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

Overview

Siman 450 Seif 2:

A Jew who weekly receives loaves of bread from a gentile as an interest payment must inform him before Pesach that for the week of Pesach he wants flour or money. Once this is stipulated even if after Pesach the gentile gives the Jew loaves of bread they are permitted since they are an exchange for flour or money.

- Since the gentile is obligated to provide loaves for the Jew if the gentile were to designate a loaf for a Jew on Pesach it would considered as though it already belongs to the Jew. Once the proper stipulation is made it doesn't matter whether the gentile prepares loaves for the Jew since it is not encumbered to the Jew. (M.B. 3)
- Later authorities agree that this *halacha* is *l'chatchila* but *b'dieved* even if no stipulation was made it would be permitted to accept the loaves after Pesach since they never actually entered the possession of the Jew on Pesach. (M.B. 4)

Siman 450 Seif 3:

If a Jew and gentile jointly own an oven the Jew should tell the gentile that he will receive the profits for Pesach and the Jew will take the profits of another week.

- If this stipulation was not made the Jew may not receive any compensation for what was baked on Pesach. (M.B. 5)
- Later authorities write that this leniency applies only when one specifies that he will take money or if there is an exchange of weeks. If, however, the agreement was that the Jew would receive compensation for the loaves the gentile made on Pesach it is prohibited. Later authorities write that it is preferable for the Jew to sell his portion of the oven to the gentile for Pesach. (M.B. 6)

Halacha Highlight

A partnership with a gentile

Shulchan Aruch Siman 450 Seif 3

ישראל ואינו יהודי שיש להם תנור בשותפות

A Jew and gentile who jointly own an oven

Shulchan Aruch (סע' ג') writes that if a Jew and gentile jointly own an oven the Jew should arrange with his gentile partner before Pesach that the gentile should 'take" the stuff on Pesach and the Jew will "take" after that. Mishnah Berurah (סק"ו) explains that Shulchan Aruch means that the Jew will take money equal to the loaves the gentile takes on Pesach. By doing so the Jew indicates that he is not interested in taking anything other than money on Pesach and thereby disassociates himself from the *chometz*. Alternatively, Shulchan Aruch refers to where the Jew arranges that the gentile will get whatever the oven produces for the week of Pesach, whether loaves or money and the Jew will get whatever the over produces another week. This is permitted since they are not exchanging loaves; rather they are exchanging time. What is not allowed is for the Jew to tell the gentile that he will take the loaves for the week of Pesach and afterwards the Jew will receive compensation equal to the value of those loaves. In this arrangement the Jew acquires the loaves that are made on Pesach but exchanges them for money to be paid after Pesach. Later authorities agree that the preferred method of handling this situation is for the Jew to sell his portion of the business to a gentile before Pesach so that it is entirely his for that week and the Jew will be paid for that sale before Pesach. This sidesteps all the *halachic* issues that arise out of maintaining a partnership with a gentile.

Teshuvas Binyan Tzion (סי' ט"ז) notes that Shulchan Aruch's discussion is limited to where the partnership stands to earn money from *chometz* that will be made in their oven. If, however, the partnership owned the *chometz*, e.g. a liquor store, it would not be sufficient to follow the options expressed by Shulchan Aruch and Mishnah Berurah, since the Jew already owns the *chometz* merchandise. In such a circumstance the only option is to sell the merchandise to the gentile before Pesach.

Stories to Share

The Law of the Land

מ"ב ס' תמ"ח, ס"ק ג: "כאלו עבר הפסח על חמץ של ישראל..."

In the religious areas of Israel, most business in many groceries is from religious Jews. Obviously, the grocer—no matter how irreligious he is—will be careful to sell his chometz through the best beis din he can arrange. He will place a document asserting that the chometz in his store was sold according to halachah so as not to lose his customers. He may eat chometz himself, G-d forbid, but he will never jeopardize his business.

One talmid chacham wondered whether every such sale is efficacious, however. "In many places in Israel it is the custom to sell chometz with a document that is not binding according to the laws of the land. It is considered enough that the sale is valid in beis din, since those who sell are absolutely bound in every detail to what beis din rules. But how can such a sale be valid for an irreligious grocer who couldn't care less for the psak of beis din? Shouldn't he require a sale that is valid according to the rules of the land, which he obeys?"

When this question reached Rav Yosef Shalom Eliyashiv, zt"l, he ruled that a sale which is only binding according to halacha is not valid for someone irreligious. "A sale that is only binding according to the halachah and not the law of the land is meaningless for a person who is not religious. For the sale of chometz to be valid for him, the document he signs on must be binding according to the secular authorities."

גלאט, תשנ"ט, ע' 87