

Litigation

About two years ago, Barry Gourary, aged 63, a nephew of Our Rebbe Shlita, and a grandson of the Previous Rebbe (Z.TzL) decided unilaterally that the library in Eastern Parkway - next door to 770, belonged to him. He forthwith removed four hundred books (of the estimated 40,000) and sold them for almost two hundred thousand dollars.

The Lubavitch organisation, under its registered name of "AGUDA CHASSIDEI CHABAD of the United States" (I will refer to them as the AGUDA), appealed to Barry Gourary to return these books and to promise not to remove or to sell any other books from this library. Barry G. refused both requests. He also refused to listen to the Rebbe, and would not consider, under any circumstances, of going before a Beth Din.

Therefore, the Aguda had no alternative but to apply to the New York Judiciary for an injunction to stop him, at once, from removing any further seforim from the library and proceedings were commenced to prove that the library and contents belonged to the Aguda.

The action was started on August 5th 1985 and on January 11th 1987 - one and a half years later, District Judge Sifton gave his verdict - in favour of the Aguda.

Barry G. had been joined by his mother, Channah, the wife of the Rashag. (The Rashag definitely did NOT support his wife and son in these activities, and he suffered much anguish and frustration. He became a very lonely man.)

In its simplest form, Barrys(and his mother's) defence was that all the books in the library had belonged to the Previous Rebbe, and as he was now the sole heir of the Previous Rebbe, then everything - even 770 - was now his property and he could help himself to all or any of the assets he chose.

The Aguda maintained that the library, its contents, and all other effects were the property of the whole movement.

But, the Rebbe, being the Head of the movement, was obviously allowed unlimited access to and use of the library.

During all this long period, when the "case" was making its slow and methodical progress, we all suffered much aggravation and worry.

Still, the Rebbe had a profound lesson to teach us.

Not one of us would acknowledge or admit that the Aguda might even lose the case. How could anyone doubt but that we would win.

Yet, the Rebbe showed by example, what he always preached - "that one has to be a "Keilie - a vessel - to receive the blessings of the A-mighty".

It is no use just to sit at home and to do nothing, and expect G-d's miracles. If one has to fight, then one must use both hands and to spare no expense.

The best and the finest lawyers and researchers in the country were engaged - and, in addition, the Chassidim prayed to the A-mighty for success and recited special and extra Psalms every day - until the verdict was given.

A new Nigun was composed - a rousing and stirring tune. The words were "DEEDON NOTZACH" - Victory is Ours. (We will prevail).

The Judge delivered his verdict on Forty-one typewritten pages. Within minutes, we in Manchester, as well as in most Lubavitch offices around the world, had received exact literal copies of these forty-one pages by means of "FAX" Satelite distribution.

Max Cohen, my new grandson, (he married my granddaughter Leah) let me have a copy straight away. So I can add some of the Judge's comments.

The Judge in his summing up, traced the history of Lubavitch. Because of its historical record, I shall now include a brief outline of the Judge's comments.

"Defendants, (Barry and his mother Channah) as already noted, are among the direct lineal descendants of Rabbi Schneerson, who was until his death the sixth in a line of Rabbis who led a movement of orthodox Jews known as Chabad Chassidism. Chabad is an acronym for the Hebrew words "Chochma", "Bina" and "Daas", meaning wisdom, knowledge and understanding. As its name suggests, Chabad Chassidism has been considered as placing a greater emphasis on the intellect in the study of the Torah and the Kabbala than is the norm in Chassidism.

Note: Chassidism the movement of Chassidim (literally the "righteous"), was founded in the mid-18th Century in Eastern Europe by Rabbi Israel ben Eliezer, known as the Baal Shem Tov ("Master of the Good Name"). The teachings of the Baal Shem Tov emphasised the presence of G-d in all things, including the most mundane. The movement was in its origin intensely community oriented and centred on leaders, generally disciples of the Baal Shem Tov who served as mediators

between the Chassid, G-d and the society outside the community. The movement divided itself into several groups centred on individual leaders and local communities, one of which was Chabad Chassidism, which became known as Lubavitch Chassidism after the town in Russia in which the movement was centred in its early years.

