

## Selling Land in Israel to Gentiles

Shlomo Riskin

**Biography:** Shlomo Riskin is Chief Rabbi of Efrat and chancellor of Ohr Torah Stone Institutions in Israel. His previous contributions to *Me'orot* include *Torah Aliyyot for Women?* (*Tishrei* 2008).

**Abstract:** This essay analyzes the letter written by 50 Israeli rabbis in December 2010 that prohibited the sale and rental of land in Israel to gentiles. The analysis demonstrates that their argument is fallacious, because, contrary to normative *halakhab*, it illegitimately considers all gentiles to be idolators for the purpose of applying a blanket prohibition. This assumption is inconsistent with the Bible, Tractate *Gerim*, Maimonides and his commentators, as well as the opinions of the majority of halakhic decisors regarding the status of Moslems and Christians today. The author finds elements of xenophobia and racism in the letter.



Meorot 9  
*Tishrei* 5772  
© 2011

A Publication of  
Yeshivat Chovevei Torah  
Rabbinical School

# Selling Land in Israel to Gentiles

Shlomo Riskin

## I. The Letter of Fifty Municipal Rabbis

On December 7, 2010, the following letter appeared in all of the leading Israeli newspapers, signed by fifty municipal rabbis from cities throughout Israel:

In response to the question of a multitude of people, we are now responding that it is biblically forbidden to sell a house or a field in the land of Israel to a gentile (*"nokhri"*). As Rambam writes in his *Mishneh Torah* (Laws of Idolatry 10: 4), "It is written in the Scriptures, 'Thou shall not grant them a resting place.' (*'Lo Tehanem'*) (Deut. 7:2), do not give to them a resting place on the ground, since—if they don't have a home on the ground—their dwelling [amongst us] will only be temporary. And the Bible has warned us time and time again that [granting them a home on our land] causes evil things and will bring the masses of Jews to engage in intermarriage, as it is written in Scriptures, "He [the one who sells them land] will turn away your sons from behind Me." (Deut. 7:4) This is desecration of the Holy Name (*Mishneh Torah*, Laws of Forbidden Relationships 12:6), and will cause the multitudes to transgress other prohibitions, as the Bible warns: "Do not allow them to dwell in your land lest they [i.e. their gentile neighbors] cause you to sin against Me." (Exodus 23:33) The sin of selling [to gentiles] and its ramifications will all hang on the neck of the seller, God forbid.

And a further evil on top of evil, the individual who sells or rents to (gentiles) in an area where Jews are living causes great damage to his [Jewish] neighbors, and brings upon himself the application of the biblical verse "[but if you do not drive out

the inhabitants of the land before you, those of them whom you leave shall be pins in your eyes and thorns in your sides] and they will harass you [act as enemies against you] upon the Land in which you dwell." (Numbers 33:55) *This is because their life-style is different from that of the Jews,* (emphasis mine – SR) and among them there are those who will act with enmity against us and will undermine our existence to the extent of endangering our lives, as has been publicized many times. *And even outside of Israel we are forbidden from selling to (gentiles) in the midst of Jewish neighborhoods* (emphasis mine – SR) for this reason, and certainly it would be forbidden within the Land of Israel, as explained in the *Shulhan Arukh* (*Yoreh De`ab* 151), since this is a prohibition between individuals as well as between God and the individual.

---

*"The sin of selling to gentiles will hang on the neck of the seller"*

---

And it is an established and well-known truth that in the wake of a sale or rental of a home to one [gentile], the market-value price of all the dwelling places of the Jewish neighbors will go down, even if the (gentile) purchaser or renter is initially a friendly and cooperative neighbor. And since the first one who sells or rents [to a gentile] is responsible for a great financial loss to his neighbors, his sin is too great to bear. And who would permit him to do such a thing? He becomes the cause of others to sell their property and flee from the neighborhood. And those who [continue to] sell [o gentiles] after the first sale [was effectuated] are considered to be

adding to this grave sin which is hanging from the necks of everyone.

And if the gentile happens to be violent and cruel to his neighbors, the *Shulhan Arukh* has already explained that anyone who sold to him must be punished with excommunication (*herem* or *vidui*), until the damage (i.e. the gentile) has been removed—even if it requires the loss of much money (*Yoreh De`ab* 334:43).

