



Volume 4. Issue 9

## A Deal is a Deal? Introduction to *Ona'ah*

It seems to be an unwritten understanding that in the world of commerce, war is waged between the buyer and seller. The seller will name a price and it is the obligation of the buyer to try and lower the price ensuring that he gets the best price possible. How does the *Halacha* view such a relationship and price setting?

The forth *perek* of *Gemara Bava Metzia* discusses the limits of this relationship - this is known as "*ona'ah*" (fraud). Both a buyer and seller are able to claim that the price that has been paid does not represent the quality and/or quantity of goods received. The *Gemara* in *Kidushin* discusses that even a *Beit Din* is liable to this *din*. When the *Beit Din* is obligated to divide an estate it must ensure that the valuation of the property is true to the market price.

Is there are limit to the claim and what is the effect if the there was indeed fraud? *Chazal* set the limits at a sixth either above or below the market price. Furthermore, *Chazal* gave the purchaser a time limit within which to claim *ona'ah*, that being the time in which he could take the product to a third party for evaluation. If the buyer was over charged exactly a sixth and protested within this period then the seller has transgressed this prohibition. There is a debate (50b) regarding how to deal with this overcharged amount. *Rebbi* believes that the sale is fraudulent and that it should become null and

void. However *Rebbi Natan* disagrees and learns that the sale does stand, however the amount overcharged (the sixth) must be returned. Both *Rebbi* and *Rebbi Natan* understand that the overcharging of a product is prohibited, though it could be that the point of disagreement is that if the seller does cheat the buyer, would the buyer remove his interest in purchasing the goods or just that the buyer is interested in recouping the loss.

However, *Chazal* did understand that too narrow a parameter was also not feasible; as stated the amount set was a sixth. If the buyer was over charged by less than a sixth then the sale is valid as we assume that in general people forgo that difference in price.

Conversely if the seller overcharged more than a sixth and the buyer complained within the above stated time-limit, the sale is null and void and either side is able to cancel the purchase.

To conclude, *Chazal* understood that there is a need within the economic world for people to vary prices and try to make a profit. However what must not be forgotten is that within the aggressive and competitive world of commerce the Revelation of G-d is no less than that in the *Beit Midrash*.

*Rabbi N. Rickman*

**Revision Questions**

בבא מציעא ג' י"א – ד' י"ב

- When can a money changer entrusted with money, use the money? (ג': י"א)
- What is a ramification of the previous law? (ג': י"א)
- Regarding the previous questions, what if the money was entrusted with a *ba'al ha'bayit*? (ג': י"א)
- Which person is debated whether he has the status of a money-changer or a *ba'al ha'bayit*? (ג': י"א)
- If someone entrusted with a collateral, uses it for his own purposes, what are the three opinions regarding how much he must pay back the owner? (ג': י"ב)
- What are the two opinions regarding the point in time after which a person entrusted with an item is considered a *gazlan*? (ג': י"ב)
- Complete the following rule and explain providing examples:  
 מעות \_\_\_\_\_ קונות את \_\_\_\_\_, ו \_\_\_\_\_ אינן קונות את \_\_\_\_\_
- If someone is purchasing an item with money, from what point is the deal closed? (ד': א')
- What is the *R' Shimon's* opinion regarding the previous question? (ד': ב')
- What is said regarding one that cancels a deal after the money has been handed over? (ד': ב')
- What is the definition of *ona'ah*? (ד': ג')
- What is the time limit as to when *ona'ah* can be claimed? (ד': ג')
- What is *R' Tarfon's* opinion regarding the previous two questions? Was it considered more beneficial to the merchants? (ד': ג')
- Can *ona'ah* also apply to the purchaser? (ד': ד')
- Can a professional trader claim *ona'ah*? (ד': ד')
- What is the law if *ona'ah* has been committed? (ד': ד')
- What are the three opinions regarding the measure of *ona'ah* also applying to coins? (ד': ה')
- What is the time limit on claiming *ona'ah* relating to coins? (ד': ו')
- What are the five laws for which the value of a *perutah* is the minimum value? (ד': ו')
- What are the five cases where one is obligated to add a "fifth"? (ד': ח')
- What are the four things to which *ona'ah* does not apply? (ד': ט')
- For what other three laws are these things unique? (ד': ט')
- What three things does *R' Yehuda* add to the list? (ד': ט')
- Provide two examples of *ona'at devarim*? (ד': י')
- Can a wine seller water down his wine? (ד': י"א)
- Can a grain seller sell grain from multiple sources as one unit? (ד': י"ב)
- What marketing tactic does *R' Yehuda* prohibit? (ד': י"ב)
- Can one fix up an old product and sell it as new? (ד': י"ב)

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**Sunday -Thursday**  
 Between mincha & ma'ariv  
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**Friday & Shabbat**  
 10 minutes before mincha  
Mizrachi Shul

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- [www.shemayisrael.com/mishna/](http://www.shemayisrael.com/mishna/)

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**Next Week's Mishnayot...**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
22 <sup>nd</sup> July ז' אב	23 <sup>rd</sup> July ח' אב	24 <sup>th</sup> July ט' אב	25 <sup>th</sup> July י' אב	26 <sup>th</sup> July י"א אב	27 <sup>th</sup> July י"ב אב	28 <sup>th</sup> July י"ג אב
Bava Metzia 5:1-2	Bava Metzia 5:3-4	Bava Metzia 5:5-6	Bava Metzia 5:7-8	Bava Metzia 5:9-10	Bava Metzia 5:11-6:1	Bava Metzia 6:2-3

