



BUSINESS WEEKLY

Restoring the primacy of choshen mishpat

WERDIGER EDITION

Issue #287

Mikeitz

Friday, December 11, 2015

29 Kislev 5776

UNDER THE AUSPICES OF HARAV CHAIM KOHN, SHLITA



STORY LINE

By Rabbi Meir Orlian

MILCHIG DOUGHNUTS

Chanukah was in the air. "Can we buy jelly doughnuts for Shabbos?" Chaim asked his mother.

"Yes," she replied. "The bakery is having a special for Chanukah."

"How many should I get?" asked Chaim.

"We'll need about 20 for the family and guests," said his mother. "Here's money; you can bike over and buy them."

Chaim put on his helmet and got ready to go. "One more thing," said his mother.

"The bakery also has milchig doughnuts. Please make sure to get pareve ones."

Chaim went to the bakery. Piles of doughnuts were spread out on tables. He saw the doughnuts labeled milchig on the side.

Chaim chose doughnuts from the pareve section. Just to make sure, he asked the baker: "Are these doughnuts pareve?"

"Yes," the baker replied. "Milchig is over there."

After a delicious Shabbos meal, Chaim's mother brought out the doughnuts for dessert. "Thanks to Chaim for getting the doughnuts," she said to the family.

People began eating the doughnuts. "These are really tasty!" Chaim's brother commented.

Most of the people managed to finish their doughnuts before Chaim's mother had a chance to sit down and eat. Finally, she took a bite. "Delicious," she said to Chaim.

Chaim's mother took one more bite, and frowned. "Are you sure that the doughnuts you got were pareve?" she asked. "This tastes like cheese."

"I'm sure," replied Chaim. "The milchig ones were labeled on the side table. I even asked the baker."

"I'm almost positive these are milchig," Chaim's mother said. "I'm going to have to check with the bakery after Shabbos. I suspect they mistakenly placed a batch on the wrong table!"

"What happens if it turns out to be a mistake and they're milchig?" Chaim asked his father. "Are we entitled to a refund from the bakery?"

"Interesting question," Chaim's father replied. "I'll ask Rabbi Dayan in shul."

At Minchah, Chaim's father asked Rabbi Dayan about the doughnuts.

"You are entitled to return the doughnuts that remain for a refund



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HARAV AMRAM CHASIDA PART II

Last week we retold part of the story of Rav Amram

Chasida, zt"l, Rav of Mad, Hungary, who died a mere four years after moving to Tzfas. The Chasam Sofer raised funds for Rav Amram and his family and sent the money to a bank that was run by a G-d-fearing individual.

Rav Yisrael of Shklov, zt"l (author of Pe'as Hashulchan), one of the outstanding students of the Gra, lived in Tzfas at that time and administered a free-loan fund. At the time of his passing, Rav Amram owed a large sum of money (600 reichsthaler) to the loan fund, and when Rav Yisrael of Shklov heard that money had arrived for Rav Amram he claimed that he had first rights to the money as repayment for Rav Amram's loan.

The Chasam Sofer wrote back to Rav Yisrael of Shklov that due to Rav Yisrael's personal interest in the loan fund, he was halachically disqualified from ruling on the matter. The Chasam Sofer then ruled that the money should be delivered to Rav Amram's widow and children.

Q: Why was Rav Yisrael of Shklov's claim rejected? Rav Amram borrowed the money and never repaid the loan. Why isn't his family obligated to repay the loan?

A: Many details of the story are unknown. For example, we do not know what Rav Amram did with the borrowed money, nor do we know what was involved in the Chasam Sofer's collection; obviously, those details could have a major impact on the halachah. We will, however, take the opportunity to discuss some of the related halachos.

Rav Amram's family is not obligated to use the tzedakah that was collected, especially what was collected after Rav Amram passed away (as discussed in last week's issue), to repay his loans.

