

**A** בס"ד

Intro

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

ארבע מדות במוכרין

There are four scenarios, each with a different Halachah, regarding a person's ability to retract from a sale; which depends on whether there was אונאה or not, and whether it was אונאה to the seller or to the buyer.

אונאה

If an item was undersold or oversold by only one sixth there is a Machlokes as to whether

מי שהוטל עליו ידיו על העליונה

The one who was נתאנה, who was deceived, can retract from the sale or

קנה ומחזיר אונאה

He cannot retract from the sale; but the extra money is returned to him.

Regarding אונאה in the item's quality, all agree that מי שהוטל עליו ידיו על העליונה

The one who was deceived has the option to retract from the sale or keep it and get back the extra money.

**B** The מחלוקת רבי וחכמים regarding

יין וחומץ

Are wine and vinegar considered מין אחד, the same type or שני מינים, different types?

The Mishnah discusses

קנין מטלטלין

A person acquires a moveable object such as produce, if first

פסק לו דמים

The seller and buyer agreed on a price per weight or volume, and then the buyer performed a קנין, such as משיכה, where he pulled the item to an area that is considered his domain; or through חצר, where the item was placed in the buyer's domain.

משך ולא מדד

קנה

If the buyer pulled the produce to his domain, but the produce was not measured, he acquires the produce,

**A**

ארבע מדות במוכרין

אונאה

קנה ומחזיר אונאה

מי שהוטל עליו ידיו על העליונה

**B**

יין וחומץ

קנין מטלטלין

פסק לו דמים

משך ולא מדד קנה

**C** because  
מדידה לא מעכבא  
However  
מדד ולא משך  
לא קנה  
If the seller measured the produce in his own utensil, but the לוקח did not pull the produce to his domain, he does not acquire the wheat.

The Machlokes regarding  
מדד והניח על גבי סימטא  
If the מוכר measured the produce in his own utensil and put it down in a semi-public area;  
קנין חצר holds the לוקח acquires the produce through חצר, because the סימטא alone is considered the לוקח's חצר.  
While רב זירא holds the לוקח does not acquire the produce, because the סימטא alone is not considered the לוקח's חצר unless the produce was also in the לוקח's utensil.

**C**

מדידה לא מעכבא

מדד ולא משך  
לא קנה

מדד  
והניח על גבי סימטא

1 So let's review ...

The Mishnah in the previous Daf taught

ארבע מדות במוכרין

There are four scenarios, each with a different Halachah, regarding a person's ability to retract from a sale, as follows:

1.

מכר לו חטין יפות ונמצאו רעות  
הלוקח יכול לחזור בו

If a seller and buyer agreed to the sale of superior quality wheat, but it turned out to be inferior wheat, only the buyer can retract from the sale, but the seller cannot retract.

The Rashbam points out that the seller cannot retract even if in the interim the price increased more than a sixth, when the מוכר could have retracted based on this loss; because

אין זה מקח טעות

אלא אונאה

שהרי חטין התנה וחטין מכרו

The sale was effective immediately, and it was not considered erroneous, because the לוקח did receive the kind of item that they agreed to. Rather it was אונאה in that the מוכר deceived him by giving him wheat of lesser quality, and regarding אונאה in quality all agree that לוקח יכול לחזור בו

Because

לא היה דעתו ליקח רעות

The לוקח did not want to buy the item that was actually sold, while the מוכר did want to sell this item.

1

מאמר

## ארבע מדות במוכרין

There are four scenarios, each with a different Halachah, regarding a person's ability to retract from a sale

1

### מכר לו חטין יפות ונמצאו רעות הלוקח יכול לחזור בו

If a seller and buyer agreed to the sale of superior wheat, but it turned out to be inferior wheat, only the buyer can retract from the sale, but the seller cannot retract.

*The Rashbam points out...*

*The seller cannot retract even if in the interim the price increased more than a sixth, when the מוכר could have retracted based on this loss; because*

*אין זה מקח טעות*

*אלא אונאה*

*שהרי חטין התנה וחטין מכרו*

*The sale was effective immediately, and it was not considered erroneous, because the לוקח did receive the kind of item that they agreed to.*

*Rather it was אונאה in that the מוכר deceived him by giving him wheat of lesser quality, and regarding אונאה in quality all agree that*

*לוקח יכול לחזור בו*

*Because*

*לא היה דעתו ליקח רעות*

*The לוקח did not want to buy the item that was sold, while the מוכר did want to sell this item.*

2

2.

