



Dayan Yehonoson Hool

Federation Beis Din

The Author can be contacted at dayan.hool@federation.org.uk



FEDERATION

THE CRAFTY CUSTOMER

Rabbi Friedman authored a sefer, and as is common practice, put out a pile of ten of his seforim on a table in the lobby of a shul, with a money box next to the seforim and a handwritten sign saying “£9 a sefer.”

Mr. S. Alec passed by shortly after, and having had a quick look at the seforim, came up with an idea. He took out a pen and crossed out the words “£9 a sefer,” and changed it to read “£10 a sefer.” He then stood back and waited. Over the next half hour, nine other people passed by, viewed the offer, placed £10 each into the money box and took for themselves a sefer. Mr Alec then took the last sefer for himself without paying.

As he explained later to his friends, “Rabbi Friedman wanted to get £90 from the sale of his seforim, by selling ten seforim for £9, and he did in fact receive £90, from the nine people who paid £10 each. The buyers were all happy to pay £10 for the sefer, which is a fair price. And I got a free sefer. So everyone is happy. Right?”

Is he right?

DISCUSSION

The Mishnah at the beginning of the sixth perek of Bava Metzia states that if someone hired workers, and they tricked each other they have nothing against each other apart from a grievance. This means to say that they have no financial claim that is actionable, but it is legitimate for them to hold a grievance against the party that wronged them.

In the first explanation given by the Gemara, the case involves someone who is looking for employees to perform some work for him. He asks someone to find him workers to do the job, and offers to pay them 4 shekels for their work. This go-between goes and offers some workers the job, and, misrepresenting the employer, says that the employer has offered 3 shekels for the work. The workers agree to work for three shekels, but then when they complete the job they discover that the employer had originally been willing to pay them four and not three.

The Gemara rules that the employer need not pay them more than three shekels for the job, and it is implied (and indeed written explicitly

in the Rambam, Shulchan Aruch et al) that this is so even if the job was actually worth four shekel. As the Gemara says, the workers agreed in advance to this price, and can't demand more after the work is completed.

The Chiddushei HaRitv"o (Hayeshonim) adds that the intermediary can't go back to the employer and ask for the extra shekel for himself. Although the employer had offered to pay four shekels for the job, that was to be given to the ones who actually carry out the work. Once he managed to have the work done for three shekels, there is no reason for the intermediary to claim the extra shekel.

Regarding the workers, who as we said have no financial claim against the intermediary, at first the Gemara suggests that they can't even hold a grievance against the intermediary – after all they agreed to the three shekels so what is there to complain about? Later, though, the Gemara retracts and does legitimise their grievance. They can point to the verse in Mishlei, 3:27: “אַל תִּמְנַע טוֹב מִבְּעָלְיִי” – Don't hold back a benefit from those to whom it is due.” Whilst it is true, they might say to the intermediary, that we agreed to work for three shekels, nonetheless the employer was willing to offer us four shekel, so why did you hold back this information from us? You caused us to lose out on an extra shekel that we could have earned legitimately!” That is the source for their justifiable grievance, although it doesn't give them a right to actually claim the extra shekel from anyone.

(R' Yisroel Salanter famously points out that this is a rare instance in which Chazal state that although one might have no actionable financial claim, one is justified to hold a grievance against the perpetrator of a wrong, unless he makes amends or otherwise appeases you. The implication is that in all other cases, if one has no actionable financial claim, one is not permitted to hold even a grievance against the other party.)

But why can't the intermediary respond to their gripe by saying, “Look here, you were prepared to work for three, and the employer was prepared to pay four, so I had to choose to benefit one of you, and I chose to help the employer rather than you!”?

Parshah

The Ritv"o answers this by saying that once the employer had already offered four, the intermediary should not have changed that offer to three when he spoke to the workers. The offer of four had already been made, and once that has happened the intermediary should faithfully pass on the message and not choose to help out one more than the other. (It should be noted that Rashi understands that the intermediary is actually himself one of the workers. Had he been acting as an employee or agent of the employer, it is possible that he would be permitted to try and get the best deal for his principle, and so even if the employer was offering four, he could legitimately offer the workers only three.)

Let us revisit our original case, in the light of this Gemara.

Mr. Alec clearly cannot keep the book that he took for free and must return it. No-one gave him permission to take a book for free, and even if he has managed to arrange for the author to get his full intended profit, there is no reason why any extra money made by the author should go to Mr Alec (just as the intermediary in the Gemara's case does not get the extra shekel).

The purchasers of the book, who paid £10 instead of £9, cannot claim the extra pound off Mr Alec, because he did not actually take that extra £1. They can't claim it off the author either, because although he was prepared to sell it for £9, they agreed to pay, and in fact already paid, £10. This is similar to the workers who, once they have given away their work worth four shekels for three, cannot ask for an extra shekel, even though the employer had originally been willing to offer them four.

However, the purchasers of the book would be entitled to hold a grievance against Mr Alec, because although they did agree to pay £10, the author had been willing to sell it to them for £9. As such, the verse in Mishlei, “אַל תִּמְנַע טוֹב מִבְּעָלְיִי” – Don't hold back a benefit from those to whom it is due,” applies to their scenario too, and Mr Alec was wrong to interfere in the sale offer that the author had made.

(Condensed and adapted from a chaburah given at the Sinai Beis Hamedrash to the Evening Chaburah learning Hasocher es Ha'ummin)

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2. Who took Yosef out of the pit (37:28)?