

20.1.06

8b (מכאן ואילך משל הקב"ה) → 9b (אמר רבא: ראובן שמכר כל שדותיו לשמעון)

1. בעל הבור ישלם כסף ושיב לבעליו והמת יהיה לו: שמות כא, לד

- I Transferred responsibility for liens on property
- a רבא: If A sold all his land to B and then B sold one parcel to C, A's creditors can collect from either B or C
- note: only holds if C bought **ב** **בינונית**; else, he can claim that he avoided buying **ב** to leave it for collection
 - note: only holds if C's **בינונית** has no matching **בינונית** remaining in B's property (of that bought from A)
- b אביי: If A sold land to B **באחריות** & then a creditor of A's came to collect, he can't ignore A, claiming B is his **בעל דין**
- reason: A argues that if he seizes from B, B will then sue him
 - some say: even if the land was sold **באחריות** **שלא**, since A doesn't want B to have ill will towards him
- c אביי: If A sold land to B **באחריות** **שלא** and then A's ownership was challenged
- if: B hasn't yet taken possession (steps onto the property) – he may renege on the deal;
 - but if: B has taken possession, he is "stuck with a bag of knots"
 - some suggest: even if he sold the land **באחריות**, A needn't take it back until it has been seized by the claimants
- II הונא ר' solution to the **ישב** v. **מיטב** problem (or commenting on the **משנה**) - either **עדיית** (מייטב) or silver (כסף)
- a Challenge: interpretation of v. 1 – allows for payment with **כסף** – even **ברא**
- Answer: that's in a case where he hasn't either land or cash
 - Block: if he has neither, it is obvious that he may pay with goods
 - Defense: **קמ"ל** – **סד"א** that he has to sell good to get money for payment – **קמ"ל**
- b Possibly related statement of **אסי** **ד' אסי** = **כסף** **ד' אסי** **קרקע**
- Can't be: for purposes of payment – **ר' הונא** already said it
 - Rather: case of brothers who split estate, one taking money, the other taking land and a creditor seized land
 - Application: brother whose land was seized may now sue for ½ of that value of moneys held by brother
 - Rejection: this is patently obvious – both are sons of the debtor and equally share liability
 - 180°: brother who took money may claim that their split was for parallel protection:
 - Money: was taken by brother A so that if there was a theft, brother B would lose nothing
 - Land: was taken by brother B so that if there was a seizure, brother A would be invulnerable
 - Rather: if brothers split estate and creditor seized land from one:
 - דב**: they are heirs and division is annulled; redivide
 - שמואל**: they are buyers (**שלא באחריות**) and the one who lost the land has no recourse
 - אסי** **ד' אסי**: unsure if they are heirs or buyers – pays ¼ - whether from land or money
 - Rejection: **אסי** **ר' אסי** already presented that ruling (as per this dissent) – why repeat it?
 - Rather: meaning of statement is that **כסף** = **מיטב**
 - Challenge: **ר' הונא** already made that statement
 - Response: indeed – reading should be "similarly, **אסי** **ר' אסי** stated..."
- III Ruling of **ר' הונא** (as reported by **זירא** in re: expenditures for **מצוות** – "עד שלישי" – (up to 1/3))
- a Possible meaning: 1/3 of his assets
- Rejection: if 3 **מצוות** presented themselves at once – he would bankrupt himself
- b Rather: for **הידור מצווה** (asthetic enhancement of the **מצווה**)
- c Question: is it 1/3 of the base (e.g. if he would spend \$100, spend \$133) or of the aggregate (\$100 → \$150) - **תיקו**
- d In **ארק ישראל**: they used to say (in **זירא**'s name): until 1/3 (added) belongs to him (**בעוה"ב**); anything beyond that belongs to **הקב"ה** (he'll be repaid in this world)
- Note: this interpretation of the last line follows **רש"י** and **תוס'**;
 - ר' חננאל** (and others): explain - up until 1/3 of **הידור מצווה** comes from what the person has earned; spending any more ought to come from that which **ה'** has blessed him and he has received without travail