

Is a Forced Peshara Binding?

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Question: Reuven had a dispute with Shimon. Shimon contacted him and threatened him that if he didn't agree to go with him to a certain Rov for a *Peshara*, he would take him to a secular court. Would such a "forced *Peshara*" be binding?

Answer: The halacha is that a person cannot be forced to give a gift to his friend and if one gives a gift under duress, the transaction can be invalidated. On the other hand, if someone is forced to sell something to his friend, the sale is binding.

In this case, where someone is threatened with a lawsuit if he does not agree to make a *Peshara*, it is unclear if this can be considered "forced". We don't know for sure that Shimon will go through with the threat, as it is not certain that going to court will really result in his benefit since there always is a chance that he will lose the case.

Furthermore, even if it would be true that he definitely will make good on his threat, it is not clear that a *Peshara* would be considered a "gift" and not a "sale". If it would be clear that Shimon is benefiting from the *Peshara*, it would be a gift to him that wouldn't be binding. However, since it is possible that Reuven is the one ultimately benefiting, or that they both are benefiting equally, the *Peshara* may be considered a mutual transaction, i.e., a sale. Therefore, even if it is considered to be forced, it would still be binding.