

32.8.1

27a (משנה א) → 28a (ומנו ר"ע)

1. אף כל חרם אשר יחרם איש לה' מכל אשר לו מאדם ובהמה ומשדה אחרתו לא ימכר ולא יגאל כל חרם קדש קדשים הוא לה': ויקרא כו, כח

- I א rights of first refusal for redemption of land from הקדש – when there is no יובל operating (redeemed at value)
- a owner: gets first rights of refusal, as he adds חומש
- i in addition: he is more likely to redeem as it is his field; in addition, he is commanded to redeem
- b story: someone was מקדיש his field due to its poor value and owner offered an איסר (and it was accepted)
- i ל"יוסי it was only a כביצה – as even כסף שווה may be used for פדיון
- c result: he lost one איסר (per רבנן's version) and had his field back
- II analysis of משנה
- a "declare": גזבר doesn't declare, rather the owner is forced to redeem
- i resolution: either "אומרין" means כופין OR first they offer, then coerce
- b dispute: דבנן/ר"י proposal – whether כסף שווה – (→ whether an egg could be used)
- i rejection: all agree that כסף שווה; dispute is whether redemption is valid if חומש is less than ש"פ
- III ב משנה: escalating offers followed by retractions
- a if: one offered 10, next offered 20, next offered 30, then 40 then someone bid 50
- i and: the final one retracted
- 1 then: we take collateral from last one for 10 סלעים (difference that his retracted pledge cost הקדש)
- ii continued: as each one retracts, he is assessed for differential
- 1 ד' חסדא this only applies if the 40-bidder holds his bid; if not, 40-bidder and 50-bidder have to split difference
- (a) inotherwords: 50-bidder pays 15 and 40-bidder pays 5
- (b) therefore: case in משנה must be interpreted as separate cases, where there is only one retracting
- (i) challenge: if last one retracts, should state "we assess him", not "we assess the 10-bidder"
- 2 rather: ר"ח's ruling is only if they retracted simultaneously – (support from ברייתא)
- 3 note: some read ברייתא as contradiction to משנה & resolved, per ר"ח – בבת אחת – divide; if in sequence, per משנה
- iii final one: if he retracts, field is sold and he is assessed for difference between sale price and the 10 he pledged
- IV ג משנה: responsibility of owners to match (+חומש) other offers
- a if: the owners offer 20 and an outsider offers 20 – owners pay, as they add חומש (25)
- i challenge: in מע"ש, if outsider offers more, he redeems – in spite of חומש
- ii answer: in re: הקדש, where entire amount comes to הקדש, we prefer חומש; in re: מע"ש, goes to בעה"ב, prefer בקרן
- b but if: an outsider offers 21 owners must pay 26 (if 22 – 27; if 23 – 28; if 24-29; if 25 – 30)
- i reason: owners do not add חומש on the up-grade of outsider (just pays חומש on his original bid)
- ii challenge: why can't owner claim that outsider is same as he – let outsider pay
- 1 answer: where owner offered a bit more (not a דינר, as that would have been mentioned – but a פרוטה)
- iii ד"ח must add חומש to upgrade if assessed by ב"ד of 3
- 1 support: ב"ש – ברייתא; ב"ה – don't add
- (a) challenge: is ר"ח ruling like ב"ש?
- (b) answer1: שומת ב"ד rule that we add even without ב"ד – as they are מחמיר
- (c) answer2: ברייתא is inverted and ב"ה ruled that we add (if assessed)
- c if: outsider offers 26, owner may offer 31 and a דינר – but he need not, in which case outsider wins bid
- i inference: he isn't required to outbid outsider here; then why mention the דינר?
- ii Answer (ר' ששת): - if they originally intended amount that would be 31 (including חומש) (i.e. 21) – owners are קודם
- V ד משנה: limits on הקדש
- a A person may: declare his animals, ושפחות כנעניחם and/or עבדים as שדה אחוזה
- b ד"א if he declares everything חרם – it isn't מוחרם – per v. 1 – אף invalidates a total gift even בדיעבד
- i Justification: מכל אשר לו → חרם (e.g. animals) מאדם etc.
- 1 And if: we only had אדם, we understand he needs workers; but could hire out for another field
- 2 Therefore: states משדה; but these are both livelihood – could get along without מטלטלין → needed
- (a) בהמה needed to guide rights to be מקדיש; as בהמה, must be something he has rights to sell (not ע"ע, e.g.)
- (i) And: not even his daughter, as he can't sell her in perpetuity, unlike בהמה
- ii Lesson (ראב"ע): if he can't give everything לגבוה, certainly he must take care of his finances (vis-à-vis other people)
- 1 Point of dispute: whether we accept תקנת אושא, not to give more than 1/5 in צדקה (ראב"ע) or just keep some (ר"א)