

The Value of Antiques (Ona'ah on the Buyer)

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Case: Antique Judaica is a very popular industry today. There are many collectors who are interested in purchasing old seforim, manuscripts and the like. If a layman happens to own a copy of a rare, ancient book, he very likely will be unaware of its exact value. An expert who does know its value may be able to lowball him and convince him to sell for much less than the expert can resell it for on the open market.

Question: If he underpays him by more than one-sixth, is that a problem of *ona'ah*?

Answer: First of all, we have to clarify that *ona'ah* applies both to sellers who overcharge and buyers who underpay. The more common cases of *ona'ah* usually refer to overcharging on the part of the seller, but the Gemara is clear that *ona'ah* applies equally to a buyer who underpays. What complicates this question is that it is difficult to categorize the type of things you are asking about. An old Gemara is only worth a couple of dollars, but an old Gemara with the handwriting of Rav Akiva Eiger in the margin is worth thousands of times more. This leads us to question whether a *sefer* with this handwriting would still be considered in the same category of an old Gemara, albeit a very valuable one, or if it would be considered a completely different entity.

If it would be the same entity as a typical old Gemara, then we would have a question of *ona'ah*; however, if it is a completely different entity, that would be a question of *mekach ta'os*, and would no longer be in the realm of *ona'ah* as this may be considered a completely different item which you never sold to the buyer.

As we have said, there are many limitations to the halachos of *ona'ah*, and it is very difficult to enforce in *bais din*. *Mekach taos*, however, is pure theft, and is much easier to enforce. Thus, if this case does fall under the halachos of *mekach ta'os*, it would be quite easy to nullify the sale for the unwitting seller.