The second case of the Mishnah:

If vice versa

רעות ונמצאו יפות

מוכר יכול לחזור בו

They agreed to a sale of inferior quality wheat, but it turned out to be superior wheat, only the מוכר can retract from the sale. ®

The לוקח cannot retract even if in the interim the price decreased more than a sixth, when the לוקח could have retracted based on this loss, because

אין זה מקה טעות

אלא אונאה

As explained earlier;

3.

The third case of the Mishnah:

רעות ונמצאו רעות

יפות ונמצאו יפות

אין אחד מהם יכול לחזור בו

If they both agreed to a sale of wheat and it turned out to be the same quality as agreed, both, the מוכר or לוקח cannot retract from the sale.

As the Rashbam explains;

Regarding יפות the מוכר cannot claim לרעות נתכוונתי, I intended to sell only inferior wheat, but not יפות; and regarding רעות the לוקח cannot claim ליפות נתכוונתי, I intended to buy only superior wheat but not רעות; because הואיל ונמצא כמו שאמרו שניהם

The wheat was the quality that they had agreed to, and we do not go by their intentions.

2

2

## רעות ונמצאו יפות מוכר יכול לחזור בו

They agreed to a sale of inferior quality wheat, but it turned out to be superior wheat, only the מוכר can retract from the sale.

*The לוקח cannot retract even if in the interim the price decreased more than a sixth, when the לוקח could have retracted based on this loss, because*

אין זה מקה טעות  
אלא אונאה

3

## רעות ונמצאו רעות יפות ונמצאו יפות אין אחד מהם יכול לחזור בו

If they both agreed to a sale of wheat and it turned out to be the same quality as agreed, both, the מוכר or לוקח cannot retract from the sale.

*As the Rashbam explains;*

*Regarding יפות the מוכר cannot claim לרעות נתכוונתי, I intended to sell only inferior wheat, but not יפות; and regarding רעות the לוקח cannot claim ליפות נתכוונתי, I intended to buy only superior wheat but not רעות; because*

הואיל ונמצא כמו שאמרו שניהם

*The wheat was the quality that they had agreed to, and we do not go by their intentions.*

3

4.

The fourth case of the Mishnah:

שחמתית ונמצאת לבנה

לבנה ונמצאת שחמתית

If they agreed to a sale of red colored wheat, but it turned out to be white wheat; or vice versa, OR

עצים של זית ונמצאו של שקמה

של שקמה ונמצאו של זית

They agreed to wood of an olive tree, but it was wood of a sycamore tree; or vice versa, OR

יין ונמצא חומץ

חומץ ונמצא יין

They agreed to wine, but it was vinegar; or vice versa;

In all these cases

שניהם יכולין לחזור בהן

Both, the seller and the buyer can retract from the sale, because ®

בשני מינין

איכא דניחא ליה בהאי ולא ניחא ליה בהאי

These items are different types, and one might prefer one item over the other. Therefore

שניהם אין רוצים במכירה זו

Both the מוכר and לוקח can claim that they did not want the sale of this item. However, in the first two cases of

יפות ורעות

כולי עלמא ניחא להו ביפות ולא ברעות

Both the מוכר and לוקח want only superior wheat but not inferior wheat. Therefore, only the one who was נתאנה, who was deceived, can retract from the sale.

=====

3

4

שחמתית ונמצאת לבנה  
לבנה ונמצאת שחמתית

If they agreed to a sale of red colored wheat, but it turned out to be white wheat; or vice versa,

עצים של זית ונמצאו של שקמה  
של שקמה ונמצאו של זית

They agreed to wood of an olive tree, but it was wood of a sycamore tree; or vice versa,

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חומץ ונמצא יין

They agreed to wine, but it was vinegar; or vice versa;

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כולי עלמא ניחא להו ביפות ולא ברעות

Both the מוכר and לוקח want only superior wheat but not inferior wheat. Therefore, only the one who was נתאנה, who was deceived, can retract from the sale.

