

**And is it then so – וכי אין אדם עשוי לומר לאומן מכור לי טליתי –  
that it is unusual to tell a craftsman, ‘sell my garment for me’**

## OVERVIEW

The **אומן** rules that if **ראובן** gave his **טלית** to an **אומן** (for repair) and the **אומן** returned to **ראובן** the **טלית** of **שמעון**, he may use the **טלית** until his **טלית** is returned to him. However if **ראובן** took **שמעון's Talis** by mistake in the **בית האבל**, he may not use it. **רבי חייא** explained the reason he may use it when the **אומן** mixed them up is because it often happens that someone tells the **אומן** that he should sell his garment on his behalf. **תוספות** clarifies this explanation.

**וטעה אומן ומכר את של זה -**

**And the אומן made a mistake and sold** the תלית of ראובן (who gave it to him to repair), instead of selling the תלית of שמעון (who asked him to sell it for him) -

**שהיה סבור למכור את של חבירו ונתן לו את של חבירו תחתיו<sup>1</sup> –**

**For the אומן was planning on selling שמעון's garment and instead he gave the buyer's ראובן garment -**

**אבל אם לא היה עשוי לומר לאומן למכור -**

**However if it were not customary to ask the אומן to sell** on your behalf -

**לא היה מותר מחמת שטעה אומן ונתן את שלו לחבירו<sup>2</sup> -**

**It would not be permitted** for ראובן to use שמעון's garment **because the אומן made a mistake and gave** ראובן's garment **to** שמעון (and שמעון's garment to ראובן) -

**דהוי כנתחלפו לו בבית האבל או בבית המשתה -**

**For then it is like the case where his garments got mixed up in a mourner's house or at a party house -**

**וסופו שיחזיר חבירו את שלו לאומן ויחזור ויתבע<sup>3</sup> ממנו טליתו:**

**Where eventually שמעון will return ראובן's garment to the אומן and will come back and demand from the אומן his (שמעון's) garment.**

<sup>1</sup> Therefore since it is customary to have the אומן sell a garment for you, we can assume that שמעון asked the אומן to sell his טלית, so when ראובן is using שמעון's garment, שמעון does not mind, for he assumes his טלית has been sold (and all he is interested in is getting paid by the אומן). See 'Thinking it over'.

<sup>2</sup> The logic of this (rejected) סברה is that in this case also, שמעון would not mind, since he is receiving ראובן's garment in exchange. So it is just like the אומן sold it, and instead of receiving money for the sale, he is receiving ראובן's garment as payment. Presumably the garments are (somewhat) similar (which caused the mix-up in the first place).

<sup>3</sup> It seems the criteria whether one may use the other טלית is dependent on whether the owner will want it back or not. In the case of the אומן, the owner does not expect to receive his טלית back, for he assumes it was sold; therefore the other party may use it. However by the בית המשתה, the owner realizes that there was a mix-up and wants his טלית back; therefore it is אסור for the other party to use it.

## **SUMMARY**

The issue is whether the original owner will be demanding his טלית back.

## **THINKING IT OVER**

The rule by an אומן is that ראובן may use שמעון's garment, since the אומן mistakenly sold s'ראובן garment.<sup>4</sup> However what will happen if the buyer is unhappy with the sale and will return the garment; it will then turn out that ראובן used שמעון's garment, even though it was not sold (and שמעון will want it back)?!<sup>5</sup>

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<sup>4</sup> See footnote # 1.

<sup>5</sup> See רא"ש.