

How Many Years Does My Hashavas Aveida Obligation Last?

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Question: Reuven found a lost object in the street. Instead of trying to return it, his *yeitzer hara* gets the better of him, and he decides to take it for himself. A few years later, he regrets what he did, and wants to know whether he must return the item. Can he still fulfill the mitzvah of Hashavas Aveidah at this point?

Answer: The Gemara says that if someone sees a lost object and takes it for himself, he transgresses three prohibitions: 1. "*Lo suchal l'hisalem*" – the prohibition to ignore one's friend's lost possession. 2. "*Hasheiv teshiveim*" – the obligation to return the item to its owner. 3. "*Lo sigzol*" – theft.

The Gemara adds that if one holds onto the object and doesn't return it until after the owner is *meya'esh* and despairs of ever getting it back, he cannot rectify his transgressions. Even if he returns it at that point, it is merely like he is giving him a gift.

Tosafos asks why this is so. When one steals an item, he can rectify his sin by returning it. If so, why can't the finder in this case do the same? They answer that when the Gemara says that it is akin to returning a gift, those words are not meant to be taken literally, and, in fact, one can return the lost object and rectify that sin.

The Ramban disagrees. He says that one can return something he stole from his friend because he took it before his friend despaired of ever getting it back. Consequently, he now has an obligation to return it, and this obligation remains even if the owner later gives up hope of being reunited with his object. However, if an object is lost, it is already out of the owner's possession to an extent. When the finder picks it up without the intention of returning it, it retains the status of an *aveidah*. Once the owner is *meya'esh*, it leaves his possession completely. Since the item no longer has any connection to the owner, giving it back to him is merely a gift. The Shach cites several Rishonim who rule like this Ramban. Accordingly, in our case, he would not be obligated to return it.

The Shulchan Aruch however, rules like Tosafos, and the Shulchan Aruch Harav adds that since this is a *safek d'ohraysa*, one should be stringent and return the object.