4 Zugt Di Mishnah

המוכר פירות לחבירו  
משך ולא מדד  
קנה

If a person sold produce, and פסק לו דמים, they agreed to a price per weight or volume, if the buyer pulled the produce to his domain, he acquires the produce through קנין משיכה even though the produce was not measured, because as the Rashbam explains

מדידה לא מעכבא

דאינה אלא גלוי מילתא בעלמא כמה מכר

The measuring is not mandatory to the sale, as it only reveals the amount that was sold. However,

אם לא פסק

אע"פ שמדד ומשך לא קנה

If they did not agree to a price, even if the produce was both measured and pulled by the buyer to his domain, the לוקח does not acquire the produce, because

לא סמכא דעתייהו

Neither, the מוכר nor לוקח agreed to the sale, since the other party can claim he wants a different price.

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4

מאן

## המוכר פירות לחבירו משך ולא מדד קנה

If a person sold produce, and פסק לו דמים, they agreed to a price per weight or volume, if the buyer pulled the produce to his domain, he acquires the produce through קנין משיכה even though the produce was not measured,

*because as the Rashbam explains*

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דאינה אלא גלוי מילתא בעלמא כמה מכר

*The measuring is not mandatory to the sale, as it only reveals the amount that was sold.*

*However,*

אם לא פסק

אע"פ שמדד ומשך לא קנה

*If they did not agree to a price, even if the produce was both measured and pulled by the buyer to his domain, the לוקח does not acquire the produce,*

*because*

לא סמכא דעתייהו

*Neither, the מוכר nor לוקח agreed to the sale, since the other party can claim he wants a different price.*

## מדד ולא משך לא קנה

If it was פסק לו דמים and the מוכר weighed the produce in his own utensil, but the לוקח did not pull the produce to his domain, he does not acquire the wheat.

5 Zugt Di Mishnah

המוכר פירות לחבירו  
משך ולא מדד

קנה

If a person sold produce, and פסק לו דמים, they agreed to a price per weight or volume, if the buyer pulled the produce to his domain, he acquires the produce through קנין משיכה even though the produce was not measured, because as the Rashbam explains

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Neither, the מוכר nor לוקח agreed to the sale, since the other party can claim he wants a different price.

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The Mishnah continues

מדד ולא משך

לא קנה

If it was פסק לו דמים and the מוכר weighed the produce in his own utensil, but the לוקח did not pull the produce to his domain, he does not acquire the wheat.

5

מלך

המוכר פירות לחבירו  
משך ולא מדד  
קנה

If a person sold produce, and פסק לו דמים, they agreed to a price per weight or volume, if the buyer pulled the produce to his domain, he acquires the produce through קנין משיכה even though the produce was not measured,

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דאינה אלא גלוי מילתא בעלמא כמה מכר

*The measuring is not mandatory to the sale, as it only reveals the amount that was sold.*

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אע"פ שמדד ומשך לא קנה

*If they did not agree to a price, even if the produce was both measured and pulled by the buyer to his domain, the לוקח does not acquire the produce,*

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לא סמכא דעתיהו

*Neither, the מוכר nor לוקח agreed to the sale, since the other party can claim he wants a different price.*

מדד ולא משך  
לא קנה

If it was פסק לו דמים and the מוכר weighed the produce in his own utensil, but the לוקח did not pull the produce to his domain, he does not acquire the wheat.

6 The Gemara cites a Machlokes regarding the circumstances of the Mishnah's case:  
 מדד רב אסי א"ר יוחנן says  
 מדד והניח על גבי סימטא קנה  
 The מוכר weighed the produce in his own utensil and put it down in a semi-public area, the לוקח does acquire the produce through חצר קנין, because as the Rashbam explains  
 כאילו הניחם ברשותו של לוקח  
 The סימטא alone is considered the לוקח's חצר, his domain, even though the utensil belongs to the מוכר.

הרי"ף however disagrees and says רבי יוחנן referred only to  
 במודד לתוך קופתו  
 The מוכר weighed the produce in the לוקח's utensil, AND put in down in a סימטא. Only then the לוקח acquires the produce through חצר קנין, because as the Rashbam explains  
 שהרי יש לו רשות להניח שם כליו  
 In a סימטא the לוקח's utensil is considered his חצר, because he has permission to put down his utensil there.

However  
 סימטא בלא כלי  
 לא קני  
 If the produce was not in a utensil, the לוקח does not acquire it through סימטא alone, because  
 לא רשות מיוחדת ללוקח איכא  
 The סימטא alone is not exclusively the לוקח's domain.

