

**Rav Yosef Greenwald, Rav of Khal Dexter Park and Dayan in the Bais HaVaad:**

**Question:** We discussed how minor imperfections may not make the sale of a home a *mekach ta'os* if those types of blemishes are accepted by industry standards. If someone claims he bought a home with the understanding that it would have a finished basement, only to find the basement unfinished, would that be a clear-cut case of *mekach ta'os*?

**Answer:** It sounds like that should be a clear case of *mekach ta'os*. That would certainly be the case if there was a clear misrepresentation of the facts.

Having said that, the obvious question in this story would be how the buyer could have been unaware of the facts before purchasing the house. Most buyers walk through a house before purchasing it – so, how could he not have noticed that the basement was not finished?

The Shulchan Aruch discusses cases where flaws in an item are easily noticeable and says that if someone didn't look for such clearly visible problems, it is a proof that he doesn't care about them, which would mean that he can't complain later and claim that he was the victim of a *mekach ta'os*.

The difference between a finished basement versus an unfinished basement is something anyone, even someone with an untrained eye, should be able to spot easily. If, however, a house has a structural, plumbing or electrical problem, or something along those lines, a layman cannot be expected to notice such issues, but we could expect an engineer to recognize such things. When one buys a house, it is always advisable to bring down an engineer to do a thorough home inspection; however, I don't think the Shulchan Aruch would rule that one who is remiss and fails to bring down an engineer would lose his right to make a complaint. I do not believe that the fact that he unwisely skipped this step in the purchasing process can be cited as proof that he doesn't care about these kinds of issues.

With this halacha in mind, I would say that one would only lose his right to make a claim of *mekach ta'os* if the problem is something that anyone can clearly see. This may be more common with rentals, as people may agree to rent a home on the fly, without taking the time to inspect it closely. If there is a flaw in the apartment that should have been easily noticed, the renter may lose his ability to claim *mekach ta'os*.

This halacha is also relevant when it comes to car sales. If someone takes a car for a test drive, he could be expected to check if the air conditioner works, if the stereo works and other simple things like that. If the buyer didn't bother to test these basic functions of the car, it could be taken as proof that he doesn't really care if they work or not, which may invalidate a later claim of *mekach ta'os*.

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