

Is a Trade Done by a Child Valid?

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Question: A boy comes home from *cheder* and tells his father that the boys in his class often trade items and one boy, who is a natural businessman, always ends up with the better end of the deal. Can the father invalidate the trades by saying that he never gave his son the right to initiate such exchanges?

Answer: If the child is under the age of six, he cannot do any business transaction whatsoever. Nothing that he does is binding at all. Once a child is above the age of six, he may have attained the status of "*pe'utos*". Chazal enacted that once a child has some level of understanding of how commerce works, he has the right *m'derabanan* to make transactions on moveable goods. If this kid is simple-minded and is getting taken advantage of because he doesn't understand how transactions work, the *takanah* of *pe'utos* would not apply and the trade would be invalid. If, however, the child does understand the concept of commerce, and the other boy is just a better businessman than him, the trade would seemingly be binding.

There is, however, another caveat that is relevant. The Gemara in Gittin says that the decree of *pe'utos* does not apply in a case where the child has an *apotropus*. Although the literal implication is that a child who has a guardian cannot engage in commerce at all, the Rambam and Shulchan Aruch understand it to mean that they can engage in deals and transactions, albeit with the consent of their guardian. This means that the trade would be valid but the parent could negate it if he is not okay with it. Accordingly, if the father does not consent to a certain trade, he can call the parents of the other boy and undo it. If the things that were traded got destroyed in the meantime, that is part of the *aveidah m'daas* of giving items to a child, as all parents know that anything they give a young child might never be seen again and there is no culpability for that. Essentially, however, the transaction can be reversed and whatever can be recouped will be given back.