Chabad Chassidism was formed in 1775 (212 years ago) by Rabbi Schneur Zalmon, considered the first Lubavitcher Rebbe and known as the Alter Rebbe.

The Alter Rebbe was a disciple of the successor of the Baal Shem Tov. The founder's son and successor, Rabbi Dov Ber; who died in 1827 and was known as the Mittler Rebbe, settled in the Russian town of Lubavitch and, hence gave the movement its present name. The third leader of the group was the son-in-law of Dov Ber and the son of the daughter of Schneur Zalmon. This Rebbe, known as the Tzemach Tzedek, after the title of his major written work, was Rabbi Menachem Mendel, who died in 1866. The fourth Lubavitcher Rebbe was the youngest son of Menachem Mendel, Rabbi Samuel Schneerson, known as the Maharash. He was succeeded by his son, Rabbi Sholom Dov Ber, known as the Rashab, who died in 1920. The sixth Rebbe, with whose estate we are concerned, was the son of Rabbi Sholom Dov Ber and succeeded his father on his father's death. The sixth Rebbe was succeeded by the present Rebbe, Rabbi Menachem Mendel Schneerson, who is a son-in-law of Rabbi Joseph Isaac Schneerson and a great-great-grandson of the Tzemach Tzedek. This family relationship between the various generations of succeeding Lubavitcher Rebbes may explain why the issues raised by this lawsuit have not been clarified earlier, i.e., the distinction between property of the religious institutions of Chabad Chassidism and the personal property of the Rebbe is not a distinction which has had to be made with any regularity in the movement's history.

The library at issue is appropriately divided in two parts for purposes of this discussion. First, the ksovim, manuscripts either in the handwriting of the Lubavitcher Rebbes or recording oral statements by the Rebbes to their followers, both passed from Rebbe to Rebbe, and second, over 40,000 texts, printed and handwritten, collected by or under the direction of Rabbi Joseph Isaac Schneerson in the 1920's and after. Both the ksovim and Rabbi Joseph Isaac Schneerson's collection were, undoubtedly, in their origins personal property of the Rebbe, albeit property used to serve the purposes of Chabad Chassidism.

The reason for special consideration accorded the ksovim appears to be the extraordinary significance attributed to the Rebbe's words by Chabad Chassidism. As described by one expert:

"Number one, insofar as it is the Rebbe who expounds on Hassidic philosophy, and these can only be based on the foundation of his predecessors, that they laid down the basic premise of what the Hassidic religion is about. Therefore, it becomes highly significant that each successive Rebbe would have sufficient manuscripts on which he can base his own commentaries, his own discourses....

"The second level, the ksovim that are original manuscripts or manuscripts used by the Rebbe himself, assume a sanctity about them that they are kind of the essential legacy. I would compare it to the crown jewels. It's something concrete that is passed on in a symbolic way, and in a way incorporates in itself both the sanctity, the very presence, the very personality of the Rebbe (himself)".

Reputation as to events of general history important to the Lubavitcher community has it that the ksovim of the Alter Rebbe and the Mittler Rebbe were collected by the Third Rebbe, the Tzemach Tzedek, who added to them his own manuscripts. This collection was thereafter acquired by the youngest of six sons of the Tzemach Tzedek, the Maharash, apparently over the protests of the other five sons. A similar dispute over the ownership of the ksovim occurred in the next generation when the Rashab became the fifth Rebbe.

Throughout its long history, the collection appears to have been added to by acquisition or gift. For example, what is said to be the only known surviving letter in the handwriting of the Baal Shem Tov is described as having been acquired by a wealthy Chassid from one of the two grandsons of the Baal Shem Tov for one thousand gold rubles and given to the Rebbe to form part of the ksovim.

