

## Kinyanim Between a Jew and a Non-Jew

### Rav Eliezer Cohen

**Question:** Do the same principles of *kinyanim* that apply in transactions between Jews also apply in deals between a Jew and a non-Jew?

**Answer:** The short answer is that yes, basic *kinyanim* would apply to transfer ownership in transactions between Jews and non-Jews; however, there is a disagreement amongst the Rishonim regarding which *kinyanim* work in such deals and which do not.

We said that cash payments don't work to transfer ownership for moveable items; however, some opinions state that such payments would be a valid *kinyan* in deals between Jews and non-Jews. In fact, the opinion of Rashi is that **only** cash would work as a *kinyan* in deals between a Jew and a non-Jew, and other forms of *kinyanim*, such as *meshicha* (dragging the item into your possession) would not be valid. Rabbeinu Tam's opinion is the opposite. He states that only *kinyanim* like *meshicha* would work in such transactions while cash would not.

Common market *kinyanim* such as *situmta* would work in transactions between Jews and non-Jews according to all opinions. So, in a practical sense, any practice that is customary to use in a specific place to transfer ownership would be a valid *kinyan*.

A common transaction between a Jew and a non-Jew where a *kinyan* is needed would be the sale of chametz before Pesach. Another common transaction discussed in the Torah is when a person has a first-born animal. According to halacha, first-born animals are supposed to be given to a kohen, which cannot be done today. The Shulchan Aruch rules that the accepted procedure in today's times is to sell a portion of the mother before the first-born is born to a non-Jew as a means of circumventing this problem. The Shulchan Aruch discusses what *kinyan* should be used and says that since there is a disagreement regarding what type of *kinyan* works in a deal between a Jew and non-Jew, one should do all types of *kinyanim* in order to fulfill all opinions.

For this reason, when we sell chametz to a non-Jew, we use all types of *kinyanim*. When discussing the sale of chametz in Hilchos Pesach, the Mishnah Berurah has an extensive list of almost all types of *kinyanim* and how they work.