



FROM THE VIRTUAL DESK OF THE OU VEBBE REBBE

RAV DANIEL MANN



Pressuring a Store to Take Back Purchase

Question: I bought something in a store and wanted to return it. The customer service person was reluctant to take it back, but I was persistent and she eventually agreed to it. Was it permitted for me to handle it as I did, or did I violate *lo tachmod* (I heard in a shiur that you can violate this when pressuring a store to give a refund)?

Answer: Our discussion relates to cases in which you do not have a legal right to demand a refund. In such a case, forcibly returning the object is like forcing someone to buy it. Regarding coercion to make a transaction, if someone is coerced to sell something and at the end says “yes,” the sale is final (Shulchan Aruch, Choshen

Mishpat 205:1). When he is coerced to buy something, there is a *machloket* whether the purchase is final (Rama ibid. 12 – no; Pitchei Teshuva ad loc. 11 – yes). Even according to the Rama, it is hard to believe that you would try or succeed in coercing the store to take it back. When a civil person is just persistent, even if annoying, it rarely reaches such a level.

However, acting persistently to try to bring about a transaction in which the other side is not interested does raise questions of *lo tachmod* (see Shulchan Aruch, CM 359:10) one of the Ten Commandments. However, in this case, *lo tachmod* (not coveting) does not apply for a simple reason. All of the cases of *lo tachmod* that I managed to find in classical sources (starting from the examples in the *pasuk*) and quite a few contemporary sources referred to desiring to receive an object (or person) that belongs to one’s friend. It becomes forbidden when one wants it so badly that he attempts to get it “by hook or by crook” (see Rambam and Ra’avad Gezeila 1:9 for one discussion of the point of violation). They do not mention trying to sell something by pressuring a buyer.

I contacted the *talmid chacham* who gave the shiur you heard. The only source he found was a footnote in the Pitchei Choshen (Geneiva 1:(26)). He admitted that he was not sure *lo tachmod* applied.

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The Orthodox Union - via its website - fields questions of all types in areas of kashrut, Jewish law and values. Some of them are answered by Eretz Hemdah, the Institute for Advanced Jewish Studies, Jerusalem, headed by Rav Yosef Carmel and Rav Moshe Ehrenreich, founded by HaRav Shaul Yisraeli zt"l, to prepare rabbanim and dayanim to serve the National Religious community in Israel and abroad. Ask the Rabbi is a joint venture of the OU, Yerushalayim Network, Eretz Hemdah... and OU Israel's Torah Tidbits.



In fact, *Minchat Asher* (Devarim 9) argues convincingly that one can only be *chomed* an object that he wants. Wanting to sell something and receive financial compensation is not coveting anything. We point out that desiring money is not forbidden or even negative – we *daven* and have many sources looking positively about acquiring wealth and certainly a basic living.

It also is quite clear that the *Pitchei Choshen* did not contradict this thesis. He discusses, in close proximity, *lo tachmod* and the similar *chamas*. The difference between the two is that in *lo tachmod* the seller eventually agrees, whereas *cham-san* is when the seller never agrees (Bava Kama 62a – it differs from a *ganav* in that he paid for it). The *Pitchei Choshen* writes that *chamas* (not *lo tachmod*) applies even to one who forces someone to buy from him. While this is difficult on a couple of grounds (beyond our scope), it is more tenable for *chamas* to apply to selling as well, because in the case where there was never agreement, there is no sale, and therefore the “seller” had no right to take the money even after the fact. This is not the same idea of *lo tachmod*, which is over-desiring something that is off limits to you (even if some action is necessary to concretize it – see Rambam *ibid.*). In your case, you did not desire anything; to the contrary, you

wanted to get rid of something that did not interest you and just recover the money you regretted paying.

The *maggid shiur* wrote to me that even if it is not formally *lo tachmod*, it has elements of it regarding the spirit of the law. I agree with this contention partially. It is bad *middot* to pressure people to do something that they do not want and are not required to do. But if one focuses on convincing the proprietor that if he does not agree, he will prefer patronizing a more accommodating store, which he has every right to do, that should not be a problem. If you pressured him obsessively or with improper tactics, that is against the spirit of the law ... but not the spirit of *lo tachmod*. ■

Eretz Hemdah has begun a participatory Zoom class - "Behind the Scenes with the Vebbe Rebbe" - an analytical look at the sources, methodology, and considerations behind our rulings, with Rav Daniel Mann. Contact info@eretzhemdah.org to join while places are open.

Having a dispute?



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