

Der Froschkönig

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Introduction

It is not surprising that many of the Grimms' Fairy Tales illustrate a legal principle. The Brothers Grimm, Jacob and Wilhelm, had a father who was a judge, and the brothers later studied law under Professor Karl von Savigny at the University of Marburg. During their careers, the brothers held a number of posts, including librarians at the University at Göttingen (1829-1837), and, later, professors at the University of Berlin. The real interest of the brothers was in collecting and recording Germanic folklore, as well as compiling a dictionary of the German language. The Brothers Grimm published the first edition of KINDER- UND HAUS-MÄRCHEN (Children's and Household Tales) in 1812. These stories were included in the Prussian school curriculum in the 1870s. In the following example, I briefly re-tell one story with a legal annotation. <grin>

Personal note: I wrote this legal annotation while I was studying for the Massachusetts bar examination in 1998.

Legal Annotation

fact pattern

A beautiful Princess plays with her golden ball on the bank of a pond. She tosses the ball into the air repeatedly, then the ball accidentally rolls into the pond. As beautiful girls in fairy tales are wont to do, she bursts into tears. A Frog appears and asks her why she cries, she tells him, and

The contractual offer:

The Frog asks: "What will you give me if I retrieve your ball from the water?"

The girl replies: "My clothing, my pearls and precious stones, and even the golden crown that I wear."

The Frog makes a counter-offer:

"I don't want your clothes, pearls, precious stones, and your golden crown. But if you will love me and allow me to be your companion, and let me sit next to you at the table ... and sleep in your bed — if you promise me this, I will go down below, and return your golden ball to you."

The Princess accepts the counter-offer:

"Yes, I agree to everything that you want, if you return the ball from the water to me."

There is now a unilateral contract: a contract that is formed by performance

The Frog dives into the pond and retrieves the golden ball. The Princess is full of joy.

Breach of the contract

The Princess runs back to the castle. The poor Frog cries “Wait!, Wait!” to the Princess, “Take me with you, as I can not run as fast as you.” But the Princess hears him not, and she soon forgets about the Frog.

The Complaint: Demand for satisfaction

The next day, while the King and Princess are having dinner, the poor exhausted Frog arrives at the castle door and he demands to be admitted: “Princess, let me in!”

Discovery

The King asks his daughter about this visitor, who is yelling, at the door. And she says, “It is no giant, only a disgusting Frog.” A discussion ensues, during which the daughter admits the facts.

the legal rule:

Da sagte der König: “Was du versprochen hast, das mußt du auch halten! Geh nur und mach ihm auf!” [Well, what did you expect? He is a German King, so he speaks German. Maybe you expected him to speak French? or Spanish?] “*What you have promised, that you must do! Go and let him in!*”

Another principle:

Der König aber wurde zornig und sprach: “Wer dir geholfen hat, als du in Not warst, den sollst du hernach nicht verachten!” “*He who has helped you when you were in trouble should not afterwards be despised by you.*”

ending of the story

You want to hear the ending of the story? [pause] For the remainder of the evening, the Princess could barely tolerate the Frog. When the Princess was ready to sleep, she put the Frog in a corner of the room. The Frog reminded the Princess of her promise to let him sleep in her bed, and he threatened to tell her father. The Princess flung the Frog with great force against the wall. When the Frog collided with the wall, he was transformed into a handsome young King.

my comments

I do not like the ending by the Brothers Grimm, as it weakens the moral impact. The Princess continues to breach the contract, but the Princess is rewarded by living happily ever after with a handsome young King. And flinging the Frog against the wall is cruelty to animals, if not battery on the young King.

Aside from the hidden discussion of contract law in this story, the story is also relevant to divorces in which one party worked hard and paid for the other spouse's education.¹ Soon after the supported spouse graduates, he/she files for divorce from the supporting spouse, and then the supported spouse says many terrible things about the supporting spouse (probably, so the supported spouse appears justified in ending the marriage). As the fairy tale says, "He who has helped you when you were in trouble should not afterwards be despised by you."

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created 10 July 1998, revised 21 July 1998, Adobe PDF version created 22 Mar 2009

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¹ Standler, Reimbursement of Educational Expenses at Divorce in the USA, http://www.rbs2.com/ed_reimb.pdf 47 pp., (5 Sep 2003).