

A בס"ד

Intro

Today we will learn בע"ה of בבא בתרא דף נ"א
Some of the topics we will learn about include.

The discussion in the Mishnah's case of ולא לאשה חזקה בנכסי בעלה
If a wife ate all the produce of her husband's field for three years, this is not proof that she bought the field from him, and this refers even to a case of

דיחד לה ארעא אחריתי למזונה
The husband already designated another field for his wife's support.

Nevertheless, although she was not entitled to the produce of this field, this does not establish a חזקה, because as the רשב"ם explains

לא קפיד בעלה אי אכלה טפי
A husband generally does not object to his wife eating his produce even those that she is not entitled to.

A

ולא לאשה חזקה
בנכסי בעלה

דיחד לה ארעא אחריתי
למזונה

לא קפיד בעלה
אי אכלה טפי

B

The discussion of whether or not a husband can claim לימא לגלויי זוזי הוא דבעי
In reality he did not agree to sell her the field, but rather he suspected her of hiding money that belongs to him, and therefore he agreed to the sale merely as a ruse to get back his money from her.

The Machlokes regarding המוכר שדה לאשתו קנתה

A person who sold his wife his field, in which the sale is effective,

Whether the husband is אוכל פירות, whether he is entitled to all the produce?

All agree regarding במתנה קנתה

ואין הבעל אוכל פירות
If he gave her his field as a gift, she acquires the field and the husband is not entitled to any produce, because נותן בעין יפה נותן

A person gives a gift with generosity and he certainly absolved her from giving him the produce.

B

לימא
לגלויי זוזי
הוא דבעי

המוכר שדה לאשתו
קנתה

במתנה
קנתה
ואין הבעל אוכל פירות

נותן בעין יפה נותן

1 So let's review ...

The previous Mishnah in מב דף taught
ולא לאשה חזקה בנכסי בעלה

If a wife ate all the produce of her husband's field for three years, this is not proof that she bought the field from him

The Gemara asks, פשיטא, this Halachah is self-understood, because

כיון דאית לה מזוני
מזוני הוא דקא אכלה

Since a wife is entitled to support from her husband, she was permitted to take his fruits, and that's why he did not make a מחאה?

The Gemara answers
לא צריכא

דיחד לה ארעא אחריתי למזונה

The Mishnah refers to a case where the husband already designated another field her support. Nevertheless, although she was not entitled to the produce of this field, this does not establish a חזקה, because ®

לא קפיד בעלה אי אכלה טפי

A husband generally does not object to his wife eating his produce even those that she is not entitled to.

1

ולא לאשה חזקה בנכסי בעלה

If a wife ate all the produce of her husband's field for 3 years, this is not proof that she bought the field from him

?

פשיטא

this is self-understood

כיון דאית לה מזוני

מזוני הוא דקא אכלה

Since a wife is entitled to support from her husband, she was permitted to take his fruits, that is why he did not make a מחאה?

לא צריכא

דיחד לה ארעא אחריתי למזונה

The Mishnah refers to a case where the husband already designated another field her support. Nevertheless, although she was not entitled to the produce of this field, this does not establish a חזקה.

Because

לא קפיד בעלה אי אכלה טפי

A husband generally does not object to his wife eating his produce even those that she is not entitled to.

2 The Gemara now points out that the wording
ולא לאשה חזקה בנכסי בעלה

Implies

הא ראייה יש

Only a חזקה is not a proof of ownership, but a שטר, a sale document, IS valid proof that her husband sold her his field.

And the Gemara asks:

Why is a שטר valid proof of ownership?

לימא לגלויי זוזי הוא דבעי

The husband can claim that, in reality, he did not agree to sell her the field, but rather he suspected her of hiding money that belongs to him, and he agreed to the sale merely as a ruse to get back his money from her?

And since the Mishnah does rule

הא ראייה יש

This would prove otherwise, that

המוכר שדה לאשתו קנתה

If a husband sold a field to his wife, and she paid him for it, the sale is effective, and he cannot claim

לגלויי זוזי הוא דבעי

The Gemara says that this is not necessarily so. Perhaps the Mishnah holds regarding

המוכר שדה לאשתו

לא קנתה

If a husband sold a field to his wife, and she paid him for it, the sale is not effective, because one can claim

לגלויי זוזי הוא דבעי

And the Mishnah refers to

בשטר מתנה

He wrote in the שטר that the field was given to her as a gift, not a sale, and when there was no money received, one cannot claim

לגלויי זוזי הוא דבעי

=====

2

ולא לאשה חזקה בנכסי בעלה

הא ראייה יש

But a שטר is valid proof!

?

לימא לגלויי זוזי הוא דבעי

The husband can claim that, in reality, he did not agree to sell her the field,

but rather

he suspected her of hiding money that belongs to him, and he agreed to the sale merely as a ruse to get back his money from her?

