

21.9.7; 109a (משנה ט') → 110a (דקא כליא קרנא)

1. ואשר יגאל מן הלויים ונצא ממקור בית ועיר אחזתו ביבל כי בתי ערי הלויים הוא אחזתם בתוך בני ישראל: ויקרא פרק כה פסוק לו

I משנה ט': short-term vs. long-term lease

- a If: he rents for a short-term (less than 7 years), he may not plant flax, nor cut down the sycamore trees
- i אבוי but he is reimbursed for any appreciation his work brought to the trees
- ii דבא: he doesn't even get paid for that שבח
- 1 Challenge: when a renter leaves the field, we estimate for him
 - (a) Assumption: means, we estimate the appreciation he brought to sycamore wood
 - (b) Correction: means, we estimate value of vegetables growing there at the time
 - (i) Block: why not take them?
 - (ii) Answer: it's not yet market time for them
 - 2 Challenge: when שביעית begins, we estimate value added by חוכר – and here, the land isn't taken away
 - (a) Correction: read – when יובל comes, we estimate the value added
 - (i) Block: יובל doesn't halt קבלנות, as per understanding of צמיתות
 - (b) Correction: read – if someone buys a field from another and יובל comes, we estimate his שבח
 - (i) Suggestion: perhaps this is also an estimate of the vegetables
 - (ii) Rejection: they are הפקר during יובל
 - (c) Defense (רבא on behalf of אבוי): v. 1 - only a sale is returned to owner, not the שבח (גזירת הכתוב)
 - (i) Question: why not infer from יובל to קבלנות?
 - (ii) Answer: that is a perfectly good sale, and the תורה reverses it (אפקעתא דמלכא)
 - 3 Story: ר"פ rented a field to grow fodder; and grew some palm trees there; before he left he claimed שבח
 - (a) Response: (reduction) if you rented the trees for food and they grew thicker, you wouldn't claim שבח
 - (i) Distinction: in that case, the renter didn't work for that; ר"פ worked to grow those trees
 1. Apparently: this only fits אבוי's approach
 2. Correction: even רבא – for here, the renter had a cost – the area of potential fodder used for trees
 - a. Response (of owner): he'll pay that small amount of fodder
 - b. Comeback: ר"פ wanted to grow saffron (expensive) there
 - c. Response: ר"פ has shown that he wanted to grow something and take it – not the trees
 - i. Therefore: he'll pay ר"פ that small amount of saffron, but only value of trees as wood
 - 4 Related story: ר' ביבי rented field and surrounded it with a dirt fence; trees grew and he demanded שבח
 - (a) Rejection: even ר"פ only made his claim due to his own expense/loss
 - 5 ד' ייסף wanted to dismiss heirs of his gardener who died, claiming that his offer of שבח was generous
 - (a) הלכה: must pay them שבח
 - 6 Story: gardener declared that if he caused losses he would quit; he did so
 - (a) דב יהודה: he does not get שבח
 - (b) ד' כהנא: he does get שבח, unless he explicitly states that if he causes losses he will quit without שבח
 - (i) דבא: collects שבח, declaration is an אסמכתא (unlike משנה ג, where he pays for the loss he caused)
 - 7 fired gardener; רבא justified it, as teachers, אומנא (all whose loss is irretrievable) are considered forewarned
 - 8 Story: gardener wanted to make עליה and collect his שבח; what he demanded was ¼ (as he splits with owner and owner now has to pay אריס to work his fields)
 - (a) Question: did he mean ¼ of the total, or ¼ of the 2/3 kept by בעה"ב
 - (i) Reasonably: it is 1/6, else בעה"ב loses (as he gives up 7/12, ¼ going to שתלן and 1/3 to אריס)
 - (ii) Block: שתלן can claim his ¼ and בעה"ב must pay אריס from his own portion – קשיא
 1. Note: a שתלן collects ½ the profits from old vines; but ¼ of vines that are washed away & retrieved
 - 9 Story: man gave field as משכון for 10 years but it was depleted after 5; status of remaining trees
 - (a) קרן – רבא; פירות – אבוי
 - (i) Challenge (to אבוי): if a tree (of משכון-field) is cut down or withers, neither party can use
 1. Solution: cut down and buy land and benefit from פירות
 2. Assumption: withered::cut down – only after its time → קרן
 3. Rejection:cut down::withered → during its time
 - (ii) Challenge: if a woman gets aged vines after marriage, buy land and husband eats פירות
 1. Solutions: either read "then they aged" or it is in re: a separate field, involving קרן

b But if: he rents for 7 years or more, he may plant flax during the first year