Among the signatories were:

Rav Avraham Margalit of Carmiel,  
Rav Yaakov Edelstein of Ramat HaSharon  
Rav Mordechai Nagari of Maale Adumim  
Rav Basis Azariah of Rosh HaAyin  
Ravi Shmuel David of Afulah  
Rav Moshe Bijel of Meitar  
Rav Tsiyon Tsuvri of Gederah  
City Rav Yeshayahu Maitlis of Nahariyah  
City Rav Yosef Avreki of Kiryat Yam  
City Rav Shalom Zadok of Herzliyah  
Rav Yeshayahu Herzl of Natzeret Ilit,  
Rav Yaakov Zinger of Givat Shmuel,  
Rabbi Dov Lior of Kiryat Arba,  
Rabbi Haim Pinto of Ashdod,  
Rabbi David Abuhazeira of Yavne,  
Rabbi David Bar-Chen of Sderot

## II. To Whom Does ‘*Lo Tehanem*’ Apply?

The cited responsum attempts to make a clear case for the prohibition of selling or renting land or a house in Israel to a gentile (*nokhri*) on the basis of the biblical prohibition of “Thou shall not grant them a resting place” (“*lo tehanem*”) that appears in Deut. 7:2. When we look at the context of this prohibition, however, it is clear that it refers specifically to the original inhabitants of the Land of Israel at the time of Moses and Joshua, the “seven indigenous nations,” who, if they refused to make peace with us and (according to Maimonides) refused to accept the seven

Noahide laws of morality, were to be completely destroyed:

“When the Lord your God will bring you to the Land to which you have come to possess it, He will thrust away many nations from before you—the Hittite, the Gergashite, the Amorite, the Canaanite, the Perizite, the Hitite and the Jebusite—seven nations greater and mightier than you. And the Lord your God will deliver them before you, you shall not seal a covenant with them, *nor shall you grant them a resting place* [on your land].” (Deut. 7:1-2).<sup>1</sup>

R. Abraham ben David<sup>2</sup> so interprets the text in his gloss on *Mishneh torah*, *Hilkebot avodah zarah* 10:6, insisting that:

“[the application of *lo tehanem* to gentiles in general] has never been found and has never been heard; the prohibition applies only to the seven indigenous [Canaanite] nations, and even with regards to them, it is only forbidden that they actually live in the Land, but not *to a case where they are merely passing through*” (emphasis mine – SR).

---

*The very term ger toshav defines that a gentile who accepts the seven Noahide laws may be a resident in the land of Israel*

---

Moreover, Maimonides himself, whose *Mishneh torah* serves as the foundation for the position of the rabbis who forbid the sale of land in Israel to “gentiles” (“*nokhrim*”) in general, clearly limits the prohibition of *lo tehanem* to those gentiles who do not accept the seven Noahide laws of morality:

“Who is under the rubric of a stranger-resident (*ger toshav*)? That is a gentile who accepts upon himself the prohibition of idolatry together with the other

1. Maimonides, *Mishneh torah*, *Hilkebot issurei bi`ab* 14:7.

2. Ra`avad, b. in Provence 1125, d. in Posquières 1198.

commandments commanded to the Noahides but has not been circumcised or ritually immersed (for the sake of conversion to full Judaism). Such an individual is to be accepted as one of the pious of the nations of the world. And why is he called a “stranger-resident”? *Because it is permitted for us to allow him to dwell in our midst in the Land of Israel as we have explained in the Laws of Idolatry.*” (emphasis mine – SR)

According to Rambam, the very term *ger toshav*, stranger-resident, defines the fact that any gentile who accepts the seven Noahide laws of morality may be a resident in the land of Israel, may purchase or rent land or a dwelling place and may live in the midst of a Jewish community in Israel!

It is important to note that a previous letter entitled, “*Da`at torah*” (official Torah understanding), written and published five years earlier in *Iyar* 5765 (May 2005) during the Gaza Disengagement and signed by five renown *poseqim* (decisors)—Rabbis Nissim Karelitz, Aharon Yehuda Leib Shteinman, Michel Yehudah Lipkovitz, Haim Kanievsky and Zalman Nechemiah Goldberg—implicitly recognizes the permissibility of selling to those gentiles who accept the seven Noahide laws:

“We hereby reveal our view (*da`at torah*) that it is forbidden to sell land or a house in the land of Israel to a gentile, even if he does not serve idols, or to a Moslem (*yishmaeli*), even though it would engender a great loss and alleviate a pressing situation if one would be permitted [to make such a sale]. This is because it is the view of all of the early Talmudic commentaries and halakhic decisors (*rishonim*) that it is forbidden to sell land in Israel to a gentile who has not accepted upon himself the seven Noahide commandments.”

It is clear by the syntactical context and order of the letter, which opens with a blanket prohibition of sale to *any* gentile but concludes

with a blanket permission to sell to those gentiles who accept the Noahide laws, that the rabbis of this ruling consider the average Christian or Moslem today to be a person who has not accepted the seven Noahide laws. Halakhically, this is highly dubious.

