

What is a Modaah and How Does it Work?

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Question: We have stated that a forced sale is valid but the seller has a recourse of being “*moser Modaah*”. What does that mean?

Answer: Being “*moser Modaah*” literally means to give over a *yedia* (a piece of knowledge) to witnesses i.e. to let them know what is really happening.

The way it is done is that before someone makes a sale, he informs the witnesses that although he will be going through the motions of the sale, in reality, he is being forced into it and does not really consent to it.

This declaration defines the sale that will happen later as nonconsensual and invalid.

Question: If a seller can proactively arrange for a sale to be invalid by being *moser Modaah*, does that mean that every sale could be negated in this way?

Answer: Rabbeinu Yona states that witnesses cannot sign a *Modaah* unless they know firsthand what the circumstances are that are forcing him into the agreement. In most cases, it is very difficult for witnesses to be able to say definitively that they know that. As a rule, if the *Modaah* doesn't say this, it won't be able to negate a transaction.