

## Taking Away a Customer During Negotiations With a Competitor

HaRav Chaim Weg

**Question:** A worker in the wholesale industry has been working for weeks trying to close a deal with a new client. His competitor hears about it through the grapevine and decides he wants to try to get that contract for himself. Is he allowed to try to do that?

**Answer:** There is a concept in halacha of "*ani mehapech becharara*," which literally means that a poor man is exerting effort in an attempt to get a hold of a cookie. The Gemara says that if a second person would jump in and grab the cookie before the first person can reach it, he would be called a *rasha*, a wicked person. Since the poor man has already made efforts to obtain this cookie, even though he hasn't actually made a *kinyan* (act of acquisition), halacha requires others to desist from trying to get it and leave it for the poor man.

This Gemara is an analogy for any case where one person is trying to acquire a certain object or deal and someone else grabs it first. If conditions are met to forbid one from doing so, he would be considered to be acting incorrectly and he would be labeled a *rasha*.

In this particular case we must define clearly what constitutes an effort on the part of the first worker. and At what point would we say that one person has exerted sufficient effort to make a deal that anyone who subsequently grabs the deal away is considered a *rasha*?

The Rema rules that once a price has been agreed upon between buyer and seller and all that is missing is the *kinyan*, another buyer may not mix in and offer a higher price. If they are still haggling over the price, there is no prohibition for someone else to come along and break up the deal by offering a better price. The Prisha disagrees and says that if two people are negotiating a deal and are still haggling over the price, but it is quite clear that they just have to iron out the details and will eventually reach an agreement, it is forbidden for someone else to interfere. If the buyer is listening to the offer but still accepting other bids and the product is still very much on the open market, even the Prisha would agree that in this case there is no problem of *ani mehapech becharara*. The Aruch Hashulchan rules like the Prisha and says that once negotiations for merchandise have reached a point of only haggling over the details, one should not infringe and try to grab the deal.

Thus, the answer to the question would be dependent on how far along the negotiations are. If the two sides have worked out an agreement and all they still need to do is sign a contract, it would be forbidden to interfere according to all opinions. If a deal is imminent but they are still working out the details, the Rema would rule that it is forbidden to interfere, while the Perisha and Aruch Hashulchan would forbid it. If the negotiations are still at an earlier stage and it is not at all clear that a deal will be worked out, everyone would agree that there is no prohibition to interfere.