---

*If a gentile accepts the Noahide laws, why should he be prevented from dwelling in Israel?*

---

Maimonides rules explicitly that Moslems are not idolaters and all *Hakbmei Askhenaz* have ruled that Christians from the time of the Middle Ages on are not considered idolaters. Nevertheless, the explicit view of these five highly recognized Torah scholars is that when gentiles observe the moral Noahide laws, *they are permitted* to purchase land or a home in Israel.

It might be argued that even if the prohibition of granting a resting place (“*lo tehanem*”) does not apply to a resident alien (*ger toshav*) who accepts the seven Noahide laws, it is possible that the entire status and category of resident alien has been suspended in our times. Indeed, Rambam himself seems to rule thus:

Resident aliens are only to be accepted at a time when the Jubilee fiftieth year is in force. When there is no Jubilee Year, only a righteous convert (*ger tsedek*) is to be accepted.” (*Mishneh torah, Hilkhot avodah zarah* 10:6)

However, Ra’avad (*ad loc*) argues logically, “I cannot see the connection between the Jubilee year and permissiveness to dwell in Israel,” on which the authoritative R. Yosef Karo (*Kesef mishneh, ad loc*) comments:

If a gentile accepts the seven [Noahide] laws, why should he be prevented from dwelling in Israel? We need not then be concerned “lest he cause us to sin” against God. And according to the view of our Master [i.e. Maimonides] it would seem

that such is the situation: If he himself accepts upon himself the seven commandments, he ought not to be prevented from dwelling on the land. The only thing Rambam was instructing about was that the religious court would not [officially] accept him [in the status of *ger toshav*].

Rav Isaac Ha-Levi Herzog corroborates this point (*Teḥuqah le-yisra'el al pi ha-torah*, Part 1, pp. 14-16), citing as well the similar view of Rav Avraham Yitzhak Ha-Kohen Kook in his *Mishpat kohen, Hilkhot shemittah ve-yovel*.

---

*“We may not cause the ger toshav to dwell in an unseemly dwelling place, but in a goodly dwelling in the midst of the Land of Israel.”*

---

Apparently in the period when the sabbatical years and the jubilee years were operative—a clear message that Israel was firmly established economically and politically—a kind of “associate Jew” status of *ger toshav*—was an accepted “personal status” for minorities. And just as in the case of a righteous proselyte, the “resident alien” status continued automatically through the maternal genealogical line of the initial individual accepted as a resident alien by the religious court (official *bet din*). It is only this official and hereditary status of *ger toshav* that is limited to the periods when the Jubilee year is operative. However, any individual who accepts upon himself the seven Noahide laws is always welcome to live in Israel, even without the Jubilee year.

A ringing affirmation for Maimonides’ position that defines *ger toshav* as a gentile who is permitted to dwell in the midst of the Israelites in the land of Israel, and that they can therefore purchase land and/or homes in Israel, is found in one of the smaller talmudic tractates, *Gerim*. After citing the difference of opinion of the *tanna'im* about whether a *ger*

*toshav* is one who accepts upon himself the prohibition against idolatry (R. Meir), or the prohibition against eating non-kosher animals (R. Yehudah), or the six Noahide prohibitions plus the seventh command to establish law courts (the Sages), the Talmud teaches:

One cannot give a *ger toshav* a Jewish wife, or give an Israelite a *ger toshav* wife; one cannot lend to or borrow from a *ger toshav* with “interest” payments. And we may not cause [the *ger toshav*] to dwell on or close to the border [because of the danger of an enemy attack], or in an unseemly dwelling place, but rather in a goodly dwelling, in the midst of the Land of Israel, in a place where his business or artisanship can prosper, as it is written, “With you shall he dwell, in your midst, in whatever place he will choose, in any one of your cities, wherever it is beneficial to him; you must not taunt him.”<sup>3</sup>

### III. The Stranger or the “Other” in *Halakhah*

I further contend that applying a blanket prohibition to prevent all non-Jews from buying land or dwelling amongst Jews in Israel, as the letter of the rabbis maintains, does not make sense in light of the attitudes and laws expressed in other biblical texts about how we ought treat the “stranger”. Immediately following the Exodus from Egypt and Revelation at Sinai, the Torah commands: “The stranger [*ger*] may not be oppressed; [after all], you know the souls of the stranger because you were strangers in the land of Egypt.” (Ex. 23:9) It would appear that sensitivity and kindness to the stranger, the “other,” is the primary lesson we must take away with us from our tragic Egyptian experience.

Even more to the point, as we have already seen the Bible commands us, “You shall not turn over to his master a slave who has been rescued from his master by escaping to you.

