

## 22.5.3

77b (משנה א) → 78b (שתמכרה לי)

- I 2א משנה: selling beasts of burden and their appurtenances
- a if: a carriage is sold, the mules aren't included – and vice-versa
- i challenge: ברייתא rules that mules are included
  - ii resolution (ר' אבהו): that is in a case where they are tied to the carriage
- b if: a team is sold, the yoke isn't included – and vice versa
- i dissent (ר' יהודה): the sale price will indicate if included
  - ii Retort (חכמים): the sale-price is no indicator
    - 1 Question: what is the context?
      - (a) If: people refer to a "team" as a "team" and "yoke" is a "yoke" – no question
      - (b) Rather: must be a place where both are called "צמד" (yoke – or "pair")
        - (i) Challenge: in that case, it should be clear that all are sold
      - (c) Rather: it must be a place where some call בקר – בקר and צמד – צמד but others call both צמד
        - (i) And then: ר' יהודה suggests that the purchase price helps determine the meaning
      - (d) Question: רבנן's position should imply an annulment of the sale, based on fraud (miscommunication)
        - (i) Rejected suggestion: רבנן don't accept the notion of בטול מקח based on the price
          1. Rejection: their response to ר' יהודה, limiting the exclusion of אונאה to וטרות וקרקות
          - a. Resolution1: the intent of ראייה is that the sale is annulled
          - b. Resolution2: perhaps they only allow for בטול מקח if the mistake is within a reasonable range; else, it is clearly a gift
- II ב' משנה: selling a donkey vis-à-vis the sale of its כלים (discussed below)
- a if: a donkey is sold, its כלים aren't included
- i dissent (נחום המדי): כלים are included
  - ii Middle position (ר' יהודה): כלים may be included:
    - 1 If: the donkey was there with its כלים and the buyer asked for "this donkey" – all is sold
      - (a) Reason: he knows that it belongs to the seller, his added זו must be referring to the current status - dressed
    - 2 But if: the buyer asked "is this your donkey" and then asked to buy it – just the donkey
      - (a) Reason: buyer is trying to find out if it belongs to seller; if so, he wants to buy it
- b א' עולא's analysis: the dispute is only regarding the saddle bags etc. including כומני – woman's saddle
- i Positions:
    - 1 ת"ק: a donkey is typically used for riding (excluded)
    - 2 נחום המדי: a donkey is typically used for cargo (included)
  - ii However: all agree that the saddle, reins etc. are included
    - 1 Challenge: if he sells "donkey and its vessels", riding tools included → without "וכליו" – excluded
      - (a) Response: even without וכליו, riding tools included
      - (b) Point of ruling: even if he says חמור וכליו, cargo vessels not included
  - c Question: is the dispute (ת"ק/נחום) in a case where the vessels are on the donkey (but if off – נחום agrees to exclude)
    - i Or: is the dispute in a case where the vessels are off the donkey (but if on – חכמים agree to include)
    - ii Proof: ruling that if he said "הוא וכל מה שעליו" – all is sold
      - 1 Implication: dispute when the vessels are on the donkey and this follows רבנן (expand as per added words)
      - 2 Correction: dispute (may be) when vessels aren't on – and phrase means "כל מה שראוי להיות עליו"
    - iii Proof: ר' יהודה's "resolution" – isn't that referring to ת"ק's statement and assumes a dressed donkey (חמורך זה)
      - 1 Rejection: ר' יהודה may be introducing a new circumstance – where donkey is "dressed"
    - iv Proof (רבינא): from previous משנה and אבהו's resolution – that our משנה is a case where mules aren't attached
      - 1 Block: first part of א' משנה excludes אנהיקי (cargo) – which is on it
      - 2 Rater: משניות in this series of משניות – sometimes the referent is attached, sometimes detached
  - d אבבי's observation: נחום ונחום המדי
    - i ד"א: the beam comes along with the sale of an olive-press
    - ii דשב"ג: the סנטר (constable) comes along with sale of city
    - iii ד"מ: includes all tools used for vineyard with sale of vineyard
    - iv ד' נתן וסומכוס: in א' משנה – the lifeboat (ביצית or דוגית)
    - v נחום המדי: our case