Heirs are obligated to repay their father's loans only from the estate he

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or exchange,” said Rabbi Dayan, “but are not entitled to a refund for the doughnuts that were eaten.”

“Can you please explain?” asked Chaim’s father.

“Foods of different varieties, with different tastes, are considered separate items,” replied Rabbi Dayan. “Milchig and pareve doughnuts are different items. Therefore, the purchase is void, even if the price is the same and the milchig doughnuts can be eaten at a different meal” (see C.M. 233:1; Aruch Hashulchan 233:4).

“What about the doughnuts that were already eaten?” asked Chaim’s father. “If the sale is void, why are we not entitled to a refund for them?”

“Although the purchase of the doughnuts is void, you still have to pay for the benefit that you received from them,” answered Rabbi Dayan. “Assuming that the price of the milchig and pareve doughnuts is the same, you received equivalent benefit, which balances the refund” (Pischei Choshen, Onaah 13:12).

“But what about the fact that we ate prohibited doughnuts? They were milchig, and it was after a fleishig meal?” asked Chaim’s father.

“Regarding non-kosher food that was sold as kosher and already eaten, Halachah distinguishes between a Torah prohibition and a Rabbinic one,” answered Rabbi Dayan. “If the prohibition is from the Torah, the customer is entitled to a full refund; if the prohibition is Rabbinic the customer cannot demand a refund, since he already benefited from the food. Even more so in your case, where the doughnuts were kosher, but that you didn’t wait the requisite time after meat. Kosher fraud laws might allow penalties, though, for such kashrus mislabeling” (C.M. 234:3-4; Nesivos 234:3).



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bequeathed to them (C.M. 107:1). Since Rav Amram did not leave his children any valuable possessions, his heirs were not obligated to repay his loan.

In this case, even the money that was collected during Rav Amram’s lifetime would not be encumbered to repay his loan, and this is true even if he took possession of that money before his passing. The halachah is that if a poor person collects tzedakah, his creditors may not take those funds as repayment of the loans they issued (Y.D. 253:12). The exception to this rule is if the benefactors were made aware that the poor person was collecting for outstanding debts (Rema, *ibid.*). The rationale is that it is obvious (*anan sahadi*) that the money was given for the poor man to support his family and not to repay wealthy people who had issued him loans.

Poskim debate whether the poor person may use the collected funds to repay his debts. According to some, if his family does not protest, he may use the collected funds to repay his loans. The presumption that the benefactors do not want their donated funds to repay loans to wealthy lenders means that the recipient may not be compelled to repay those loans, but if, of his own volition, he chooses to do so, it is permitted.

Others argue that the benefactors do not want their money to be used to repay his loans unless they specify that their donation may be used for that purpose (see Mishnas Hamishpat, *Hilchos Tzedakah* 253:63).

Some authorities contend that poor people who support themselves by borrowing money and then collecting funds to repay those loans may use funds collected, even if for his family, to repay his loans, since this is the manner by which he supports his family. If this person does not repay his loans, he will then be unable to borrow more money (*Shevet HaLevi* 2:125, 5:140).

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MONEY MATTERS

PARTNERSHIP # 9

Selling on Credit

Q: Can I sell on credit to a friend, whom I know and trust, without my partner’s consent?

A: You are not allowed to take risks that are not the common practice or have not been agreed upon initially without your partner’s consent. Selling merchandise on credit, or sending merchandise by regular mail, is a form of potential risk (C.M. 176:10).

Even if some people sell on credit, it is not considered common practice unless this merchandise is regularly sold on credit. Some indicate that it suffices that most sell on credit; others require that almost everyone does (see *Sma* 176:33; *Nesivos* 176:21; *Aruch Hashulchan* 176:30; *Ohr Same’ach*, *Hil. Shutfin* 5:2).

Nonetheless, you can sell on credit to someone who is granted credit by those who know him, even if those who do not know him do not grant him credit (*Mishmeret Shalom* 176:18). However, if others who know him do not grant credit, you would not be allowed to.

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