

Is A Contract Signed Under Duress Halachically Valid?

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Question: Reuven went into business with his family. Now, he finds himself pressured to make certain transactions, sign over things to certain people and create other documents that are not fully kosher. He does not really want to endorse these documents, but he is pressured to do so in order to avoid family problems. Is there any way for him to sign the documents but still make sure they don't go into effect?

Answer: This question hinges on the concepts of "*Moda'ah*", declaring that one did not intend to abide by an agreement.

The Gemara says that if someone is hung from a tree and not let down until he agrees to sell something, the sale is valid. It is considered a good sale because even though the seller was coerced into agreeing, nevertheless since he accepted the remuneration, we can assume he ultimately agreed to the sale.

This reasoning would not apply by a one-sided agreement, such as when one gives a present or forgives a loan. In such situations, the transaction would not be valid if it was made under duress.

In both cases, one should write a *Shtar Moda'ah* to present their claim that they did not agree to the transaction they signed on.

In the case of a sale, the *Moda'ah* would have only been effective if one can prove he was forced to accept the deal. Additionally, the witnesses who signed on the *Shtar Moda'ah* must either have been aware of the pressing circumstances that forced the individual to sign against his will or they must specifically write that they were unaware of the circumstances and were not attesting to the cause of the duress.

In the case of a one-sided transaction, however, the claim of duress is much more readily accepted and the witnesses may sign even if they are unaware of the cause of the duress.

Question: What is considered a level of duress that would lead to the annulment of a signed contract?

Answer: That's a very broad question and it's hard to give an exact answer.

The case of the Gemara, where someone was hung from a tree, is definitely

considered duress. The Poskim say that if one is facing an actionable danger from the other party, who threatens to hurt him financially in a way they don't have a right to do, that would be considered duress as well. To be clear, both criteria must be met - he must be facing a financial threat, and the threat must be of an excessive nature, such that the other side is not entitled to make. If, however, the other party would say something like, "If you don't agree to the deal, I won't shop in your store anymore," that probably would not be considered duress, as the other party has a right not to shop in his store.