While each of the Rebbes appears to have treated the library as personal property, disposing of it by will, for example, there can also be no question that the library came to be conceived as one to be used for the benefit of the religious community of Chassidim by the leader of the community, the Rebbe.

The large library of the Fifth Rebbe, described above by Hannah Gourary and inherited by Rabbi Joseph Isaac Schneerson, was confiscated by the communist government in the Soviet Union. According to Mrs. Gourary the Sixth Rebbe attempted to repurchase the library, but the Soviet government "wanted too much money. My father didn't have the money, so he couldn't redeem the library".

According to Dr. Louis Jacobs, an acknowledged scholar on Chassidism, unlike other Chassidic groups which support their Rebbes by gifts known as pidyon (redemption) or pidyon nefesh (redemption of the soul) delivered personally to a rebbe, Lubavitch

Chassidim primarily support their Rebbe and the community institutions he directs through an organised, regular programme of contributions collected by emissaries of the Rebbe. The contributions are known as ma'amad (meaning support or dues) or ma'amad bais chayenu (literally, support for the house of our life). Dr Jacobs explained "It is a due, for which every member of the movement is expected to consider himself responsible, and there is an amount according to means which every member pays or is expected to pay". Whereas pidyon is "a personal gift, as it werefor (spiritual) services rendered" by the Rebbe, ma'amad "is best compared to membership dues of a learned society or a sacred society, and the dues are expected as (a) token of membership".

Ma'amad is provided to support the Rebbe in his needs and those of his family and also to support the community institutions he oversees. An itemization by Rabbi Schneerson in his own hand of ma'amad expenditures separates the expenditures into six categories: Hakria v'Hakedusha (a monthly publication of the movement), books, free loans, charity, personal expenses, and salaries and telegrams etc. As one exhibit reveals, of the 18,481 dollars accounted for by Rabbi Schneerson, only 2,102 dollars, or roughly 11% was classified as personal expenses. Dr. Jacobs concluded that "it seems as clear as can be that the ma'amad is for the upkeep of the organisation".

The library was put together in this period from gifts and acquisitions.

The problems of conveying this community asset from generation to generation of Rebbes might have remained, as it had in the past, one to be sorted out among members of the Rebbe's family through the laws relating to private transactions, including those of inheritance and sale, had it not been for the holocaust. The effects of the holocaust included, among others, a necessity for the Rebbe, during his life and not simply in contemplation of his demise, to define for the out-side world the relationship between himself, the community he served; and the property he possessed.

The unsuccessful attempts of Americans to rescue the library from the Germans during the Second World War is only a footnote to the by-and-large successful efforts of plaintiff (Aguda) and others to secure the safe passage of the Rebbe and most of his family to this country. In September 1939, after the outbreak of the war, the Rebbe left Otwock, Poland, for Warsaw. The address where he registered in Warsaw was the subject of bombings which destroyed the building. The Rebbe, however, fled to a relative and then went into hiding. The library was, however, not destroyed but left behind in Otwock. In December 1939, The Rebbe with the assistance of the American government, left Warsaw for Riga.

The Rebbe, now himself in Latvia, wrote directly to Rabbi Jacobson in New York concerning the library as follows:

There are about a hundred and twenty boxes of books and three boxes of manuscripts of our revered and holy parents; the saintly Rabbis....and you will surely do all you can to bring them to your country.

From Latvia, immediately before his departure from Sweden and thence to the United States, the Rebbe made one final effort to secure the departure of the library for America through a German attorney.

Neither the description of the library as belonging to Agudas Chabad or as belonging to the Rebbe succeeded in convincing the Nazis to permit the transportation of the books to America. They remained in Poland throughout the war.

