action against Territory authorities, though the law firm continues to negotiate directly with Legend Press. However Phil Brackenreg said yesterday that “over 60 years of working for Namatjira, we have not received any offer to buy the copyright”.

Brackenreg also stressed that Legend’s present copyright ownership “flows from the 1983 agreement with the Northern Territory Trustee, which was entered into in good faith, and not the 1957 agreement”.

In Watson’s view, the bigger historical injustice was the 1957 contract.

“Albert had been a very prized artist for 20 years. He’d had exhibitions in the big cities which would sell out on the spot. He was an artist who, in a sense, barely needed an agent,” he said.

“I feel incredibly sorry for the Namatjira family. They’ve been brought up in the shadow of their famous grandfather and great grandfather and they’ve had hard lives. There’s this kind of crushing inheritance of having the big name and not having the legacy.”