3. BT *Gerim*, 3:3,4.

*With you shall he dwell, in your midst, in whatever place he will choose, in any one of your cities, wherever it is beneficial to him; you must not taunt him.”* (Deut. 23:17)

Remarkably, the Bible provides us with a definition of freedom—the inherent right of every human being created in the Image of God—which is far ahead of its time. *Onqelos*, an early and authoritative Aramaic translation of the Bible, interprets “runaway slave” to apply to a gentile slave in the employ of a gentile owner. Rashi accepts *Onqelos*’s view but adds a second additional interpretation.

---

*Especially disappointing about the rabbis letter was the fundamental xenophobia—even racism—that it exhibits.*

---

As the classical Biblical commentator who is our best “pipeline” to the views of the Talmudic Sages, Rashi defines the term “freedom” (*deror*) appearing in the biblical imperative regarding the jubilee year, “And you shall sanctify the fiftieth year, and you shall declare ‘freedom’ (*deror*) in the land for all of its inhabitants,” as follows:

“R. Yehuda says, [BT *Rosh hashanah* 9] what is the meaning of *deror*? A dweller (*medayyar*) who may live wherever he wishes, without requiring the permission of a superior authority to determine where he may live”<sup>4</sup>

#### **IV. Xenophobia and Intellectual Dishonesty**

Especially disappointing about the letter of the fifty municipal rabbis is the fundamental

xenophobia—even racism—that it exhibits. After the signatories expressed the dangers of intermarriage and the other transgressions that living in close proximity with idolaters will likely lead to, they proceed to state in the second paragraph that “a further evil” and a “harassment upon the land” will come from those who sell their home to a gentile from the mere fact that “their (gentile) life-style is different from that of the Jews,” and that “the market value price of all the dwelling places of the Jewish neighbors will depreciate” (third paragraph).

This is frighteningly reminiscent of Haman’s reason for exterminating the Jews of Persia, since the letter uses the very same word, “*shoneb*,” that Haman used to condemn the Jews: “Their customs are different (*shoneb*) from other peoples and they do not observe the customs of the King; therefore it is not befitting for the King to tolerate them” (Esther 3:8). This was also the basic rationale of the “gentlemen’s agreement” prevalent in many upper-crust Christian neighborhoods in America for not renting or selling to Jews lest the property values go down.

There is a fundamental intellectual dishonesty in this letter. It ignores the authoritative halakhic views that disagree with its conclusions (e.g. Ra’avad); it glosses over the critical fact that a gentile who keeps the seven Noahide laws is exempt from these prohibitions; and, it implies that the prohibitions of selling or renting to any gentile without qualification is operative even in a Jewish neighborhood outside of the Land of Israel on the basis of *Shulhan arukh*, *Yoreh de`ab* 151:9 (citation at the end of the second paragraph), while it conveniently neglects to cite the following section of the law (151:10),

4. Commentary to Lev 25:10. An important relevant case is found in American legal history. The famous *Plessy v. Ferguson* Supreme Court decision in 1896 determined that segregation between the Caucasian-Americans and African-Americans, including forbidding African-Americans from dwelling in Caucasian-American neighborhoods or from attending Caucasian-American schools, did not harm the freedom of the African-Americans as long as they received equal, albeit separate, conditions of dwelling and schooling. This decision was overturned in 1954 in *Brown v. Board of Education* case, where Chief Justice Warren led a unanimous decision (9-0) declaring that “separate but equal is a denial of the equal protection of the laws.”

which gives the reason for the prohibition: not the dangers of living amongst gentiles whose customs are different from the Jews or who may even act violently against us, but rather because “they constantly bring idols into their homes.”

Importantly, this leads R. Moshe Isserles (Rema) to stipulate, “*Nowadays the custom is to rent to gentiles, since they are no longer accustomed to bringing idols into their homes*” (*ad loc*, emphasis mine – SR). All of this is omitted from the letter.<sup>5</sup>

## V. Post-Script

All the above arguments permitting the sale of Israeli land to a gentile apply to an Arab citizen of Israel who wishes to purchase or rent a home or land within the State. However, if the purchase of land or home is part of a concerted effort by Moslem nations (such as Saudi Arabia) to buy Israeli land in order to endanger the Jewish majority in the Galilee, the Negev or Jerusalem, I would rule that it is forbidden to sell to individuals (or companies) with that objective, since it undermines the Jewish sovereignty of the State of Israel.

5. For a further discussion of intellectual dishonesty in the “letter,” see the response of R. Aharon Lichtenstein sent to the alumni of Yeshivat Har Etzion, 6 Tevet 5771, December 13 2010, found at <http://www.kipa.co.il/now/41679.html>.