

15.5.1

45b ('א) → 47a (ש"מ)

note: as per **בתרא** **בבא בתרא** **מסכת בבא בתרא**, a courtyard (**חצר**) that is co-owned may be divided at the wishes of either owner if it has 4 sq. **אמות** for each owner (besides the doorway); this is called a **דין חלוקה**; **חצר שיש בו דין חלוקה**, in such a case, all agree that neither co-owner may enter the **חצר** until they divide it; our **משנה** is referring to a **חצר שאין בו דין חלוקה**

- I **משנה א'**: permitted and prohibited interactions between **מודרי הנאה** who co-own a courtyard
  - a neither may enter the **חצר** (since each owns part)
    - i **ראב"י permits each to go "into his own section"**
      - 1 *meaning*: since each one is an owner, each could claim that he is entering his own half
      - ii *question*: does their dispute extend to a case where each banned himself from the other's property?
        - 1 *Or*: do **רבנן** agree with **ראב"י** that in that case, each is **אנוס**?
        - 2 *Answer*: from 2<sup>nd</sup> clause – where only one is **מודר** – and **רבנן** maintain their position
        - 3 *Block*: text may read **נדר** (B banned himself from A)
          - (a) *Proof*: from the fact that we force A to sell out to B → A took the **נדר**
          - (i) *Explanation*: if B took the **נדר**, how could we force A to sell out?
  - b neither is allowed to set up items that co-owners usually allow (mill, oven etc.)
  - c if B was **מודר** from A, B may not enter the **חצר**
    - i **ראב"י**: he may claim that he is entering his own "section" (as above)
  - d we force A (if he was the active **מודר**, not if B banned himself from A's property) to sell out to B
- II **משנה ב'**: if an outsider is **מודר** from one of the **שותפין**
  - a he may not enter the **חצר**
    - i **ראב"י permits him to go in and he may claim that he is entering the non-banned partner's area**
- III **משנה ג'**: defining "A's property"
  - a if A has a bathhouse or olive-press that he has rented out:
    - i if he has **יד תפיסת** there, B may not use it
    - ii if he has no **יד תפיסת**, B may use it
    - iii definition of **יד תפיסת**:
      - 1 **נחמן** 'ר': at least 1/4 of the profits
      - 2 **אביי**: even less is permitted
        - (a) *question*: how little is considered "no **יד תפיסת**" and permitted?
        - (b) *Answer*: when he gets a flat rental fee
  - b if B bans himself from A's property
    - i if he bans himself from "your house" – once A dies or he sells it, it is permitted
    - ii if he bans himself from "this house" – even when A dies or sells it, it is still prohibited