

22.5.9

83b (משנה ה') → 84b (במרא) (ולא נחא ליה בחמרא)

.1 רע רע יאמר תקונה ואזל לו אז תהלל: משלי כ, יד

.2 וראה הפהן את הנגע והנה מראהו עמק מן העור ובו שער צהב דק וטמא אתו הפהן נתק הוא צרעת הראש או הזקן הוא: ויקרא יג, ל

.3 ולא תשארו עליו חסא בהרימכם את חלבו ממנו ואת קדשי בני ישראל לא תחללו ולא תמותו: במדבר יח, לב

- I 'מסנה ה': selling parts of animal
- a Cattle: (בהמה גסה)
- i If: he sells the head, it doesn't "carry" the legs and vice-versa
- ii If: he sells the lungs, doesn't "carry" the liver and vice-versa
- b Flock: (בהמה דקה)
- i If: he sells the head, it "carries" the legs but not vice-versa
- ii If: he sells the lungs, it "carries" the liver but not vice-versa
- II 'מסנה ו': 4 results of possibly fraudulent sales
- a If: the "misunderstanding" was within a quality range of the same material, אונאה applies only to "victim"
- i If: they agreed on fine-quality wheat and it turned out to be poor – buyer can force annulment of sale
- 1 Even if: the price of poor wheat went up between the deal and getting merchandise, such that it was worth more than the original agreed-upon price
- ii If: they agreed on poor-quality wheat and it turned out to be fine – seller can force annulment of sale
- 1 Even if: the price of fine wheat went down between the deal and getting merchandise, such that it was worth less than the original agreed-upon price
- iii If: they agreed on poor-quality wheat and it turned out to be poor – neither can annul (even if depreciated...)
- iv If: they agreed on fine-quality wheat and it turned out to be fine – neither can annul (even if appreciated...)
- b However: if the "misunderstanding" was between two different merchandises, either one can annul
- i Examples:
- 1 olives vs. sycamore branches
- (a) suggestion: this follows רבי (רבנן) who holds that יין וחומץ are considered distinct for תרומה (רבנן) inference that the sun is red (in apposition to לבנה); our faulty eyesight keeps us from seeing this color during the day (we only see it at sunrise and sunset)
- (i) Challenge: v. 2 is interpreted as "looking like the sun" and it is white
- (ii) Answer: it is only somewhat similar – in that it is deeper than shade; but red, not white
- (iii) Explanation of errant assumption (that it is white) against image at sunrise and sunset: at one of those times, it passes the rose garden of ג'ע, and the other, it passes the portal to גיהנום
- 2 olives vs. sycamore branches
- 3 vinegar vs. wine
- (a) suggestion: this follows רבי (רבנן) who holds that יין וחומץ are considered distinct for תרומה
- (b) rejection: even רבנן agree that it is 2 separate types for commerce (some prefer wine, some vinegar)
- (i) however: in case of תרומה, since taking an inferior type as תרומה for a superior type is valid but considered a sin (as per v. 3), they identify it as valid (but wrong behavior); רבי considers them distinct
- III "Side-door" סוגיא – ח'ס two rulings about אונאה:
- a If: A sold B merchandise worth 5 for 6 (אונאה) but before taking possession, it appreciated to 8, only buyer is the "victim" and can claim אונאה:
- i Reason: buyer can point out that had the seller sold for 5 (proper value), and then it appreciated, he wouldn't have recourse to recover the difference; why would he gain as a result of his אונאה?
- ii Support: our מסנה (first clause) – which must address a case where value appreciated afterwards (as above)
- b If: A sold B merchandise worth 6 for 5 but before taking possession, it depreciated to 3, only seller is the "victim" and can claim אונאה:
- i Reason: seller can point out that had he bought for 6, then it depreciated, he wouldn't have recourse to recover the difference; why would he gain as a result of his אונאה?
- ii Support: our מסנה (2nd clause) – which must address a case where value depreciated afterwards (as above)
- c Question: what is ח'ס teaching – this is all implicit in our מסנה?
- i Answer: from the מסנה alone, סד'א that in ח'ס's cases, either one could annul transaction and our מסנה is teaching that the buyer can annul when it turns out to be inferior, since he was making that claim beforehand (v. 1)
- 1 Explanation: sellers typically "trump up" the value of their merchandise before selling; buyers do the opposite