

THE CALL CENTER for HILCHOS RIBBIS

UNDER THE AUSPICES OF HARAV PINCHOS VIND SHLITA



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סניף ליקוואוד וגלילותיה

R' Y.Y. Jacob

Q&A

Q. I am planning on going up to the bungalow colony tomorrow, and my neighbor just knocked on my door and asked if he could borrow three bottles of milk. May I lend him the bottles of milk on condition that he may not return them until I come back from the country in six weeks or not?

A. If the neighbor has a closed bottle of milk in his possession, then it would be permitted. However, if he doesn't, then even if it's easily available in the stores, and its price is steady, it would still be prohibited.

Explanation: Chazal prohibited one from lending an item that will be used up through its usage if the borrower is required to replace it when it's returned (i.e. lending a bottle of milk in return for another bottle of milk). The reason for this is that since the price of the item may go up in the interim, it follows that when the borrower repays the loan, he is giving the lender more value than what was lent. However, Chazal did permit it if any one of the following conditions are met. 1) The borrower has at least a small amount of such an item in his possession at the time of the loan. 2) It's easily available to purchase and it has a steady price. The reason for this is that if the borrower had the item in his possession, we view it as if the borrower has paid back the lender with that item at the time of the loan, and even if it goes up in price, it's as if it's going up after it has already been paid back to the lender. Similarly, if it's easily available for purchase, then since the borrower can easily purchase the item, we view it as if he purchased it right away, and it's considered as if the borrower has it in his possession. This brings us to the first leniency that if the borrower has the item in his possession, we view it as if it was paid back right away to the lender, as we just explained.

Since the second leniency is based on the fact that the borrower may purchase the item right away, the Poskim say based on the "רמב"ם ושו"ת" that if the borrower may not return it until a specific date, then we can't view it as if the borrower is going to purchase it right away and it's as if it's already in his possession, because since he may not return it until later he has no reason to purchase it right away. Subsequently, it follows that the borrower doesn't have the item in his possession, which in return would prohibit him from borrowing the item as we are worried that the value may go up at the time of payment.

Solution: Instead of lending the milk, he may sell the neighbor the milk for its fair market value, and at the time of payment as long as there is no major price change, the buyer may ask if he can pay back three bottles of milk instead of the money he owes him. The reason for this is, that although the bottles of milk might be more expensive at the time of payment, nevertheless since he is exchanging money for items that would be considered *מקח וממכר*, and then one may pay back a little more, as long as it's not too noticeable, and he doesn't mention that its being given because of the loan.

הרב פנחס וינד שליט"א

Leniencies in Prepaying

Generally, it's prohibited for a buyer to pay money for an item in advance to lock into a certain price, unless certain conditions are met. One of the conditions that will permit the buyer to prepay, is if the seller has the item that is being sold already in his possession. It can be considered "already in his possession" even if it's not completely ready for sale, as long as there are no more than two מלאכות (actions/jobs) that need to be done to finish up the product.

Q. I am purchasing two hundred doors from a big supplier, and I want to prepay for the doors in order to lock into a price. Although the seller has them in his possession, however all the doors are still missing a handle and a screw. Do we see it as if the order is missing four hundred jobs (two jobs per door) and it would be prohibited for me to prepay, or do we look at every door separately and they are only missing two jobs, allowing me to prepay?

A. It's obvious that we look at each door separately, and since they are only missing two jobs each, it would be permitted. Furthermore, even if every door would be missing different jobs, for example one door is missing its paint and a screw, and one is missing a handle and a screw, it would still be permitted, as subsequently each item is only missing two jobs.

Q. If the seller does not have these doors (which are missing two מלאכות) in town, and he needs to deliver them to his shop to be able to finish them up, would the delivery be considered another job, causing the doors to be missing in three jobs, or not?

A. Yes, it's considered another מלאכה and it would be prohibited. (However, if they are fully done and they just need to be delivered, that would not be considered that they are missing in any job).

Q. I ordered custom bookcases, and they are missing only two jobs to be finished. However, the seller will need to assemble them after they're delivered to my house. Is there any way to permit prepaying for them so I could lock into today's price or not?

A. Yes. You may split up the transaction into two. The first for purchasing the bookcases, and the second for delivery and assembly, enabling you to prepay for the first purchase. This can be done as follows: If the bill of the bookcases with assembly totals three thousand dollars, you may split it up, with two and half thousand dollars going for the bookcases and five hundred dollars for delivery and assembly, with the two and half thousand prepaid.

Editor's note: There are many Poskim that hold that this leniency of being considered "already in his possession" when it's not missing more than two jobs, only permits one to lock into the current price, but not to get a discount for prepaying.



Did you know? If one offers someone a prize for doing a certain task, and doesn't give it on time as promised, it's considered a loan. And when the prize is eventually given, one can't say that he is giving anything extra because of the delay. SE

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עסקיו על שהסכים לעשות היתר
עיסקא מעולה עבור העסק שלו

הנהלת קו הרבית

סימן טוב מזל טוב

לה"ר יוסף שניאור פאזען שליט"א

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