

Loan Retrieval when no Money Available

Ref: Sefer Mishpatim, Hilchot Malveh Veloveh, Chapter 17

This is referring to expropriation from a third party who happened to purchase property from someone who took a loan prior to selling.

The difference between landed property and movable, is that landed property status is known publicly whereas moveable is not. Therefore, a purchaser of land property should have known that it has the status for expropriation.

	Landed property of Borrower retrieved by lender	Movable property of Borrower retrieved by lender
Debtor cannot repay with money	✓ (unless conditions were made to prevent this)	✓ (unless conditions were made to prevent this)
Borrower did not want to part with property	✓ By courts	✓ By courts
Borrower sold or gave away property after loan	✓ From purchasers	×
Property purchased after loan	× i.e. cannot be expropriated from purchasers	×
<i>Apotiki</i> (land) (i.e. specifies exactly from where debt should be collected)	✓ From that place and if not possible, another place	
<i>Apotiki</i> (servant)		✓
<i>Apotiki</i> (movable property)		× Because matter is not public knowledge
<i>Apotiki</i> on servant and stipulates that repayment be made only from the servant and then servant freed		× however borrower must pay when he earns money
Purchaser of field also had money	× Money could be taken instead	
<i>Apotiki</i> on field and purchaser also had money	✓ Money cannot be taken instead	

Apotiki means 'from here you shall collect your debt'.

Process of expropriating property from purchasers (i.e. third party) is called *toref*.