

Do I Need a Heter Iska if My Father Cosigns on My Mortgage?

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Question: When I was looking into buying a house, I wasn't able to get a mortgage on my own. Naturally, I went to my father to ask him to cosign for me. Is a *heter iska* needed in such a case?

Answer: The Gemara says that it is a *ribbis* prohibition for a Jew to cosign on a loan his friend took from a non-Jew with interest. The Acharonim say that the prohibition only applies in cases where the cosigner expects the borrower to reimburse him if he ends up having to make a payment. If he does not expect to be reimbursed, then there is no problem. Accordingly, if one's father is his cosigner, there would only be a *ribbis* problem and a need for a *heter iska* if the father expects his son to pay him back were he to make a payment.

Today, it is common for banks to ask for a "co-borrower," rather than a cosigner.

Some Rabbanim take the position that the concept of a co-borrower is different from that of a cosigner. These Poskim contend that when the bank lends to two co-borrowers, it is, in essence, lending 50% of the money to one borrower, and the other 50% to the other borrower. When the co-borrower gives all the money to the actual borrower, he is, in effect, lending him his share of the loaned money. Therefore, if the actual borrower makes a payment, he is technically paying 50% of the payment to his co-borrower, who is in turn giving it to the lender. Since the payment contains interest, he is paying *ribbis* to his co-borrower, which would be prohibited.

Rav Shlomo Miller, however, is not of that opinion, and he cites several proofs that a co-borrower is no different than a cosigner. Accordingly, one would only need a *heter iska* if the co-borrower expects to be reimbursed for any payment he makes.