And since the Mishnah does rule

הא ראייה יש

This would prove otherwise, that

המוכר שדה לאשתו קנתה

If a husband sold a field to his wife, and she paid him for it, the sale is effective, and he cannot claim

לגלויי זוזי הוא דבעי

The Gemara says that this is not necessarily so.

Perhaps the Mishnah holds regarding

המוכר שדה לאשתו

לא קנתה

If a husband sold a field to his wife, and she paid him, the sale is not effective, because one can claim

לגלויי זוזי הוא דבעי

And the Mishnah refers to

בשטר מתנה

He wrote in the שטר that the field was a gift to her, and when there was no money received,

one cannot claim

לגלויי זוזי הוא דבעי

3 The Gemara proceeds and questions from the following Braisa:
לוה מן העבד ושחררו
מן האשה וגרשה
If a person borrowed money from his slave or wife and then freed the slave or divorced his wife,
אין להן עליו כלום
They cannot claim from him the money that they loaned to him, even if he mortgaged his properties for the loan.
Apparently, because one can claim
לגלויי זוזי הוא דבעי
The master or husband took the loan merely as a ruse to get back his money from them, but in reality there was no loan.

If so, regarding
המוכר שדה לאשתו
לא קנתה
Because
לגלויי זוזי הוא דבעי


3 *כריתא*
**לוה מן העבד ושחררו
מן האשה וגרשה**
*If a person borrowed money from his slave or wife
and then freed the slave or divorced his wife,*
אין להן עליו כלום
*They cannot claim the money that they loaned to him,
even if he mortgaged his properties for the loan.*

*Apparently, because one can claim
לגלויי זוזי הוא דבעי*
*The master or husband took the loan merely as a ruse
to get back his money from them,
but in reality there was no loan.*

?
If so, regarding
**המוכר שדה לאשתו
לא קנתה**
Because
לגלויי זוזי הוא דבעי

4 The Gemara says that this is not necessarily so. Perhaps only regarding מלוה one can claim
 לגלויי זוזי הוא דבעי
 Because
 דלא ניחא ליה לשווייה נפשיה
 עבד ליה לאיש מלוה
 A loan is a disadvantage to the borrower because he becomes bound to pay the lender as a slave to his master.
 Therefore, as the רשב"ם explains
 אגן סהדי דשום אדם לא יהיה ברצונו עבד ליה
 אם יכול להפטר בשום ממון
 If a person has a way to avoid paying, he certainly does not commit himself to pay the loan. Therefore, we do accept his claim of
 לגלויי זוזי הוא דבעי

However, regarding מכירה, a sale, one cannot claim
 לגלויי זוזי הוא דבעי
 Because ®
 גמר ומקנה
 שהרי אינו נעשה עבד ליה בהך שטר מכירה
 A sale is not a disadvantage to the seller, since through the שטר he does not become bound to the buyer to reimburse him, and as the Rashbam adds,
 אפילו קיבל אחריות
 עדיין לא נטרפה מן הלוקח
 Even if the seller accepted responsibility for the field, as long as it was not confiscated the seller is not bound to the buyer. ®
 Therefore, we assume that the sale was legitimate and do not accept his claim of
 לגלויי זוזי הוא דבעי
 And regarding
 המוכר שדה לאשתו
 קנתה
 Because one cannot claim
 לגלויי זוזי הוא דבעי
 =====

4 
 This is not necessarily so.
 Perhaps only regarding מלוה one can claim
לגלויי זוזי הוא דבעי
 Because
דלא ניחא ליה לשווייה נפשיה
עבד ליה לאיש מלוה
 A loan is a disadvantage to the borrower because he becomes bound to pay the lender as a slave to his master.
 Therefore, as the רשב"ם explains
 אגן סהדי דשום אדם לא יהיה ברצונו עבד ליה
 אם יכול להפטר בשום ממון
 If a person has a way to avoid paying, he certainly does not commit himself to pay the loan.
 Therefore, we do accept his claim of
לגלויי זוזי הוא דבעי
 However, regarding מכירה, a sale, one cannot claim
לגלויי זוזי הוא דבעי
 Because
 גמר ומקנה
 שהרי אינו נעשה עבד ליה בהך שטר מכירה
 A sale is not a disadvantage to the seller, since through the שטר he does not become bound to the buyer to reimburse him,
 אפילו קיבל אחריות
 עדיין לא נטרפה מן הלוקח
 Even if the seller accepted responsibility for the field, as long as it was not confiscated the seller is not bound to the buyer.
 Therefore, we assume that the sale was legitimate and do not accept his claim of
לגלויי זוזי הוא דבעי
 And regarding
המוכר שדה לאשתו – קנתה
 Because one cannot claim
לגלויי זוזי הוא דבעי

5 The Gemara proceeds with a Machlokes:

אמר רב

המוכר שדה לאשתו

קנתה

והבעל אוכל פירות

If a person sold his wife a field, she acquires the field, but the husband is still entitled to all the produce, because as the רשב"ם explains

דלא גרע מנכסים שנפלו לה בירושה

This field is no different than one she inherits, in which the husband is entitled to their produce.

