

19.01.24

26a (סדנא דארעא חד הוא) → 27b (נכסים שאין להם אחריות)

1. ויתן להם אביהם מתנות רבות לקסף ולזהב ולמקדנות עם ערי מצרות ביהודה ואת הממלכה נתן ליהורם כי הוא הבכור: דה"ב כא, ג

I Analysis of ' משנה ד' קנין אגב –

a Source: v. 1

i Question: must the מטלטלין be piled atop the קרקע or not?

1 Answer: from פאה ג: – פאה כל שהוא – קרקע כל שהוא – פאה ג: → no need for צבורים

2 Block: perhaps he stuck a needle into the ground, placing an expensive diamond atop it

ii Stories:

1 Man in ירושלים wanted to give lots of מטלטלין away – was told to do it אגב and bought a בית סלע

(a) Assumption: בית סלע is a small piece of land → no need for צבורים

(b) Block: perhaps it means a very large piece of land, called בית סלע for it was hard earth

2 Man in ירושלים was

(a) either

(i) Sick: (only necessary as per ר"א who doesn't reckon ש"מ's words as if they're written) or

(ii) Healthy: as per רבנן

(b) And: wanted to give lots of מטלטלין away, was told that the only way to do it אגב; used a בית רובע to give 100 sheep and 100 barrels of wine (on 1 טפה of it!) → no need for צבורים

(i) Block: perhaps he was only giving that amount of money to him

1. proof: otherwise, he could have used חליפין

a. challenge: if it's money, he could use משיכה (on the coins)

b. answer: the recipient wasn't around

c. challenge: if so, argue that it was really flocks and wine and חליפין wasn't possible as the recipient wasn't around

2. challenge: let him give it via another (who would accept it on the recipient's behalf)

3. answer: he didn't trust anyone else

a. note: that's why they said "the only way..." i.e. if you trust noone, the only way...

3 ר"ג and the elders on a boat:

(a) ר"ג gave his מעשר (back at home) to יהושע ר' יהושע אגב - and rented him that spot in his granary

(i) then: did the same with ר"ע for מעשר עני → require צבורים

(ii) block: he did it not to trouble them (to have to get the grain out quickly)

iii ruling of רב 2 rules about שטר – if it is just a שטר ראייה, the seller can renege on it, but not the sale; if it is a שטר מכירה, he can renege on both; רב הונא adds a 3rd: if the שטר is written w/o the מוכר there – once the buyer takes the land בחזקה, the שטר is acquired with it → no need for צבורים

1 possible objection: שטר is different, as it is the "key to the land" (considered as if צבורים)

(a) rejection: this ruling relies on our משנה אגב (קנין אגב) → no need for צבורים

2 parenthetically: even though unmentioned, the term אגב (as קני) must be mentioned in the הקנאה

b questions about קנין אגב

i split קנין: if the מטלטלין are a gift but the קרקע is a sale – (it's good, as per ר"ג renting land to יהושע ר' יהושע)

ii And: if מטלטלין are going to one but the land to another (it's good, as per ר"ג renting land to ר"ע for מע"ע to מע"ע)

1 Rejection: location was rented to ר"ע for מעשר only; or ר"ע is the יד עניים and its all one recipient

c Note: רבא אגב only works if he pays the full amount of the sale; otherwise, only acquires as per the amount paid

i Supporting ברייתא: evaluating strength of כסף over שטר and vice-versa; both of them over חזקה and vice-versa

1 And: power of חזקה, that if he's מחזיק one field, he acquires all (offered)

(a) Caveat: only if he paid for all of them; else, he only acquires corresponding to his payment

(b) Note: this supports שמואל, who says that חזקה on one field pulls all of them along, even in other מדינות

(i) Support: if he buys ten animals and takes the leash that holds them – קנה

1. rejection: there, they're all being held

(ii) alternative to support (challenge): if he takes a leash with ten animals and the seller says זו קני – he doesn't get the rest

1. rejection: each animal is a separate body; the body of the earth (real estate) is one