The treatment of the library at the time of Rabbi Joseph Isaac Schneerson's death supports the conclusion that the library was no longer considered by him or by those familiar with his thought on the matter as his personal property. Despite a family history of disputes concerning the trans-mission of the ksovim and seforim from generation to generation of Rebbes, the Sixth Rebbe left no will. The Rebbe's estate, after some initial uncertainty, was closed without listing the library as an asset, despite its recognised value. The widow and each of the Rebbe's two daughters, including the defendant Hanna Gourary, signed re-leases reciting that they had received what they were entitled to under the estate without taking possession of the library. Not until twenty years after the Rebbe's death did his widow evidence a view that the library was hers as an inheritance from her husband in a letter stating that her two daughters should divide the library as well as the building at 770 Eastern Parkway, a building which is undisputedly owned by plaintiff (Aguda). In the 1970's upon discovery of an additional 25 crates from the library in Warsaw, the Rebbe's daughters conveyed their interest in that property as heirs and surviving children of the Sixth Rebbe.

The conclusion is inescapable that the library was not held by the sixth Rebbe at his death as his personal property, but had been delivered to plaintiff to be held in trust for the benefit of the religious community of chabad chassidism.

Conclusion

Trial of this issue took place in December 1985. Post-trial submissions were completed in March 1986. From April through October 1986, this Court was engaged in the trial of a multi-defendant criminal case. After hearing the testimony at trial and after review of the voluminous documentary evidence introduced by both sides, I conclude that the library was not part of the estate of Rabbi Joseph Isaac Schneerson at the time of his death. Accordingly, defendant's counterclaims must be dismissed."

The defendants, Barry and Channah raised objections which filled 40 pages of paper. Four weeks later, 5th Adar, the Judge rejected - dismissed these objections and ordered the return of all the books, forthwith.

Barry was still not satisfied - after all, the library with all its treasures was worth millions of Dollars - So he now appealed to a higher court. So, once again, we have the aggravation and worry of another court hearing. Poor Rebbe with so much to do for Klal Yisroel.

After the verdict was announced, thousands of Lubavitchers from all over the world, flew into New York to personally congratulate the Rebbe.

Shmuel had only just returned to London from a speaking engagement at Crown Heights. He could barely be restrained from returning immediately to 770, even by Concorde, if possible. Anyway, sense prevailed and he stayed in London.

Rabbi Akiva Cohen, our Rosh HaYeshiva, flew over for just a couple of days.

The Yeshiva boys organised a lottery, at Max's suggestion and Dov Ber Weiss won it. He won it once before - Lucky Fellow.

The Rebbe then sent a message that today was an AISS ROTZON - an auspicious and propitious time. Therefore, people should let him have a PIDYON (entreaty) to take with him to the Ohel, because at this moment, there was an excellent chance that all requests and behests would be fulfilled.

Many people rushed to New York, but were too late to hand over their Pidyonim personally to the Rebbe before he left for the Ohel.

Some people sent their requests by Fax direct communications and the Rebbe would get these almost immediately.

However, the Rebbe indicated that others should write their Pidyon and take it to the Ohel, graveside, of a local Lubavitcher Rabbi, who had been noted for his Saintliness.

So, Avrohom collected everyone's Pidyonim and took them to the Ohel of the late Rabbi Rivkin (ZTzL) who used to be the Av Beis Din in Manchester.

Avrohom was accompanied by most of the Yeshiva boys.

The Rebbe was to broadcast that evening, the 5th day of Shevat. As I was in London at that time, I made my way to Lubavitch House accompanied by Hindy and Shmuel and their children, Chaya, Channa, Zelda Rochel, Sholom Ber, Tobie Gittel, Benzion, Shaindel (7), Bassheva (5), Yisroel (4) and Baby Yocheved (aged 2 years).

The Mincha service was recited first, before the Rebbe spoke. Tachanun was omitted. Someone remarked that this was a sign that this day, the 5th day of Shevat will always be a Yom Tov. Shmuel retorted that this was a sign that there was probably a Chosson present at 770, therefore we did not say Tachanun.

