ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JOHN MAUZY PITTMAN, CHIEF JUDGE

DIVISION II

CA07-05

October 3, 2007

PATRICIA DIANE LEACH
APPELLANT

V.

FIRST COMMUNITY BANK
APPELLEE

APPEAL FROM THE CRAIGHEAD COUNTY CIRCUIT COURT, WESTERN DISTRICT [NO. CV-2003-720(JF)]

HON. JOHN N. FOGLEMAN, JUDGE

AFFIRMED

This is an appeal from an order in favor of the appellee bank in a declaratory judgment action, ruling that appellee was entitled to the proceeds of two life insurance policies that were assigned as collateral for a series of loans. Appellant contends that it was error to rule that the assignments had not been released by repayment of the first loan with the proceeds of the second loan. We affirm.

The appellant is the beneficiary of two life insurance policies held by her deceased father. Before her father died, his farm operation was in a great deal of debt and borrowed a considerable sum from appellee to restructure. The life insurance policies were assigned as collateral for that loan. The assignment provided, in pertinent part, that:

> This assignment is made and the Policy is to be held as collateral security for any and all liabilities of the undersigned, or any of them, to the Assignee, either now or existing or that may

> hereafter arise in the ordinary course of business between any of the undersigned and the Assignee. . . .

A second loan was subsequently made by appellee, which repaid the first loan, and a new note issued. Decedent defaulted on this loan and subsequently died.

This action was brought to determine ownership of the proceeds of the life insurance policies. Summary judgment was granted on all issues except for entitlement to the proceeds of the life insurance policies. Appellant argued below that the assignment did not apply to the second loan agreement, for which other collateral was expressly listed and the insurance policies were not. Appellant testified that appellee's agents represented to her that the life insurance assignments were not needed as collateral for the second loan because other collateral had been pledged. The trial court, at the conclusion of the hearing, asked the parties to submit briefs on the issue of the continued validity of the assignment after the initial loan had been paid by the second loan. Appellee submitted a brief. Appellant did not. The trial court ruled in favor of appellee.

Appellant raises several complex arguments on appeal relating to the differences between assignments and collateral and cites authority in support of these arguments. We do not reach them, however, because they were never raised or ruled on below. The arguments made on appeal are precisely the sort that could and should have been made in the post-trial brief that appellant failed to file. The supreme court has steadfastly held to the rule that an appellant is bound by the nature and scope of the arguments made at trial. *Woolbright v. State*, 357 Ark. 63, 160 S.W.3d 315 (2004). The arguments now advanced expand broadly

on the naked assertions made by appellant at trial and in her pleadings, and, especially in light of her failure to provide the trial court with an opportunity to rule on them by submitting a brief as directed, they cannot be raised for the first time on appeal.

Appellant's arguments would be unavailing even were they properly preserved for appeal. The initial loan, which was expressly secured by the insurance policy assignments, was indeed paid, but it was paid with the notation that payment had been by renewal. Arkansas has long followed the rule that, in the absence of an agreement or a plain manifestation of a contrary intention, the security of the original mortgage follows the note or renewal thereof, *i.e.*, instead of there being a presumption of payment or settlement of the original indebtedness by the execution of the renewal note, and thereby a release of the security, the presumption is that, upon the execution of the new note or bond, the same security is available for its payment. *Simpson v. Little Rock North Heights Water District No. 18,* 191 Ark. 451, 86 S.W.2d 423 (1935). This is in keeping with the weight of authority holding that, because the renewal of a note does not change the identity of the debt represented by the obligation, the validity or operation of an assignment as security is not affected by the circumstance that a renewal note is executed to replace the original note. *See generally* 3 LEE R. RUSS ET AL., COUCH ON INSURANCE § 37.50 (3d ed. 2005).

Affirmed.

GLADWIN and ROBBINS, JJ., agree.