



BUSINESS WEEKLY

Restoring the primacy of choshen mishpat

WERDIGER EDITION

Issue #286 | Vayeishev | Friday, December 4, 2015 | 22 Kislev 5776

UNDER THE AUSPICES OF HARAV CHAIM KOHN, SHLITA



STORY LINE

By Rabbi Meir Orlan

GENTILE INHERITANCE

Mr. Pierce belonged to a group of Noachides who committed to uphold the seven Noachide laws. Once a month they would meet with Rabbi Avraham to learn the laws pertaining to Noachides.

"I invited a special guest to lead today's meeting," announced Rabbi Avraham one month. "His name is Rabbi Dayan and he has much experience in Jewish monetary law. I asked him to discuss some of the similarities of, and differences between, Jewish and gentile monetary law."

Mr. Pierce spoke up. "I'd like to raise a question that I encountered recently, if it's OK to digress a little from today's topic," he said. "Or, maybe it is very much the topic!"

"Go ahead," replied Rabbi Dayan. "Questions that arise are sometimes the most interesting topics."

"Someone in our community passed away a short time ago," Mr. Pierce said.

"I'm sorry to hear that," said Rabbi Dayan. "Did he have family?"

"His wife had already passed away and it wasn't clear if he had any surviving children," said Mr. Pierce. "There was a sister and some nephews from a brother."

"So what happened?" asked Rabbi Dayan.

"There was a dispute between his relatives over the inheritance; it turned into an ugly lawsuit," answered Mr. Pierce. "He also had some valuable items that he had entrusted to a Jew. His sister asked for the items, but the Jew initially declined to give them and claimed that he is entitled to keep them."

"On what basis?" asked Rabi Dayan.

"I'm not sure," replied Mr. Piece. "I'd like to know the laws of inheritance of gentiles according to the Torah. Is there such a thing? Do they parallel the Jewish laws of inheritance? Do we just follow the local law?"

"The Torah certainly has rules of inheritance also for gentiles," said Rabbi Dayan. "The Gemara (Kiddushin 17b) teaches that a gentile inherits from his father. This is derived from the inheritance of Lot's children (Ammon and Moav) or inferred from the fact that a Jewish slave owned by a gentile does not continue to serve his inheritors, implying that there are inheritors. Therefore, if someone is known to



BHI HOTLINE

HARAV AMRAM CHASIDA PART I

I retold my family a story (as related in sefer Chasan

Sofer, "Kinyanim," p. 142, quoting a letter written by the Chasam Sofer). They had many questions regarding the halachic aspects of the tale, so I am contacting you for a halachic explanation of the story.

In 1826 Rav Amram Chasida, Rav of Mad, Hungary, settled in Tzfas. The poverty that existed in Tzfas at that time was so acute that people did not have bread to eat. The Chasam Sofer, who highly respected Rav Amram, would raise funds for him and his family and send them to Tzfas.

After living in Tzfas for a mere four years, Rav Amram Chasida passed away at the young age of 40. The Chasam Sofer did not inform the donors of Rav Amram's passing so that they would not refrain from fulfilling their pledges [Chasam Sofer did not even eulogize his passing until about nine months after his death (see Drashos Chasam Sofer, vol. 2, p. 330)]. The rest of the story will be told next week, iy"H.

Q: Isn't withholding from donors the news of Rav Amram's death deceptive, thus violating the prohibition of geneivas daas? If the Chasam Sofer knew that news of Rav Amram's death would cause them to refrain from donating, why was he permitted to withhold that information?

A: Poskim discuss whether one may employ deception in order to collect tzedakah. For example, someone who was collecting funds for a Torah scholar in desperate need asked whether he could tell people that he is collecting for hachnasas kallah so that he could raise more money. Many authorities rule that since geneivas daas is prohibited, it is certainly prohibited to deceive people

DID YOU KNOW?

If you sign an agreement, you are bound by its terms even if you do not fully understand what it says, such as portions written in a different language or in fine print.

For more information please speak to your Rav, or you may contact our Business Services Division at:

phone: 718-233-3845 x 201

email: ask@businesshalacha.com



STORY LINE

be holding property of a gentile and doesn't return it to the gentile's son he is considered to be stealing" (C.M. 283:1; Sma 283:6).

