

# ARKANSAS COURT OF APPEALS

DIVISION I  
No. CA08-158

PAM MANN,

APPELLANT

V.

JAMES G. MANN,

APPELLEE

**Opinion Delivered** SEPTEMBER 10, 2008

APPEAL FROM THE DREW  
COUNTY CIRCUIT COURT,  
[NO. DR-04-56-4]

HONORABLE DON GLOVER,  
JUDGE

AFFIRM

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**KAREN R. BAKER, Judge**

Appellant Pam Mann challenges the trial court's division of property alleging two points of error: (1) The trial court committed reversible error by accepting the master's report; and (2) The trial court erred in finding the parties had made an agreement and entering an order adopting the agreement. We affirm holding that the trial court did not err in adopting the agreement to which the parties assented to the terms in open court, rendering appellant's assertion of error regarding the master's report moot.

The parties note that a previous appeal, CA 07-71, was dismissed for lack of a final order. This court granted appellee's motion for dismissal because the order failed to dismiss the third-party defendants, Beverly Hudson and Hudson Realty Co., LLC. This court

dismissed the parties' first attempt to appeal in CA 07-71 on April 25, 2007. On August 31, 2007, the trial court held a hearing regarding the entry of a final order in this case.

At the August 31 hearing, the trial court first acknowledged that appellant and appellee had reached an agreement, then the trial court specifically informed the parties that it would inquire of each party whether or not the agreement met their approval. After the agreement was read into the record, with counselors for the parties and the court verifying the various terms, the trial court specifically asked appellant and appellee to come forth and tell the court whether either of them had any questions about the agreement. First, appellee informed the court that he had no questions and that he fully understood the agreement, and then appellant confirmed that she had no questions, that she fully understood the agreement, and that she agreed with all aspects of the agreement. After appellant's and appellee's acknowledgments, the court then inquired of Ms. Hudson whether she had any objection with the dismissal of the third-party defendants. She responded that she did not. The final order in this case was filed of record on October 19, 2007, and the notice of appeal was filed on November 9, 2007.

Our review of the record reflects that at the August hearing the appellant never raised the issue that the trial court erred in accepting the master's report and failed to bring this issue to the court's attention for a ruling. This court does not address issues on which an appellant fails to obtain a ruling. *Sterne, Agee & Leach, Inc. v. Way*, 101 Ark. App. 23, --- S.W.3d ---- (2007). Even if we were to address this argument, it lacks merit because the parties entered into a settlement agreement presented to, and accepted by, the court.

The transcript from the August hearing contradicts appellant's argument on appeal that the parties only tentatively agreed on the distribution of the marital property and that the trial court erred in approving an agreement not yet adopted by the parties. Appellant's assertion is based entirely upon the premise that the parties never agreed on the distribution, or division, of the marital property.

The trial court specifically informed the parties that it would inquire into their acceptance of the agreement prior to the agreement being read into the record. After the stipulations were made a part of the record, the court asked each party independently if they understood the terms of the agreement as presented to the court and if they agreed with those terms. Appellant and appellee both responded affirmatively.

Under these facts, the trial court did not abuse its discretion in accepting the parties' settlement agreement. Oral stipulations dictated in open court have the force and effect of a binding agreement. *Bishop v. Bishop*, 60 Ark. App. 164, 961 S.W.2d 770 (1998); *Kunz v. Jarnigan*, 25 Ark. App. 221, 756 S.W.2d 913 (1988); *Linehan v. Linehan*, 8 Ark. App. 177, 649 S.W.2d 837 (1983). See also *Jenkins v. Jenkins*, \_\_\_ Ark. App. \_\_\_, \_\_\_ S.W.3d \_\_\_ (June 18, 2008). While the parties are bound by the oral stipulations, a trial court is not bound by a stipulation entered into by the parties: rather, it is within the sound discretion of the court to approve, disapprove, or modify the agreement. See *Rutherford v. Rutherford*, 81 Ark. App. 122, 128-129, 98 S.W.3d 842, 845 (2003). However, when parties enter voluntarily into an independent property-settlement agreement that is incorporated into a decree of divorce, the

agreement cannot subsequently be modified by the court. *Evans v. Evans*, 92 Ark. App. 170, 211 S.W.3d 584 (2005).

Appellant argues that, in entering the tentative agreement, the trial court made an unequal division which neither party requested. Appellee disputes that assertion, responding that the record reflects that the parties entered into a settlement agreement which appellant is estopped to deny now on appeal. The record clearly supports the finding that the parties entered voluntarily into the settlement agreement. Our law favors amicable settlement of controversies and it is the duty of courts to encourage rather than to discourage parties in resorting to compromise as a mode of adjusting conflicting claims. *Williams v. Davis*, 9 Ark. App. 323, 325, 659 S.W.2d 514, 515 (1983). *See also Roberts v. Green Bay Packaging, Inc.*, 101 Ark. App. 160, \_\_\_ S.W.3d \_\_\_ (2008). Accordingly, we find no error in the trial court's incorporation of the parties' settlement agreement into the divorce decree.

Affirmed.

GLOVER and VAUGHT, JJ., agree.