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UNDER THE AUSPICES OF HARAV CHAIM KOHN, SHLITA



STORY LINE

By Rabbi Meir Orlian

BILLS BELOW

Rabbi Dayan was approached by four avreichim (rabbinical students) in his kollel.

"I joined the kollel last month and took a seat vacated by Moshe a few months earlier," Reuven said. "Yesterday, I reached into the shelf under my table and found \$40 there. There was also a note written by Aharon, '\$40 for purchase of sefarim.' You see, Moshe sells sefarim for \$40."

"The money was apparently paid when Moshe sat there," noted Rabbi Dayan.

"That's what I thought, so I returned the money to Aharon," continued Reuven. "But this morning, Shimon, who owes me \$40, told me that he left \$40 for me under my table last week! Now I don't know whether the \$40 was connected to the note or was the repayment from Shimon!"

"When did you place the money and the note there?" Rabbi Dayan asked Aharon.

"At least three months ago," Aharon replied.

"Did you reach into the shelf during the month you were here?" Rabbi Dayan asked Reuven.

"I reached into the shelf a number of times, but never noticed the money," replied Reuven. "It wasn't very deep, so it's not likely that I would have missed it. On the other hand, Shimon insists that the note has been there three months, and I never noticed it!" Rabbi Dayan turned to Moshe. "Did you receive the \$40?" he asked.

"I don't remember," replied Moshe. "My records are not 100 percent accurate."

"Assuming that you all trust each other and are telling the truth, there are two possibilities," said Rabbi Dayan. "One is that the \$40 is connected to Aharon's note and has been sitting there for the past few months, whereas the money that Shimon put there last week got lost."

"The other possibility is that Reuven found the \$40 that Shimon left for him," continued Rabbi Dayan. "Aharon's money from three months ago was either already taken by Moshe, who accidentally left the note there, or was lost. Where is the money now?"

"Reuven gave it back to me," replied Aharon. "I'm now holding it. What should I do with it?"

"The Gemara (B.M. 26a) teaches that if someone moves into an apartment and finds items," replied Rabbi Dayan, "he can assume that they belong to the tenant who immediately preceded him. However, if the items were hidden in a crevice, they may belong to a prior tenant" (C.M. 260:3; Shach 260:11).



BHI HOTLINE

A MINOR'S PLEDGE


My twelve-year-old son received \$20 as a gift from my father.

He made a \$20 bet with one of his friends and lost the bet. When asked to pay, my son responded that bets are not halachically binding since they are an asmachta (a non-binding agreement) and thus he is not obligated to pay (see C.M. 207:13 and Nesivos 14). His friend grabbed the \$20 he felt he was owed and out of desperation my son pledged that \$20 to tzedakah. His friend subsequently returned the money to my son.

Q: Is my son obligated to carry out the pledge and give \$20 to tzedakah since he is not yet bar mitzvah?

A: Generally, when a boy younger than twelve, or a girl younger than eleven, makes a vow, it is not binding, even if they understand the concept of a vow (Y.D. 233:1). Despite the fact that the vow is not binding, one should generally rebuke a child so that he should not become accustomed to making vows; if the vow relates to something small and observing it will not cause the child significant distress, we should have him fulfill the vow as well (Rema ibid.; see also Nachal Yitzchak 7:1:[3] which contends that this response applies to shevuos rather than nedarim). When a boy is twelve and a girl eleven, and they understand the concept of vows, their vows are binding (Y.D. ibid.). Consequently, if a child that age pledged money to tzedakah, the pledge is binding

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STORY LINE

"Thus, if Reuven reached into the shelf a number of times to take out things and never found the money until now," continued Rabbi Dayan, "we have to assume that the money was recently placed there by Shimon, and it should be returned to Reuven. Although Aharon's note was also just discovered now, it's much easier to miss a small slip of paper than bills of money."

"What about the \$40 for the sefarim?" asked Aharon. "Do I have to pay Moshe again?"

"If one who owes money placed it in the lender's property and notified him, or it was fully secure, he has fulfilled his repayment obligation," replied Rabbi Dayan. "However, the shelf under the table is not secure, so unless you informed Moshe that the money was there, it is not valid repayment if the money got lost" (see Aruch Hashulchan, C.M. 120:2; Pischei Choshen, Halva'ah 5:1[2]).

"It's possible, though," acknowledged Moshe, "that I received the money."

"When neither party knows whether a debt was repaid, the borrower has no legal obligation to pay," said Rabbi Dayan. "The authorities dispute whether there is a moral obligation to pay, or at least compromise with, the other party. Thus, at most, Aharon should pay partially as a moral obligation" (see C.M. Taz 75:10; Shach 75:65; Pischei Teshvua 75:21)."

"So where does that leave us?" asked Aharon.

"The \$40 should be given to Reuven, since almost definitely it was recently placed there," answered Rabbi Dayan. "However, since there is a slight possibility that the \$40 was left by Aharon and he is currently in possession of it, he can retain some, let's say \$10, to settle with Moshe, and Shimon should fill in that difference to Reuven."



MONEY MATTERS

COPYRIGHTS AND PATENTS # 19

Q: May I make copies of copyrighted material to distribute in class?

A: Many authorities allow copying occasional pages from various books for distribution in class, since the students would not buy all the books required just for the occasional pages. This applies even more so to pages from the "teacher's edition."

However, copying a significant portion of the book is not allowed according to the many Poskim who hold that Halachah recognizes ownership of intellectual property. This especially applies to workbooks, which the students would have to buy if they were not provided copies.

Standard editions of old, classical sefarim may be copied, since there is no real copyright on them. A new layout of a classical sefer is subject to dispute between Harav Yosef Chaim Sonnenfeld and the Rogatchover. However, a new edition with footnotes and sources would be considered like any other copyrighted work.

Some authorities allow copying even significant portions for personal, non-commercial use, based on the authorities who hold that Halachah does not recognize ownership of intellectual property. However, even these authorities do not see this as proper behavior, so it is poor chinuch (Shevet Halevi 4:202; Emek Hamishpat, Zechuyos Yotzrim, Intro. 4:6-9; ch. 35:199).



BHI HOTLINE

(Minchas Chinuch 479:7 and Maadanei Eretz, Terumos 4:5).

It is instructive that Harav Shlomo Zalman Auerbach, zt"l, taught his children the halachos of making vows before they reached the age at which they are binding so that they would refrain from making vows. Additionally, when one of his grandsons reached his twelfth birthday the Rav informed him that during the year leading to his bar mitzvah his one obligation was to refrain from making vows, adding that this would cultivate a lifelong appreciation of his power of speech (Halichos Shlomo, Tishrei, p. 7).

Nevertheless, in your son's case his pledge to tzedakah is not binding. If your son had pledged: "When I retrieve my money I will give it to tzedakah," he would be obligated to fulfill that pledge. However, your son pledged the money that was in the possession of his friend (one cannot sanctify or pledge money to tzedakah that is in another person's possession), so even though your son is the owner, the pledge is not binding (Y.D. 258:7-8; see also C.M. 212).

You may therefore use this opportunity to explain to your son the severity of making vows, and that generally at his age vows are binding, and that includes pledges to give tzedakah. Due to technical reasons, in this particular instance his pledge is not binding and he is not obligated to give the \$20 to tzedakah.

For questions on monetary matters,
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