

Is a Discount on a Sale Considered Part of the Purchase Price Vis-a-vis a Broker's Commission?

**Question:** Generally, brokers get a commission based on the closing price. For example, if someone sells a property for \$1 million, the broker gets his commission of 15% on that amount.

What would happen in a case where the purchase price is lowered for some external reason. For example, what if the seller wants to rent the property he is selling from the buyer for a year, and the two agree that they will lower the purchase price by \$10,000 in exchange for a \$10,000 reduction in rent for the year? In such a case, the purchase price is now \$990,000 – but the broker may argue that the “real price” is \$1 million and he deserves compensation based on that amount. Is the broker correct?

**Answer:** The answer to this question would depend on a few factors.

If the buyer was willing to pay \$1 million, and the seller initiated the offer to sell for a lesser amount in exchange for his reduced rent, it is evident that the actual purchase price, for all intents and purposes, is \$1 million, and the broker would be owed commission on that amount.

If, however, this buyer was only willing to pay \$990,000, but he agreed to the deal wherein he would accept \$10,000 less in rent in exchange for this price, the halacha would be different. If that were the case, we would have to determine if the rent the seller is paying is a reasonable market value or not. If the amount he ends up paying is somewhat reasonable, even if it is on the lower end, it would be considered a normal rental of the property, and the purchase price of \$990,000 would be considered the actual price – which would mean that the broker would receive 15% of that amount as his commission. If, however, the amount the seller is paying in rent is now well below market value, it cannot be considered to be the actual rental amount, as no one would rent this property for so little. It is, therefore, obvious that the reduction in rent is part of the purchase price. This means that the actual purchase price is higher than what was paid, and the broker deserves a commission based on the actual purchase price, which in this case would be \$1 million.