

RENDERED: AUGUST 3, 2018; 10:00 A.M.  
NOT TO BE PUBLISHED

# Commonwealth of Kentucky

## Court of Appeals

NO. 2017-CA-000416-MR

RONALD B. HUB AND  
MADONNA RIFFE

APPELLANTS

v. APPEAL FROM POWELL CIRCUIT COURT  
HONORABLE FRANK ALLEN FLETCHER, JUDGE  
ACTION NO. 14-CI-00236

KEN SMITH; CARLA HOOD SMITH AND  
CARLA HOOD SMITH, IN HER CAPACITY  
AS ADMINISTRATOR OF CHARLIE R.  
HOOD, DECEASED

APPELLEES

OPINION  
AFFIRMING

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BEFORE: MAZE, TAYLOR AND THOMPSON, JUDGES.

THOMPSON, JUDGE: This is a property boundary line dispute. Ronald B. Hub and Madonna Riffe appeal from an order and judgment of the Powell Circuit Court enforcing an agreement that a second survey by Blake Adams would establish the

boundary line between the parties and be the court's final ruling. Having concluded that the trial court did not err, we affirm.

This action was filed in 2014 by Ronald and Madonna, husband and wife, against Kenny Smith, Carla Hood Smith and Carla Hood Smith, in her capacity as administrator of the Estate of Charlie R. Hood (the Smiths) to establish the boundary line between property owned by Ronald and Madonna and the Smiths. The same property had been surveyed by Adams in 2012.

On October 5, 2016, the parties appeared in court and agreed that Adams would conduct a survey and, when completed, that survey would establish the boundary line between the parties and be the trial court's final ruling on the matter. The court's docket sheet reflects that agreement by stating: "Parties agree that Blake Adams' survey is the Final and Ruling of the Court. Parties to Re-Docket when Blake Adams is complete."

After Adams completed his 2016 survey on October 26, 2016, Ronald and Madonna filed a motion for the court to rule on whether the 2012 survey completed by Adams or the 2016 survey determined the boundary line. The Smiths responded with a motion to enforce the parties' October 5, 2016 agreement that Adams's second survey would determine the boundary line.

The trial court heard arguments by counsel and reviewed the record, including statements to the court on October 5, 2016, and its docket sheet. The

trial court found the oral agreement was clear and unambiguous that the parties intended to be bound by the second survey by Adams and, therefore, the 2016 survey established the boundary line.

Ronald and Madonna do not dispute that the parties agreed Adams's second survey would determine the boundary line. In his *pro se* brief, Ronald specifically states: "I agreed to accept Blake Adams' second survey as the boundary line." Despite that agreement, Ronald and Madonna challenge the accuracy of that second survey. The Smiths argue that the agreement is binding and effectively settled the boundary line dispute.

As a general rule, "[i]f the minds of the contracting parties met upon a compromise, it [is] enforceable even though not in writing." *Barr v. Gilmour*, 204 Ky. 582, 265 S.W. 6, 9 (1924). Even verbal agreements required to be in writing are enforceable if made in open court and reflected in the record. In *Calloway v. Calloway*, 707 S.W.2d 789, 791 (Ky.App. 1986), the Court cited with approval the following reasoning of the Court in *Hansen v. Ryan*, 186 S.W.2d 595, 600 (Mo. 1945):

In the administration of justice and the prompt dispatch of business, courts must and do act upon the statements of counsel and upon the stipulations of parties to pending causes. Where the parties have voluntarily entered into a stipulation, which appears fair and reasonable for the compromise and settlement of the issues of a pending cause, and where the stipulation is spread upon the record with the consent and approval of the court, as here, the

parties are bound thereby and the court may, thereafter, properly proceed to dispose of the case upon the basis of the pleadings, the stipulation and admitted facts.

The agreement between the parties is clear and unambiguous that the boundary dispute was to be resolved by Adams's second survey and that survey would be the final ruling of the court. Although Ronald and Madonna may be dissatisfied with that survey, they are bound by the agreement. The trial court did not err in enforcing that agreement.

For the reasons stated, the order and judgment of the Powell Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Ronald B. Hub, *Pro se*  
Madonna K. Riffe, *Pro se*  
Winchester, Kentucky

BRIEF FOR APPELLEE:

Carla Hood Smith, *Pro se*  
Kenny Smith, *Pro se*  
Clay City, Kentucky