The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן תמ"ט סעיף א'-סימן ת"נ סעיף א'

Overview

Siman 449 Seif 1:

If *chometz* is found after Pesach in a Jewish owned store where the merchandise belongs to the Jew but the employees are gentiles the *chometz* is prohibited for benefit. If the store is owned by a gentile and the merchandise belongs to the gentile but the employees are Jewish the *chometz* that is found is permitted even for consumption. This accords with Rashi and Rabbeinu Hai's version of the Gemara but Rabbeinu Chananel has the opposite version.

- Shulchan Aruch refers to where the merchandise is bread, wine and the like. (M.B. 1)
- It is prohibited for benefit since it is assumed to belong to the store and obviously it refers to where the *chometz* was found immediately after Pesach so that one cannot assume that it was left there some time after Pesach. (M.B. 3)
- Rabbeinu Chananel assumes that we should associate the *chometz* with the employees. *Halacha* follows the first opinion. (M.B. 5)
- There is a disagreement regarding the status of *chometz* that is found after Pesach and one does not know whether it belongs to a Jew or a gentile. Some permit it for benefit and others permit it even for consumption. If in the place it was found the majority of people are Jews, the *chometz* is prohibited for benefit. If it can be assumed that it became lost after Pesach it is permitted for consumption since it is more reasonable that it was left there recently rather than have been there for a long period of time. (M.B. 5)

Siman 450 Seif 1:

If a Jew borrows a loaf of bread from his friend before Pesach he must pay him back after Pesach and he would violate the prohibition against theft if he does not repay him.

- Later authorities write that even if the borrower violates בל יראה it is permitted for the lender to be repaid with another loaf of bread. (M.B. 1)
- If a Jew lent *chometz* to a gentile before Pesach and is repaid after Pesach the *chometz* that is received is permitted but if he returns the same *chometz* it would be prohibited. Pri Chadash disagrees and maintains that the *chometz* is permitted since he could have consumed it and repaid the loan with other *chometz*. One should be stringent in accordance with the first opinion. (M.B. 1)

Halacha Highlight

Borrowing a loaf of bread before Pesach

Shulchan Aruch Siman 450 Seif 1
ישראל שלוה ככר מחברו קדם פסח
If a Jew borrows a loaf of bread from his friend before Pesach

Shulchan Aruch (סי' תנ"ג סע' א') writes that one who borrows a loaf of bread from his friend before Pesach must repay that loan after Pesach and if he does not repay that loan he is considered a thief. Shulchan Aruch's emphasis that the loan is paid back after Pesach applies only if the borrower will repay the loan with another loaf of bread. If he decides to repay the loan with the cash value of the loaf he may repay the loan even on Pesach (א"ר אות א'). The reason why Shulchan Aruch focused on repayment after Pesach was to emphasize that if the borrower decides to repay the loan with a loaf of bread after Pesach it is permitted for the lender to accept that payment and it is not considered as though the loaf is received in exchange for *chometz* (חק יעקב סק"א).

Mishnah Berurah (סק"ב) raises the question that this loan of a loaf should be prohibited as a form of interest. Chazal prohibited loaning a quantity of a commodity to be repaid with the same quantity of that commodity – סאה בסאה. The reason they prohibited this type of transaction is out of concern that the price of the commodity may raise from the time of the loan to the time of repayment of the loan and the lender would end up profiting from the loan. The reason in this case this is not a concern is that the restriction of loaning a commodity does not apply to loaves of bread since generally the market price for loaves of bread remains constant with only a nominal fluctuation of value. Sefer Nesivos Shalom (סי' קס"ב סע' א' אות י"ד) notes that this explanation follows Rema's position in Yoreh Deah that the restriction of loaning a commodity does not apply to loaves of bread but Shulchan Aruch rejects that position. Therefore, according to Shulchan Aruch the case would have to refer to there is an already established market price (יצא השער) for loaves of bread and once there is an established market price the restriction of loaning a commodity does not apply.

Stories to Share

"Business is Business?"

ש"ע תמ"ט, א': "חמץ שנמצא שם אחר הפסח אסור בהנאה..."

Sadly, there are some Jews today that are not careful to keep chometz out of their homes. Yet, since they don't want to lose their Jewish business, they do sell the chometz in their inventory. But can one rely on a storekeeper who only puts away the chometz at his business but not at home? Since he doesn't understand the importance of avoiding chometz during the chag and his store is open, perhaps he had a delivery. Unfortunately, it is a rare non-observant businessman who will respond honestly if asked whether he received a delivery of chometz on the holiday. Since they understand that they will lose business if they reply that chometz was delivered, many won't hesitate to lie if their creed is, "business is business."

A certain person in exactly this situation wondered what to do. The next closest store was quite a distance for him. He thought it may be that the storekeeper could be trusted in this case. "Perhaps because he sold his chometz he is assumed not to have received a delivery—or at least we can believe him if he claims that he didn't get a delivery during the chag. After all, even if he did get a delivery, what I purchase has a good chance of being from the chometz that he sold before Pesach. Since we generally rule leniently when deciding a question regarding a rabbinic decree, presumably it is permitted to buy from him."

But when this question reached Rav Moshe Feinstein, the great posek prohibited this approach. "The Rama rules that one may not buy food which may be unkosher from someone unknown, since he doesn't have a chezkas kashrus. This is the halachah even regarding a possible prohibition which is only rabbinic. In our case, since the storekeeper is suspected of receiving chometz, it is certainly forbidden as long as he may still have chometz in his stock!"

אג"מ, או"ח, ח"ד, סי' צ"ו