The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Tues, Apr 5, 2022 ■ ד' ניסן, תשפ"ב
סימן תמ"ח סעיף ג'

Overview

Siman 448 Seif 3 (d):

Or the sale must be absolute with a small amount of money changing hands but a gift given on condition that it is returned is ineffective.

- There is no concern that he will cancel the sale since he knows that it is worth more but he wants to sell it so that the chometz will not remain in his possession and become prohibited for benefit. Later authorities write that although l'chatchila the chometz should be sold by money or by "dragging" if the quantity of chometz precludes "dragging" it or if the chometz is not present the Jew should use one of the other kinyanim. As long as in the place where the transaction takes place this proprietary act is valid it is an acceptable means for transferring ownership of the chometz to the gentile. (M.B. 19)
- If one is a tenant he cannot sell the room with the chometz to the gentile so he should lease it to the gentile. (M.B. 19)
- If a Jew purchased chometz from a gentile by giving money but did not yet take physical possession of it he should make sure to sell it before Pesach. However if the chometz was not sold it is permitted after Pesach since according to many authorities the kinyan was not valid since he did not take physical possession of the chometz. (M.B. 19)
- Although a gift on condition that it is returned is a valid gift Chazal were stringent with regards to chometz. If the chometz was given on condition that it should be returned there is a debate whether it is permitted after Pesach. (M.B. 21)

Stories to Share

Spilled Ink

ש"ע סי' תמ"ח, ג': "בדבר מועט..."

Today's amud continues discussing the halachos of the sale of chometz.

Two representatives of a town in close proximity to that of Rabbi Aryeh Leib Yellin, author of the Yifei Einayim, traveled to the rav to sell all the chometz in their town. The rav sat down and began to meticulously record every item of chometz on their list, including all of the names and details of the owners, and the locations where the chometz would be stored. After filling an entire page with all of the details of the Jewish-owned chometz in their town, he was just about to read the document to them when one of the visitors accidentally knocked over the bottle of ink.

The two representatives of the other town were petrified and wondered how they would endure the rav's scathing rebuke for this blunder—not only had they put all of the rav's time and effort to waste, but they had now deprived him of a full bottle of ink, itself an expensive commodity. To their surprise, Rabbi Yellin did not say a word. He got up, brought a new sheet of paper and rewrote the entire list from memory. He then began to read it back to them. To their surprise, it included every name and every possession they had told him before the ink was spilled.

His granddaughter related that, similarly, when a child once knocked over a bottle of ink onto a page filled with chiddushim, Rabbi Yellin had been the one to calm the child down. Despite the immense time taken to write the page, all he would say is, "With Hashem's help, I will write it over!"

תולדות בעל יפה עיניים, ע' 29

Halacha Highlight

Selling someone's chometz without their knowledge

Shulchan Aruch Siman 448 Seif 3 (d)

או שימכרנו לו מכירה גמורה בדבר מועט

Or he should sell it with a valid sale and take a small amount

Shulchan Aruch discusses selling one's chometz to a gentile before Pesach in order to avoid violation of the prohibition of בל יראה. In the event it is not possible or practical for the gentile to take physical possession of all the chometz, the correct course of action is to sell to the gentile the property and when he makes the proprietary act on the land he acquires the chometz at that same time. This form of kinyan is known as אגב. Mishnah Berurah (ס"ק י"ט) writes that if one is renting property he is not able to sell that to a gentile since it is not possible to sell something that one does not own. Consequently, he should sublease the property that he rents to the gentile so that the gentile could acquire the chometz together with the lease of the land.

Although Mishnah Berurah wrote as an obvious fact that one may not sell something that is not his, Poskim discuss the possibility of selling someone's chometz who will not sell his own chometz in order to save the owner from violating בל יראה. For example, if a person is unconscious and unable to personally authorize the sale of his chometz, may another person to sell his chometz without authorization? The consensus of Poskim is that it is permitted to sell someone's chometz without his knowledge in accordance with the principle of זכין לאדם שלא בפניו—one may act for the benefit of another without his consent. Some Poskim even allow one to sell the chometz that belongs to non-religious Jews in order to save them from violating the prohibition. The additional rationale that these Poskim add for this circumstance is the presumption that one would not knowingly choose to do something that is prohibited if he can accomplish the same thing in a permitted manner. The reason he does not take care of it himself is out of laziness rather than because he opposes the sale. Some Poskim allow the sale of the chometz of a person who even protests the sale of his chometz being that the sale is a benefit for him (פסקי תשובות אות כ"א).