

SELLER REVEALING FLAWS IN A HOUSE

by Rabbi Yisroel Belsky ztl

QUESTION 39

To what extent is one obligated to tell a potential buyer everything that is wrong with a house? What must be told? If the pool has a slow leak when the filter is on, is one obligated to tell that to a potential buyer?

RABBI BELSKY

It's middas chassidus (higher level of piety) to say that a certain room gets a bit colder than one would expect. But if the problem is bad enough that the livability of the house is affected, then a person is required to tell a buyer about it. But if the house has a room that may need an extra warmer on a cold day - that's not a flaw with the house.

It may be necessary to tell about a pool that has a slow leak when the filter is on, if it could lead to any damage or difficulty. If the filter is not up to par, a potential buyer should be informed of that. It's proper to say, "The pool operates, and we enjoy it all the time. There is a slight leak, however, and it may be worthwhile to pay attention to that."

The relevant questions are: is the buyer getting what he thinks he's getting, or is some aspect of the house lacking? If paint in a certain room peels after a few years because the humidity is particularly high - that's not something that must be disclosed, because every house has slight variations.

QUESTIONER

You said that there is a middas chassidus to actually say everything. Can you elaborate on that?

RABBI BELSKY

The middas chassidus could be taken care of by simply saying, "Look at everything carefully. Of course the house was used for the last ten years. I might miss certain things which I'm not even aware of." There are stories of tzaddikim who spent a long time pointing out every potential difficulty with an object they were selling. It's hard to draw the line finely. A person should generally be machmir a little (a bit stringent).

QUESTIONER

Is middas chassidus optional? Is it something one can just choose to strive for, or is it an obligation?

RABBI BELSKY

In certain circumstances middas chassidus is an obligation. To go lifnim mishuras hadin, beyond the letter of the law, is really in a sense a requirement. For instance, if a person finds a lost object and the owner had already despaired of recovering it, the finder technically acquires it and is therefore under no obligation to return it to the original owner. But unless the finder is a very poor person, he ought to return the object to the original owner.

On a higher level, a person - a poor person - may have worked for an employer for a whole day. But if in the course of working he actually caused damage, then he ends up being obligated to pay the employer - rather than the employer having to pay the worker. In that case, it would be a middas chassidus for the employer to ignore the worker's obligation to pay him, as long as the worker didn't do intentional damage. This middas chassidus is something expected of "good" people - as the Talmud puts it - meaning 'higher class', better people..

And on an even higher level, the Talmud says that the employer should still pay the worker his wages, since the worker is poor and won't otherwise be able to feed his wife and family. That is the highest level of midas chassidus, and is for Tzaddikim (very righteous people).

These are three levels of middas chassidus. To tell a potential buyer about a slow leak in a pool is something that everyone should tell. To tell him that one room is a bit colder in the winter than expected is already a level of middas chassidus beyond that. You're not absolutely obligated to point it out; it's something extra.

QUESTIONER

Is it optional if one decides to be at the first, second, or third level of middas chassidus?

RABBI BELSKY

The Sages gave clear parameters. The first level is expected of everyone, except one who is very poor or someone under great pressure, or someone who is not interested in doing the right thing. The second level is expected of people who are careful and reflective about his or her actions - high-level people - but the ordinary person is not required to perform acts of chassidus on this level. The third is only for great tzaddikim.

NEXT WEEK'S QUESTION 40: SPENDING CAR REPAIR MONEY

Someone else's car hit my car, and he said he would pay to have it repaired. I went to a body repair shop, and I was told that it would cost \$450 to have it fixed. Can I take the money, and not have it fixed, and use the money for something else?

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