The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
Mon, Apr 11, 2022 ■ י' ניסן, תשפ"ב
סימן ת"נ סעיף ד'-ה'

Overview

Siman 450 Seif 4:

If a Jew owns an oven and a gentile bakes *chometz* in it on Pesach one may not even take money as remuneration since that would involve profiting from something that is prohibited from benefit. In the event that one already took the money it is permitted for benefit.

- The implication is that this *halacha* applies even if the gentile uses the oven without permission of the Jewish owner. (M.B. 7)
- It is Rabbinically prohibited to profit from something that is prohibited for benefit even if the money was given before or after Pesach. (M.B. 9)
- Profit that one receives for items prohibited for benefit are not prohibited *b'dieved* since the money is not from *chometz* or from something received in exchange for *chometz*. (M.B. 10)

Siman 450 Seif 5:

There is an opinion that permits renting one's oven to a gentile on condition that he bake *matzah* and then if he bakes *chometz* it is no concern to the Jew. Similarly, one may lease his house for a gentile to live and although he will bring *chometz* into the house it is permitted.

- This is not considered profiting from something that is prohibited for benefit since the gentile would be obligated to pay even if he did not bake anything since he leased the oven for a period of time. Nevertheless, the gentile should be told to only bake *matzah* because otherwise it is as if it was leased for the purpose of baking *chometz* which is prohibited. (M.B. 11)
- It is prohibited to lease the house so that he could store *chometz* there since that would involve profiting from an item that is prohibited for benefit. Later authorities explain that this restriction is limited to when *chometz* has already become prohibited but before that time it is permitted even *l'chatchila*. Some authorities are stringent within thirty days of Pesach. (M.B. 12)

Halacha Highlight

Selling a bakery to a gentile for Pesach

Shulchan Aruch Siman 450 Seif 4

ישראל שהיה לו תנור

A Jew who owns an oven

Shulchan Aruch (סע' ד') writes that if a gentile bakes bread in an oven that belongs to a Jew, even if he used the oven without permission from the Jewish owner, the owner may not receive compensation from the gentile. The reason is that it is prohibited to profit from something that is prohibited for benefit. Mishnah Berurah (סק"ט) explains that there is a general Rabbinic injunction prohibiting profiting from items that are prohibited for benefit. In the event that one already received compensation from the gentile, the Jew may keep the money. The reason is that the injunction prohibiting profiting from an item that is prohibited for benefit is a restriction *l'chatchila* but *b'dieved* the profit is permitted since profit is not *chometz* nor something received in exchange for *chometz*.

Teshuvas Doveiv Meisharim (ח"ב סי' ד') was asked the following related question. Someone owned a bakery and by decree of the government was obligated to supply the army with bread every day. In the event that he does not supply the army with bread, not only would he not earn money but he would be obligated to pay large fines. The question was what he is permitted to do in this circumstance. Doveiv Meisharim answered that in a pressing circumstance where one stands to suffer a significant financial loss one may be lenient and sell the bakery to a gentile for Pesach and stipulate that only gentile workers will work on Pesach. Since it is a circumstance in which one stands to lose financially there is no concern for *maris ayin* (שו"ע או"ח סי' רמ"ד). Moreover, since everyone knows that people sell their *chometz* and their *chometz* utensils, there is no concern that people will suspect wrongdoing. The contract must clearly state that the buyer owns all the bakery property and has the rights to all the profits for the week. Additionally, the seller cannot walk around the bakery on Pesach to make sure that the workers are doing their job properly.

Stories to Share

Waste Not

ש"ע תמ"ח, ד': "דהוה ליה משתכר באיסורי הנאה..."

Today's daf discusses receiving benefit from isurei hana'ah.

A certain man acquired some land and planted fruit trees. When his trees finally bore fruit, he was required to wait until he had harvested the fourth year's produce before he could enjoy it. Of course, the halachah is that one cannot derive pleasure from the orlah fruits. However, this man was a thrifty soul and hated to see such a big volume of produce go to waste. What about the prohibition of bal tashchis? He conceived of a wonderful plan to get around this problem. Since the prohibition is against taking pleasure from orlah, he would do something with the fruit that would give him no personal pleasure.

When he approached his rav, the rav was not so hopeful but consulted with the Binyan Tzion. He was shocked when the Binyan Tzion permitted this. "Although the Magen Avraham brings that it is prohibited to feed chometz to an animal even though it is ownerless because he gets some level of pleasure from it, I never understood what precise pleasure he takes in feeding this to a hefker animal. The Yerushalmi learns this prohibition from a verse. So we have no source to prohibit other isurei hana'ah such as orlah. Even though the Tashbatz prohibits placing any issurei hana'ah in front of an ownerless animal, and this is brought l'halachah in the Taz in Yoreh De'ah, I respectfully disagree. The limud of the Yerushalmi has no relevance on the issue of his deriving personal pleasure. Clearly, it is only prohibited to give chometz to an ownerless animal. Any other issurei hana'ah are permitted."

שו"ת בנין ציון, סימן ק"א