

In re OSCAR MARANTE and DANETT MARANTE

CASE NO. 02-13969-BKC-AJC

Debtors sought an order in their converted Chapter 7 case avoiding a mortgage lien in favor of U.S. Bank on their homestead which they assert was previously “stripped” under the under the Chapter 13 plan. Debtors cited 11 U.S.C. §348(f)(1)(b) to support their position. The issue before the Court was whether U.S. Bank should be required to remove its lien based on the Debtors’ confirmed Chapter 13 plan, which states that U.S. Bank is totally unsecured and the lien will be avoided. This Court thought it should not. A creditor should not be bound by a Chapter 13 plan when the Debtors have failed to comply with it themselves.