"What about daughters?" asked Mr. Pierce.

"The Minchas Chinuch (400:2) writes that regarding gentiles there is no difference between sons and daughters; the Torah's distinction between them is part of the order of inheritance, which does not apply to gentiles," continued Rabbi Dayan. "Rashi (Yevamos 62a) similarly writes that a daughter is like a son, and a firstborn is like other children. However, elsewhere (Bereishis 31:14) he indicates that a daughter does not inherit when there are sons (see also Kovetz Shiurim, B.B. 357-358)."

"And what about other relatives?" asked Mr. Pierce.

"Rambam (Hil. Nachalos 6:9) writes that 'other inheritors are bequeathed according to the practice,'" replied Rabbi Dayan. "Maggid Mishneh explains that we do not find a defined order of inheritors other than for Jews. The Minchas Chinuch (400:2) understands from this that since other relatives are not ordained as inheritors, if the gentile has no children his property is hefker (ownerless)."

"However, the Meiri (Kiddushin 17b) writes that a gentile inherits from his father and other relatives," continued Rabbi Dayan. "The Chasam Sofer (Y.D. 127) also writes that not only children inherit, but all relatives. Others explain that, even according to the Rambam, whatever inheritance rules the gentiles establish are valid, just as they establish law codes in other monetary areas" (see Minchas Shlomo 1:86; Encyclopedia Talmudit, "yerushah," vol. 25, pp. 295-301; Divrei Chen, Nachalos 6:9).



MONEY MATTERS

PARTNERSHIP # 8

Majority Opinions

Q: Two out of three partners would like to employ an additional worker. Can they force their majority opinion on the third partner?

A: If the initial partnership agreement specified following the majority, the terms are binding. This also applies if there is a clear common practice to follow the majority.

In the absence of specific terms or a clear common practice to follow the majority, the minority can prevent making decisions against the standard practice of the trade (Pischei Choshen, Shutfim 2:12). On issues where there is no standard practice, such as adding additional workers, the majority rules, since it is impossible to come to unanimous agreement on every issue and they became partners with this intention (Igras Moshe, C.M. 2:23).

Nonetheless, the majority should give the third partner an opportunity to voice his opinion and reasoning. Furthermore, the majority cannot make decisions that benefit them at the expense of the minority, since the latter has a vested interest (nog'im badavar) — (Pischei Teshuvah, C.M. 163:1).



BHI HOTLINE

into giving more tzedakah than they would have given had they known the truth (C.M. 228:6; Shevet HaLevi 2:119). It is also possible that employing such deception not only violates the prohibition of geneivas daas but may even constitute actual theft since he is convincing donors to give for a cause that does not exist. Even in circumstances where it is permitted to compel a person to give tzedakah and the only way to compel the reluctant donors would be to use such deception (Y.D. 248:1, 256:5), it is not permitted. Only beis din is empowered to compel a person to give tzedakah and the person being compelled must be present (Y.D. 248:1 with Shach 4). Utilizing deception is comparable to compelling a person when he is not present and thus not allowed (see Tzedakah Umishpat 7:[5]). In this story, however, it seems that this is not applicable. When the donors made their pledges, Rav Amram was still alive. The reason the Chasam Sofer did not inform them of Rav Amram's passing was so that they would fulfill their pledges. He was not employing deception so that they would pledge more money, he was ensuring that they would follow through on the pledges that they were obligated to fulfill, since the need to support Rav Amram's family was ongoing.

There is a debate whether one who pledged to give money to a particular poor person must fulfill that pledge if the poor person passes away, since it may be presumed that the benefactors wanted the money to go to the poor person rather than his heirs (see Machaneh Ephraim, "Tzedakah" 6; Ketzos 207:9). In this case, since the money was collected for Rav Amram and his family, all authorities would agree that the benefactors must fulfill their pledges because his family remains in need.

For questions on monetary matters,
Please contact our confidential hotline at 877.845.8455
ask@businesshalacha.com

To subscribe send an email to subscribe@businesshalacha.com or visit us on the web at www.businesshalacha.com

BUSINESS WEEKLY INSPIRES & INFORMS THOUSANDS ACROSS THE WORLD. SPONSOR A WEEK TO JOIN US IN THIS MITZVAH.
email sponsor@businesshalacha.com to reserve your week.

