

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

In re

CHESTER E. REINHARDT, JR.
MARY L. REINHARDT

BK 91-13394 K

Debtors

DECISION AND ORDER

At the hearing on confirmation held on November 4, 1991, I reserved decision on whether the claim of ITT must be treated as secured or unsecured for purposes of the Chapter 13 plan.

Although dictum, I wish to advise that I am persuaded by the decision of Hon. John W. Creahan, U.S.B.J. (retired) in the case of Bradford I. Pitts BK 89-12058M, dated March 1, 1990, and by the authorities cited therein, to the effect that a purchase money security interest in household goods loses its character as such when the underlying debt is refinanced with new documents, new terms, new amounts, and a different obligee.

However, in this case it is undisputed that the household goods in question were never intended for the household of or personal use of the debtors. They were purchased as a gift for a family member who is (according to the debtors' Schedule I) not a dependent. Consequently, the goods are not exemptible and 11 U.S.C. § 522(f) is not at issue.

The claim of ITT must be allowed as a secured claim.

IT IS SO ORDERED.

Dated: Buffalo, New York
November 5, 1991

/S/ MICHAEL J. KAPLAN

U.S.B.J.