

Chairman of the Hoard: The Mir Yeshiva's Cash Cushion

Adapted from a *shiur*

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The case of the overstuffed chair

Several *bochurim*

sat recently in a Mir Yeshiva dorm room. One was on an old upholstered chair

that another boy had rescued from the trash a couple of years earlier. The chair felt uncomfortable, so he rose, flipped it over, and began to fiddle with it, inadvertently breaking open the upholstery. Hundreds of bills in United States currency cascaded to the floor.

One *bochur*

quickly gathered the fallen funds. The chair inspector managed to pick up a lone hundred-dollar bill. The day's take came to \$30,000.

Word of the find

spread quickly through the Mir's many *batei medrash*, and a spirited Torah debate soon

engulfed the yeshiva: To whom does the money belong?

A number of

candidates quickly emerged:

The salvager

The *bochur* who

retrieved the discarded chair years earlier clearly owns the chair. But when he

performed *hagbaha*

by lifting the ownerless furniture with intent to acquire it, did

he also acquire the hidden hoard that lay within?

The Pis'chei Teshuva

discusses the sale of a tin candlestick in which the tin was later discovered to

comprise only a thin veneer over a base of solid gold. Because a *kinyan* requires

da'as,

he writes, it does not incorporate anything that wasn't known to be present.

But even if his *hagbaha* on

the chair didn't acquire the cash for the chairman, another argument can be made in his favor. With *kinyan chatzer* (see Bava Metzia 10b), one's property acquires anything inside it that is subject to acquisition, even without his knowledge. For example, if a lost object of a sort that the finder may keep lands in a man's courtyard, it is his, even if he isn't present and doesn't

know it's there. As one's *kailim* have the same ability to acquire on his behalf

as his real property, would not the chair acquire the money on behalf of its owner?

There is a *shita* that

something hidden in a way that it isn't likely to be found is not subject to

kinyan chatzer.

And even if it was

likely to be found (the owner argued that he had already begun to tinker with

the chair, because it had become uncomfortable, so he was bound to find the

money soon), it is questionable whether *kinyan chatzer* works on something not normally contained

there—say, money in a seat cushion.

Those present at the find

MideRabanan, the four *amos* of a person can acquire on his behalf like a *chatzer*.

All agree that this rule applies in a *simta* (alley) and in *tzidei reshut harabim* (the sidewalk of a public domain).

A dorm room is effectively a *chatzer shel shutfin* (a courtyard owned in partnership), which is generally treated like a *simta* with regard to *kinyanim*.

If no one else was within the *dalet amos* of the money, the one who freed it would acquire it by proximity. In this event, it seems, multiple people were within range, and it was unclear who had been there first. (The *dalet amos* belong, for *kinyan* purposes, to the first to arrive.) There is a view that an entire room is considered as one *dalet amos*. Perhaps we can apply this approach to *kinyanim*, in which case the first person to have entered the room would own the money.

The roommates

There is a Halachic

debate whether a renter has *kinyan chatzer*. The normative view is that he does, as

does a borrower. However, this is the case only when the rental or borrowing is

for a fixed term, in which case the user has a *kinyan* in the property. But when

the rental or borrowing is for a term of unspecified duration, and the owner can terminate the arrangement at will, it is said in the name of the Brisker Rav that no *kinyan*

has been made; the property is just being used with the owner's permission. While I don't know the policy of the Mir Yeshiva, it is common for yeshivos to

reserve the right to change dormitory room assignments at any time, so the Brisker Rav's contention would pertain.

The yeshiva

Would the Mir then

retain the power of *kinyan*

chatzer, making it the rightful owner of the find? It

would seem that a yeshiva has the status of *hekdesch*, and that a yeshiva is owned only in the sense

that one "owns" a *korban*,

rather than belonging personally to its founder. And the *Ketzos* suggests that *hekdesh* might not have the power of *kinyan chatzer* at all. (Note that the Gemara says that *kinyan dalet amos* doesn't apply in a *reshus hayachid*, so if the room is considered to belong to the yeshiva, this might negate the earlier argument in favor of the people present at the find.)

Heir to the chair

Who would discard a chair with \$30,000 inside? Someone who didn't know it was there. Most likely, the person who stashed it there died or later suffered from dementia. Though we normally follow Rabbi Yitzchak's rule that one who loses money is aware of it and despairs of retrieving it (*yiush*), making it ownerless, that wouldn't apply under these circumstances. However, the Rambam says that if an item is lost in a way that it is unlikely to be found, it becomes ownerless.

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The case just came before a Bais Din in Yerushalayim. The great principle of monetary Halacha is *hamotzi meichaveiro, alav haraya*. If A lays claim to something in B's possession, A bears the burden of proof. As we have established, no party has a solid Halachic claim to the money, so the court left it in the hands of its holder. Possession, as the adage has it, is nine tenths of the law.