

14.11.4

99b (משנה ה') → 100b (לא עדיף מדידך)

- I reversal on judicial error of court-ordered sale
- a ת"ק: follows guidelines of אונאה – if they estimated 1/6 above or below market value, sale invalid
 - b רשב"ג: sale is valid – to protect integrity of the court
 - i range – until double or half value (beyond that, he agrees that the sale is invalid)
 - ii (ת"ק): if they wrote an אגרת ביקורת (indicating thorough investigation) any difference is valid
 - c question: what is the status of a שליח who sells for a widow?
 - i Lemma1: may be like ב"ד (not the interested party) → anything less than 1/6 is valid
 - ii Lemma2: may be like אלמנה (private citizen) → any differential is invalid (as per ד' משנה)
 - iii Ruling: אלמנה::שליח
 - iv Challenge: we distinguish between שליח and principle owner in re: הפרשת תרומה (range of error allowed)
 - v Answer: in case of תרומה, there are some who are generous etc. and the שליח merely erred in his judgment of principle owner; in our case, it was an objective error of market value
 - d Ruling (ר' נחמן): הלכה follows חכמים
 - i Challenge: does ר"נ ignore concern of maintaining the integrity of ב"ד?
 - 1 Support: ר"נ states (contra שמואל) that minor heirs whose property was divided by executor cannot protest upon majority – in order to maintain integrity of ב"ד
 - 2 Answer: in that case, the ב"ד (and executor) didn't err
 - (a) Question: if they didn't err, what is the substance of the protest?
 - (b) Answer: directional – not amounts
 - e Story involving דבי
 - i Version 1 (רב דימי): רבי ruled like חכמים and, upon appeal, reversed the case and allowed the sale
 - ii Version 2 (רב ספרא): רבי considered ruling like חכמים and, upon appeal, didn't do so (allowed sale)
 - iii Suggestion: dispute of versions is as to whether משנה חוזר טעה בדבר משנה חוזר
 - iv Rejection: all agree that טעה בדבר משנה חוזר; dispute is simply the facts of the case
 - f אחריות and ר' יוסף
 - i ruling1: if the widow sells, the אחריות comes back to the heirs (i.e. a buyer whose land is subsequently seized as mortgaged sues the heirs, not the widow)
 - ii ruling2: if the ב"ד sells, אחריות comes back to heirs (as above)
 - iii comment: ruling1 is obvious; ruling 2 was needed, since a buyer assumes that the court's announcement gets any potential challengers or seizers to come forward and there is no אחריות – קמ"ל
 - g ruling (אמימר): if ב"ד sells without pronouncement, it is טעה בדבר משנה and is reversed
 - i Challenge: isn't that obvious, since we learned that any sale of heirs' property requires twice-daily announcements for 30 days
 - ii Answer: that ruling may have only referred to an agent, אמימר teaches that it applies to ב"ד
 - iii Challenge: the first clause of our משנה refers to a case without הכרזה (since the סיפא is a case of הכרזה)
 - 1 Answers: refers to those sales not requiring a הכרזה or times when it's not required (e.g. paying taxes on estate) or in locations where they don't have הכרזות (e.g. נהרדעא)
 - (a) Reason (answer #3): not due to their expertise, but disgrace associated with buying auctioned estates
 - h Apparent dispute: מטלטלין of heirs are sold immediately / at market
 - i Resolution: if market is nearby (or soon), sold at market, otherwise, immediately (without market)
 - ii Stories: involving אמוראים who were in charge of selling מטלטלין of heirs