

18.05.10

58a (דמיכף הוה כייף ליה לרב אשי) → 59a (לקח מן הסיקריקון)

- I Analysis of law of purchase from סיקריקון (משנה ר')
- a Under what conditions is the sale invalid:
- i רב: only if the בעה"ב didn't sell with a שטר (rather said וקני שטר)
 - ii שמואל: even if the בעה"ב sold with a שטר – unless he writes אחריות in the שטר
 - 1 support from זרייתא: in parallel case, if he buys from a husband, then from the wife, sale is null unless she writes אחריות into the שטר (seems to reject רב)
 - 2 defense: אחריות may mean the שטר itself
- b Tangential זרייתא: if the field is bought from the סיקריקון and is used for 3 years with the knowledge of the original owners, - and then it was sold to a 3rd party – the owners have no claim on that 3rd party
- i Question: what is the circumstance?
 - 1 If: the 3rd party claims that the 2nd party bought it from the original owner (no סיקריקון)
 - (a) Then: even the 2nd party should be believed (ג' שנים supports him)
 - 2 If: the 3rd party doesn't make that claim – the original owners should have the claim
 - (a) Answer: 3rd party makes no such claim (he doesn't know) but we establish the claim on his behalf; if the 2nd party would make such a claim, he would be protected as well
- c Tangential זרייתא: if a non-Jew seizes land from a Jew for a debt or as a theft – there is no rule of סיקריקון in effect
- i And: if a theft, it must be in his property for 12 months
 - 1 Challenge: the רישא ruled that סיקריקון doesn't apply
 - 2 Answer: the rule of סיקריקון requires 12 months
 - 3 Associated ruling: there is no אנפרות in בבב
 - (a) Challenge: there are land grabs in בבב
 - (b) Defense: meaning is "the rule of אנפרות doesn't apply in בבב"
 - (c) Reason: since the government doesn't allow it, the "victim's" avoidance of that route indicates that he allowed the seizure
 - (i) Related story: רעילאי גידל בר רעילאי who gained land of absentee owners by paying their tax for 3 years;
 1. then: they returned and received their land back; the court thought to grant גידל rights to retrieve payment back for years he didn't get to use
 2. ruling: overruled, since that would be דין סיקריקון (doesn't apply in בבב) – lost money (speculation)
- II Analysis of final ruling in משנה – paying ¼ to בעה"ב
- a רב: ¼ of what he paid for land – or land of that value
 - b שמואל: ¼ of what the land was worth = 1/3 of what he paid
 - i point of contention: רב maintains that he buys it at 80% value from סיקריקון; שמואל – at 75%
 - ii challenge: זרייתא which expands on our משנה and grants בעה"ב choice to collect ¼ of money or land (כרב)
 - iii answer (רב אשי): circumstance – where בעה"ב already got paid (1/4 = 25% of original purchase price)
 - iv רב says he was present when תקנה was passed (supporting his own position)
 - 1 note: רב claims that they began the deliberations with his vote
 - (a) challenge: ruling that in non-capital cases, deliberations begin with the גדול; in capital cases – מן הצד
 - (b) answer: in רבי'ס דין בית דין, all deliberations began מן הצד
 - v tangent: רבא noted that from משה until רבי, there was never תורה וגדולה in one person
 - 1 Series of challenges: great people (דוד, יהושע, etc.)
 - 2 Answer: in each case, for at least part of his life, there was another, greater person (עירא, אלוזר, etc.)
 - 3 Addition: from רבי until אשי, there was never תורה וגדולה in one person
 - (a) Note: רב אשי (רב אשי) was subservient to אשי בר נתן (assumed to be greater than אשי בר נתן)