

Comparison Between Promissory Note and Deed of Sale

Ref: *Sefer Mishpatim, Hilchot Malveh Veloveh, Chapter 23*

	Acceptable	Explanation
Predated promissory note	×	Lender could start to expropriate property from this earlier date before the loan has begun
Post-dated promissory note	✓	Legal power of lender has been reduced
Promissory note written in day and signed at night	×	In effect, it is predated by one day. If they were discussing the transaction and night fell, the contract is valid.
Promissory note dated on a <i>Shabbat</i>	✓	Presumed to be post dated
Promissory note composed for borrower, when lender not present	✓	Scribe must ensure that a <i>kinyan</i> and witnesses take place The promissory note is to the advantage of the lender The security on property of borrower starts when the <i>kinyan</i> is made
Promissory note composed for borrower when lender not present, and a <i>kinyan</i> was not made	×	Gives opportunity for lender to cheat i.e. the date of <i>kinyan</i> may create an invalid lien on the property if the borrower fails to repay the loan
Promissory notes composed for lender and borrower not present	×	
Undated deed of sale	×	
Predated deed of sale	×	
Post-dated deed of sale	×	
Expropriation of property which had been sold under compulsion	×	If a <i>moidaah</i> was made.
Expropriation of property by word alone	✓	Where there are witnesses that field was stolen
Composition of two deeds of sale		This should not be done.
Loss of deed of sale, and then a second composed	✓	The second must specify that property cannot be expropriated from it. Purpose of deed of sale is to protect purchaser
Loss of promissory note and second composed	×	Purpose of promissory note is solely to collect money
Worn out promissory note revalidated	✓	Must be done by court
Torn promissory note if words can be seen	✓	But tear should not be same pattern as a court shreds

Part payment of debt, and then writes new promissory note	x	Only court can do this. But lender could give borrower a receipt
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