However

במתנה

קנתה

ואין הבעל אוכל פירות

If he gave her a field as a gift, she acquires the field, and the husband is not entitled to any produce, because

נותן בעין יפה נותן

A person gives a gift with generosity and he certainly absolved her from giving him the produce.

5

אמר רב

המוכר שדה לאשתו

קנתה

והבעל אוכל פירות

If a person sold his wife a field, she acquires the field, but the husband is still entitled to all the produce,

because

דלא גרע מנכסים שנפלו לה בירושה

This field is no different than one she inherits, in which the husband is entitled to their produce.

במתנה

קנתה

ואין הבעל אוכל פירות

If he gave her a field as a gift, she acquires the field, and the husband is not entitled to any produce,

because

נותן בעין יפה נותן

A person gives a gift with generosity and he certainly absolved her from giving him the produce.

6 רבי אלעזר and רבי יוחנן disagree and say אחד זה ואחד זה קנתה ואין הבעל אוכל פירות Regardless of whether the field was a sale or a gift, the wife acquires the field and the husband is not entitled to any produce, because as the Gemara explains במתנה בקש ליתנו לה ולמה כתב לה לשום מכר כדי ליפות את כחה The husband's intentions were for a gift, for which he absolves her from giving him the produce, and the document was written as a sale merely for her benefit, as the רשב"ם explains earlier שאם יערערו להיות אחריותה על הנותן כדין מוכר Her husband takes on responsibility as a seller does, that if a third party claims the field he will reimburse her.

רבא concludes as follows הלכתא המוכר שדה לאשתו לא קנתה

If a person sold his wife a field, she does not acquire the field,

והבעל אוכל פירות

And the husband is still entitled to all the produce

6 רבי אלעזר - רבי יוחנן אחד זה ואחד זה קנתה ואין הבעל אוכל פירות because as the Gemara explains במתנה בקש ליתנו לה ולמה כתב לה לשום מכר כדי ליפות את כחה The husband's intentions were for a gift, for which he absolves her from giving him the produce, and the document was written as a sale for her benefit,

As the רשב"ם explains earlier שאם יערערו להיות אחריותה על הנותן כדין מוכר Her husband takes on responsibility as a seller does, that if a third party claims the field he will reimburse her.

רבא concludes as follows

הלכתא המוכר שדה לאשתו לא קנתה

If a person sold his wife a field, she does not acquire the field,

והבעל אוכל פירות

And the husband is still entitled to all the produce

7 The Gemara asks
 תרתי
 This statement is contradictory?
 לא קנתה implies that the sale is not effective at all, while
 והבעל אוכל פירות implies that the sale was effective, but the
 husband is still entitled to the produce?

The Gemara reconciles as follows

מעות טמונין

לא קנתה

If she paid with money that was not known to her
 husband, the sale is not effective at all, because the
 husband can claim

לגלויי זוזי הוא דבעי

He agreed to the sale merely as a ruse to get back the
 money she hid from him.

However,

מעות שאינן טמונין

קנתה

If she paid with money that was known to her husband,
 the sale is effective, because in general one cannot claim

לגלויי זוזי הוא דבעי

But even so

והבעל אוכל פירות

Because

דלא גרע מנכסים שנפלו לה בירושה

However

במתנה קנתה

ואין הבעל אוכל פירות

Because

נותן בעין יפה נותן

7

תרתי
This statement is contradictory?

<p>והבעל אוכל פירות <i>implies that the sale was effective, but the husband is still entitled to the produce?</i></p>	<p>לא קנתה <i>implies that the sale is not effective at all,</i></p>
--	--

מעות שאינן טמונין קנתה
*If she paid with money that
 was known to her husband,
 the sale is effective,
 because in general
 one cannot claim*

לגלויי זוזי הוא דבעי
But even so

והבעל אוכל פירות
Because

דלא גרע מנכסים שנפלו לה בירושה

מעות טמונין לא קנתה
*If she paid with money
 that was not known to her
 husband, the sale is not
 effective at all, because
 the husband can claim*

לגלויי זוזי הוא דבעי
*He agreed to the sale merely
 as a ruse to get back the
 money she hid from him.*

במתנה קנתה
ואין הבעל אוכל פירות
Because
נותן בעין יפה נותן