

On Sunday

A copyright matter

The photograph she would have never taken



Annie Leibovitz's artsy, provocative portraits of celebrities regularly grace the covers of *Vanity Fair* and *Vogue*, images that have made her as famous as her subjects and earned her millions.

Now Leibovitz risks losing the copyright to the images - and her entire life's work - if she doesn't pay back a 24 million-dollar loan by Tuesday. Art Capital Group, a New York company that issues short-term loans against fine and decorative arts and real estate, sued her in late July for breach of contract.

"We have clear contractual rights and will protect them in any scenario," said ACG spokesman Montieth Illingworth on Friday. "Our preference is for this to be resolved."

Some experts say filing for bankruptcy reorganization could be the best option for Leibovitz, 59, who has put up as collateral her three historic Greenwich Village townhouses, an upstate property and work.

She bought two of the townhouses in 2002, embarking on extensive renovations to combine them into one property. That spurred protests from historic preservationists and a 15 million-dollar lawsuit by a neighbour.

"Based on the magnitude of her obligations and the facts as they are publicly known, that would be the best option," said art lawyer Peter Stern.

Leibovitz's images of musicians, presidents and Hollywood glitterati are cultural touchstones. One of her earliest photos is of John Lennon curled up naked in a fetal position with Yoko Ono, taken just hours before he was assassinated in 1980.

So to many, her decision to gamble the rights to her work seems inexplicable. "Jaw-dropping," Stern said.

Her editorial agent, Contact Press Images, has declined to comment on the case, saying it is a private matter.

Her spokesman, Matthew Hiltzik, has accused ACG of harassment.

"There has been tension and dispute since the beginning ... For now, her attention remains on her photography and on continuing to organize her finances," Hiltzik said.

A reorganization filing would suspend all litigation against Leibovitz and place her finances under the protection of a federal judge, said bankruptcy lawyer Paul Silverman, who works with Stern. Neither attorney is involved in the case.

Last year, Leibovitz put up her homes and the copyright to every picture she has ever taken - or will take - as collateral to secure the loan to pay off her mounting debt: unpaid bills, mortgage payments and tax liens, ACG said.

While no one has suggested publicly how Leibovitz got into such desperate financial straits, the mortgage debt on all her properties - including the townhouses in Greenwich Village and a sprawling estate in Rhinebeck, New York - totalled about 15 million dollars. This includes the 1.2 million-dollar loan she took out on two of the townhouses, and another 2.2 million dollars three years later, according to *New York* magazine.

In addition to her mortgages, court records show that she piled up years of federal, state and city liens and judgments from vendors for unpaid bills - all presumably now satisfied with the 24 million dollars she borrowed.

Federal records show that Leibovitz owed a total of 2.1 million dollars in unpaid taxes for tax years 2004, 2006 and 2007. She also had New York state tax liens of 247,980 dollars for six years, including 135,915 dollars in 2007. And she owed New York City several thousand dollars for three years.

In 2008, a design firm that did work on one of her Greenwich Village properties claimed that she owed it 51,000 dollars.

Leibovitz was also accused that year of refusing to pay 386,000 dollars to a photo stylist during a 2007 shoot Leibovitz did for the Disney Company in 2007.

Her spokesman, Hiltzik, declined on Thursday to discuss her finances.

"Annie is working to resolve the situation so it would be inappropriate to comment," Hiltzik said.

Art Capital Group, which consolidated all her loans in September 2008, charged in its lawsuit that Leibovitz breached the contract by refusing to allow real estate experts into her homes to appraise their value and by blocking ACG from selling her photographs.

ACG has estimated the value of the Leibovitz portfolio at 40 million dollars; real estate brokers say her New York properties are worth about 40 million dollars.

Manhattan luxury real estate broker Leonard Steinberg of Prudential Douglas Elliman estimated the two Greenwich Village townhouses would be worth 14 million to 18 million dollars in today's market. Steinberg is not the broker on the property.

Leibovitz also owned an apartment in Paris, which she bought for her longtime companion, writer and feminist Susan Sontag.

Leibovitz gave birth at the age of 51 to her daughter Sara in 2001, and has twins, who were born to a surrogate in 2005.

ACG, with art gallery-like offices on Madison Avenue, is in effect a high-end pawn shop and just like pawn shops, is just as happy to see a default, according to art and money experts.

Under the sales agreement with Leibovitz, Illingworth said, the company would get 10 percent commission on the sale of Leibovitz' real estate and 15 percent on the sale of her portfolio.