

STATE OF MICHIGAN  
COURT OF APPEALS

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ALPHONSO P. WILLIAMS,

Plaintiff-Appellant,

v

BRIDGET W. WILLIAMS,

Defendant-Appellee.

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UNPUBLISHED

October 8, 1996

No. 175091

LC No. 93457797 DO

Before: Saad, P.J., and Corrigan and R.A. Benson,\* JJ.

PER CURIAM.

In this divorce action, plaintiff appeals by right. We affirm.

Plaintiff has acted in propria persona at both the trial and appellate levels. Plaintiff admitted in open court on the record that he drafted and signed a property settlement agreement that was incorporated, but not merged, into the consent judgment of divorce. He agreed with its terms and was willing to abide by its terms. On appeal, plaintiff contends that he did not consent to the property settlement agreement because he denounced it before the judgment was entered. Plaintiff does not question that portion of the judgment granting the divorce. We reject plaintiff's claims.

To the extent that a divorce judgment adopts a property settlement agreement, it is a consent judgment "and is as valid and binding on the parties as though made by the court without any stipulation or agreement of the parties." *Marshall v Marshall*, 135 Mich App 702, 708 n 2; 355 NW2d 661 (1984). If the settlement is incorporated and merged into a divorce judgment, "it becomes a disposition by the court of the property. But, when not merged in the divorce judgment, the property settlement agreement may only be enforced by resort to the usual contract remedies and not as part of the divorce judgment." *Id.* at 712-713.

Plaintiff relies on the holding in *Norton Shores v Carr*, 59 Mich App 561; 229 NW2d 848 (1975), as authority that he should be allowed to rescind his original consent. This Court has repeatedly rejected the *Norton Shores* holding. In *Michigan Bell Telephone Co v Sfat*, 177 Mich App 506; 442

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\* Circuit judge, sitting on the Court of Appeals by assignment.

NW2d 720 (1989), for example, the defendant contended that a consent decree was not valid because he withdrew his consent before the decree was entered. Noting that defendant relied on *Norton Shores*, this Court commented:

That case appears to hold that a litigant is free to revoke a consent judgment between the time it is orally placed on the record and the time the judgment is actually entered by the court. To the extent that *Norton Shores* stands for that proposition, we join those cases which have since unanimously rejected its apparent holding. [*Id.* at 515.]

We have reached the same result in other opinions. When a divorce defendant claimed that she signed an agreement because the plaintiff ordered her to do so but she had previously told an attorney's secretary that she understood the agreement, consented, and was not under duress when she signed, this Court affirmed the denial of her motion to set aside the settlement, stating,

It is a well-settled principle of law that courts are bound by property settlements reached through negotiations and agreement by parties to a divorce action, in the absence of fraud, duress, mutual mistake, or severe stress which prevented a party from understanding in a reasonable manner the nature and effect of the act in which she was engaged. [*Keyser v Keyser*, 182 Mich App 268, 269-270; 451 NW2d 587 (1990).]

Moreover, agreements made in open court will generally be upheld as valid. *Reed v Citizens Ins Co of America*, 198 Mich App 443, 448; 499 NW2d 22 (1993).

In this case, the circuit court found that plaintiff had validly consented to the property settlement agreement and his later objections did not have merit. The settlement plainly comports with MCR 2.507(H). A trial court's finding concerning the validity of the parties' consent to a settlement agreement will not be overturned absent finding an abuse of discretion. *Keyser, supra.* at 279. Because plaintiff consented to the property settlement agreement in open court and because plaintiff's meritless objections did not relate to the voluntariness of his consent, or to the substance of the property settlement, the trial court did not abuse its discretion in declining to disturb the consent judgment of divorce.

Affirmed.

/s/ Henry William Saad  
/s/ Maura D. Corrigan  
/s/ Robert A. Benson