

Is It The Same House or a Different House?

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**Case:** Reuven went into contract on a house and did all his due diligence – he had the home inspected and walked through it himself to make sure everything was in good condition. He was happy with what he saw and closed on the house. Right after the closing he returned to the house and was chagrined to discover that the walls were covered with graffiti and windows were broken.

**Question:** This damage clearly occurred after his walk-through and before the closing. Can he now claim *mekach ta'os* and renege on the purchase?

**Answer:** A very similar question is discussed by the Teshuvos Harosh and cited by the Tur and Shulchan Aruch.

As the Shulchan Aruch explains the Rosh, *mekach ta'os* would only be applicable if major problems are discovered with the house. For example, if there was a major flood after the walk-through or there was significant structural damage that would require a complete overhaul to fix, the buyer can claim that this is not the house he agreed to buy, and the entire sale can be annulled. If, however, all that is required are some fixes that are not so major, such as broken doors and windows or graffiti on the walls, the buyer cannot make such a claim and cannot say that this is a different house than the one he bought.

The seller would be required to lower the price in order to provide the buyer with the funds to fix the damage, as the deal was that the buyer would receive a home in the same condition that he saw it in during his walk-through, but it cannot be claimed that the entire sale was a *mekach ta'os* and is null and void.

There might be some gray area where it is unclear if damage to a home would be considered significant enough to nullify the sale. In such cases, a competent Dayan would need to be consulted.

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