

Mi Shepara (Retraction from a Sale)

Ref: Sefer Kinyan, Hilchot Mechirah, Chapters 7–9

A person who retracts unethically from a sale should receive a curse from the *Bet Din* called *mi shepara*. Thereafter the seller returns the money to this buyer.

Basically, the *Bet Din* curses the person who retracted for not keeping his word.

Mi shepara occurs in following circumstances.

- Money has exchanged hands between purchaser and seller, but *meshichah* or *hagbahah* has not yet taken place, and then the seller or the purchaser retracts.
- If purchase is made on basis of a debt, it is still considered that money has exchanged hands.
- Only a verbal agreement took place, but purchaser marked the article in some way as a sign. He would be subject to *mi shepara* if he retracts. [If however, the custom of the place is that making such a sign signifies a *kinyan*, then neither party can retract.]

If agreement was only verbal and retraction takes place, this is viewed in a very poor light by the Sages, although not subject to *mi shepara*.

Similarly, if one promised a small gift and did not keep his promise.

Similarly, if a *shaliach* (agent) disobeys the instructions of the one who sent him to purchase, and purchased the item, with his own money, for himself instead.

TRANSACTIONS WHERE THERE ARE PAYMENT IRREGULARITIES.

i.e. More complex transactions tending towards *mi shepara*.

These could be:

- Purchaser has not finished payment
- Mistake in the amount of money paid e.g. purchaser underpaid

These irregularities are also affected, if the seller is continually demanding payment and for what reason he keeps demanding.

The balance of factors will dictate who will be allowed the upper hand and if retraction will be allowed.

SPECIAL TRANSACTIONS (IN RELATION TO *MI SHEPARA*)

- *Hekdesh* (Temple treasury)
- *Yetomim* (orphans)
- *Yom Tov*
 - Shemini Atzeret
 - First day of *Pesach*
 - *Shavuot*
 - Rosh Hashanah

HEKDESH

 **Reminder:**
Pack on Consecration



Temple treasurer always given upper hand.

Any promise made to donate to Temple is equivalent to a transfer.

The Treasurer is never liable for *mi shepara*.

YETOMIM

Same as *hekdesh* – *yetomim* always have the upper hand.

YOM TOV

On the above mentioned days (day before the *Yom Tov*) the Laws were adjusted to allow easier purchase of meat.