

VOLUME I: NUMBER 33: PURCHASING STOLEN GOODS

by Rabbi Aron Tendler

Question:

Is it permitted to purchase items from a pawn shop that is suspected of being a front for stolen goods? If you are approached on a street corner and are offered the option of purchasing items at a very low price, are you allowed to do so?

Answer:

- A. It is forbidden to assist a thief in any way, whether in the actual act of stealing, transporting the stolen item, or helping to dispose of it. (Of course, it is permitted to help him transport it to return it to the original owner.)

Therefore, it is forbidden to purchase an item that is known to be stolen, or even an item that was probably stolen.

We should therefore refrain from purchasing items on street corners, or at pawn shops that have a shady reputation. We should also be aware that if the price is too good to be true, the item being sold may have been stolen, and should be checked out.

We should especially be careful when purchasing Tashmishei Kedusha, i.e. Sifrei Torah (Torah Scrolls), Tefillin, Mezuzos, and Seforim, even if new, to buy only from reputable people and not from someone unknown, even if he seems to have a valid story as to how he ended up with these items.

2. Despite all of the above, if an item has already been purchased at one of the above mentioned places, the probability is that the original owner has given up hope of ever seeing it again. Therefore, the sale is effective and the article belongs to the buyer.
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Sources:

The Halacha that it is forbidden to purchase a stolen article from a thief is stated in Bava Kama 118b-119a, Kiddushin 56b, and is brought down in the Rambam in Hilchos Geneivah (5:1-3) and in the Shulchan Oruch, Choshen Mishpat (356:1). The explanation given is that anyone who assists a thief is strengthening the hand of sinners, and is encouraging the thief to continue to steal. Our Rabbis have an expression for this - "It's not the rat that steals, it's the hole that steals". In other words, if the rat (aka the thief) would know that he wouldn't have a hole to conceal what he steals from others, he wouldn't steal. In our situation, the one who purchases from the thief is the "hole". This also applies to any other assistance that one might give a thief to aid him to be successful in his trade.

The Rivash in his Teshuvos (Ch. 108) says that the prohibition to assist a thief applies even if the buyer is uncertain that the object was stolen, but there are indications that it was (Raglayim L'Davar). For example, if the price is very low for no apparent reason, there is no warranty, or the seller clearly wants to get rid of the item as quickly as possible. The statement of the Rivash is mentioned in the Taz in Choshen Mishpat 356:1.

In the Shulchan Oruch, Choshen Mishpat (353:3), it says that if someone were to buy a stolen object from the thief after the owner has given up hope of ever receiving it again, the buyer acquires the object Halachically. This is because we have a combination of the original owner giving up hope (Yiyush) and the buyer transferring the object into his domain (Shinui Reshus).

Therefore, objects that were confiscated by the government, even if it was determined that they were taken for reasons that aren't Halachically valid (an example of this would be if it was taken as a lien on a blatantly unfair tax), or lost items that have been turned over to the police and are now being sold because no owner has stepped forward to claim them, although we should not assist them in the sale of the items, if a long time has elapsed from the time of the confiscation, they may be purchased. This is because the original owners have given up hope of ever getting their articles returned, and we have a situation of Yiyush and Shinui Reshus. Purchasing this item (in the case of improper confiscation) cannot be considered "providing a hole for the rat", since they would be confiscated whether there are buyers or not.

Feedback is appreciated! It can be sent to atendler@torah.org.

This week's class is based on a column by Rabbi Tzvi Shpitz, who is an Av Bais Din and Rosh Kollel in the Ramot neighborhood of Jerusalem. His Column originally appears in Hebrew in Toda'ah, a weekly publication in Jerusalem. It has been translated and reprinted here with his permission and approval.

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Please Note: The purpose of this column is to make people aware of Choshen Mishpat situations that can arise at any time, and the Halachic concepts that may be used to resolve them. Each individual situation must be resolved by an objective, competent Bais Din (or Rabbinic Arbitrator) in the presence of all parties involved!