

Judgment rendered on October 25, 2001

2000 (Ju) 798

Indication of parties Omitted

Main text

The final appeal of the present case shall be dismissed.

The costs of the final appeal shall be borne by the appellant.

Reasons

Reasons for the petition for acceptance of final appeal made by the attorneys for the final appeal; namely, NISHIMURA Kunihiro, NARA Jiro, MATSUMURA Masato, UEDA Naoki, and MOCHIZUKI Kenji, as well as the attorneys for the final appeal; namely, HANAOKA Iwao, KARASAWA Takao, MOTOHASHI Koichiro, OGAWA Masahiro, and SHIMODA Toshio

According to the decisions legally made final in the court of prior instance, the production process of the Comic Series is said to consist of the following: the appellee creates specific stories for each sequence; the stories are turned into a novel-style manuscript of approximately thirty to fifty pages on 400-character manuscript paper; the appellant omits from the manuscript the parts that the appellant considers to be unfit for a cartoon; the appellant creates a cartoon mostly based on the manuscript; and the aforementioned steps are repeated. [Summary 1] From the facts presented above, it can be said that the Comic Series is a derivative work of the original work, which is the manuscript written by the appellee, and thus it can be said that the appellee has the original author's rights in connection with the Comic Series. Next, concerning the use of the Comic Series, which is a derivative work, the appellee, who is the author of the original work, holds the same type of exclusive rights as those which are held by the appellant, who is the author of the Comic Series, so that the appellant's rights and the appellee's rights coexist, and thus it is interpreted that the appellant's rights cannot be exercised unless the appellant and the appellee have reached agreement in this regard. [Summary 2] Accordingly, it should be said that the appellee can seek injunction against the act by the appellant of creating, reproducing, or distributing, without agreement between the appellee and the appellant, the Original Picture which depicts Main Character D from the Comic Series.

Based on the above, the judgment of the court of prior instance which confirmed that the appellee holds the original author's rights to Frame Pictures, which constitute part of the Comic Series, and the Cover Picture, which is a reproduction of the picture

of Main Character D from the Comic Series, and which determined that the appellee's demand for injunction against the preparation, reproduction, or distribution of the Original Picture shall be accepted, can be approved as justifiable. The decision is not in violation of the judicial precedents cited by the appellant. There is no violation of law in the views presented by the judgment in prior instance, and the appellant's arguments cannot be accepted.

Therefore, the court unanimously renders the judgment as per the main text.

Supreme Court, First Petty Bench

(Presiding judge: IJIMA Kazutomo Judge: FUJII Masao Judge: MACHIDA Akira Judge: FUKAZAWA Takehisa)