

Oaths – Conflict of Interests (Commerce)

Ref: *Sefer Kinyan, Hilchot Mechirah, Chapter 20*

Principles.

When there is a difference of opinion between seller and purchaser the burden of proof lies with the person who wishes to expropriate the property.



If plaintiff cannot prove his claim, the defendant must support his claim with a '*shvuat hesset*':

An oath instituted by the *Rabanim* of the Talmud. [(This is more lenient than the standard Rabbinic oath (instituted by the *Rabanim* of the Mishneh), and definitely lighter than a Scriptural oath.)]

- If the plaintiff has 1 witness, or the defendant is *modeh bemiktzat* (admits a portion of the claim), the defendant has to take a *shvuat Hatorah* over a sacred object.
- If an item was purchased and there is a dispute over whether the money was paid or concerning which items were purchased, it depends in which domain the goods are found. If they are found in the public domain (which is outside the domain of both the purchaser and seller), the law is stricter in that a *Rabbinic oath holding a Sefer Torah* would have to be taken by the defendant.

If goods were in one of their private domains, only a *shvuat hesset* would be needed.

- Only a *shvuat hesset* is taken for landed property or servants.
- Whenever there is a doubt about who should suffer the loss for an article, the burden of proof lies with the person in whose domain the doubt has arisen.

Reminder:

Pack on Oaths