Amongst the points that the Rebbe made were the following:

"We are all Shiluchim of the A-mighty".

"No matter how bad our position may seem at any given moment, we should always remember that fact. If we have to suffer, have Agmus Nefesh for various reasons, then ultimately we should know that we are agents of the A-mighty".

"Egypt is always connected with secular matters. But, when the Jew is (even) in the field, he has to make a Dwelling Place for the A-mighty on this earth."

When Yaakov heard the good news that his son Joseph was still alive, then "the spirit of Yaakov became uplifted".

Then Tzedoka was given.

This small Farbraingen took half an hour and the Rebbe then made his exit. In London, and probably all over the world, the Farbraingen had just commenced. We drank Vodka, said LeChaim to each other, sang and danced. The London Lubavitch honorary orchestra arrived - four or five players - and the merriment went on (for those who had the time and stamina) all night.

At Crown Heights, many tens of thousands of people danced and sang all day and all night.

At that time, I received messages from Pinchus (Lew) and Leve (Jaffe), two of my grandsons. Both were very lovely letters.

My English translation is as follows:

Pincus Lew,

B.H. Lubavitch Yeshiva,
Montreal.

To My Dear Bobby and Zaidie

Greeting and Blessing.

How are you? I am T.G. fine.

T.G. everything here is in order and also the spiritual matters have much improved since the Rebbe Shlita has emphasised the lesson regarding "Make for yourself a Rav" and regarding all matters concerning Yud Shevat.

"DEEDON NOTZACH" (Victory is Ours) in New York, as you have probably heard, was with much joy. (I and hundreds of boys from Yeshivas from all over the world went to New York specially for this great historical event, which has never been experienced ever in Chabad.)

For one week, we danced and danced and sang and sang, and so forth, and we would probably have extended this for another couple of weeks, but the Rebbe saw that there was no end to it so he ordered that "All back to the books". Well, when the Rebbe orders, there is no alternative and we (the boys) had to extend instead, in learning Torah, and not only extend, but much extra learning.

P.G. for the Barmitzvah (Sholom Ber's), if it will be in New York, then I will be there and immediately afterwards will go to England (two weeks before Pesach) in order to help with the Pesach preparations.

The weather here is seasonal, very cold, and we have had a few inches of snow.

I am taking this opportunity to thank you both for your hard work that you have done for all of us (your grandchildren) in general and for me in particular during last Tishrei (in N.Y.).

The A-mighty should give you health and sustenance (in broad manner) and you will be enabled to come to our Holy Courtyard (770), every year P.G. with relaxation and peace of mind.

I have nothing else about which to write, therefore be well and all the best.

From your grandson, Pincus Lew.

(The date of the Rambam's Yahrzeit)

Levi also wrote a very nice letter in English at the same time. He indicated that the dancing and singing was even more than at Succos and the days became nights and nights became days.

He concluded with a few words of Torah and with love and kisses.

My shortened version:

When the Jews left the Red Sea, the Chumash says that Moishe made the people journey forward, and Rashi explains, journeyed forward, that they were very busy gathering up all the gold and silver which had been swept up from the Egyptians at the sea.

The Rebbe asked, how was it possible that after seeing such a revelation of Hashem at the Crossing of the Sea, could they have such a desire for physical Gold and Silver, which does not even compare to that Spiritual revelation at the sea and especially now that they were on their way to receive

The answer is that they were collecting the gold and silver not for their own personal desires, but they wished to fulfill Hashem's command of "ridding the Egyptians of their valuables" on leaving Egypt and to elevate this into "Ruchnius" (spirituality).

Purim

It was a very exciting Purim.

Avrohom (my son) had arranged for a large Public Seuda to take place in Hale, South Manchester.

Almost one hundred people were present, and for many it was the first time ever, that they had attended a Purim party.

I recited the following poem:

A Brief Outline on Purim