And  
 כלי בלא סימטא  
 לא קני  
 If the produce was in a utensil in a רשות הרבים, public area, the לוקח does not acquire it through his utensil alone, because  
 אין לו רשות להושיבם שם  
 In a רשות הרבים the לוקח's utensil is not considered his חצר, because he has no permission to put down his utensil there. ®

6 *The Gemara cites a Machlokes regarding the Mishnah's case:*

*רב אסי א"ר יוחנן*  
**מדד והניח על גבי סימטא קנה**

The מוכר weighed the produce in his own utensil and put it down in a semi-public area, the לוקח does acquire the produce through חצר קנין

*because as the Rashbam explains*  
**כאילו הניחם ברשותו של לוקח**

*The סימטא alone is considered the לוקח's חצר, even though the utensil belongs to the מוכר.*

*רבי יצירא*  
**במודד לתוך קופתו**

The מוכר weighed the produce in the לוקח's utensil, AND put in down in a סימטא. Only then the לוקח acquires the produce through חצר קנין,

*because as the Rashbam explains*  
**שהרי יש לו רשות להניח שם כליו**

*In a סימטא the לוקח's utensil is considered his חצר, because he has permission to put down his utensil there.*

**סימטא בלא כלי  
לא קני**

If the produce was not in a utensil, the לוקח does not acquire it through סימטא alone,  
*because*

**לא רשות מיוחדת ללוקח איכא**

*The סימטא alone is not exclusively the לוקח's domain.*

**כלי בלא סימטא  
לא קני**

If the produce was in a utensil in a רשות הרבים, public area, the לוקח does not acquire it through his utensil alone,  
*because*

**אין לו רשות להושיבם שם**

*In a רשות הרבים the לוקח's utensil is not considered his חצר, because he has no permission to put down his utensil there.*



7 The Gemara says that according to רב זירא the Mishnah refers only to a סימטא, and in the case of the לוקח's case of משך ולא מדד קנה. He acquires it, because the לוקח performed משיכה within the סימטא and regarding קנין משיכה, the סימטא is considered the לוקח's jurisdiction.

While in the סיפא מדד ולא משך לא קנה.

He does not acquire it, even though the מדידה was in a סימטא, because the produce was in the מוכר's utensil, and regarding קנין חצר the סימטא alone without his כלי, is not exclusively the לוקח's jurisdiction.

And in the following case;

אם היה פיקח

שוכר את מקומו

If the לוקח rents the סימטא, he acquires the produce through קנין חצר, because now the סימטא belongs exclusively to the לוקח.

7

According to רב זירא the Mishnah refers only to a סימטא

<p><i>In the לוקח's case of</i></p> <p><b>משך ולא מדד קנה</b></p> <p><i>He acquires it, because the לוקח performed משיכה within the סימטא and regarding קנין משיכה, the סימטא is considered the לוקח's jurisdiction.</i></p>	<p><i>While in the סיפא</i></p> <p><b>מדד ולא משך לא קנה</b></p> <p><i>He does not acquire it, even though the מדידה was in a סימטא, because the produce was in the מוכר's utensil, and regarding קנין חצר the סימטא alone without his כלי, is not exclusively the לוקח's jurisdiction.</i></p>
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*And in the following case;*

**אם היה פיקח  
שוכר את מקומו**

*If the לוקח rents the סימטא, he acquires the produce through קנין חצר, because now the סימטא belongs exclusively to the לוקח.*

8 While according to רב אסי, the Mishnah must refer to a רישא הרבים, and in the משך ולא מדד קנה. We must say משך מרה"ר לסימטא. The לוקח pulled the produce from the רשות הרבים into the סימטא, because משיכה ברשות הרבים לא קניא. If he pulled the produce within the רשות הרבים he does not acquire the produce, because קנין משיכה is not effective in a רשות הרבים.

And regarding the סיפא הרבים מדד ולא משך קנה. Even if was in the לוקח's utensil, he does not acquire the produce, because one has no permission to put a utensil in a רשות הרבים. However בסימטא קנה. Even if it was in the מוכר's utensil, he does acquire the produce because one does have permission to put a utensil in a סימטא.

And regarding the next case אם היה פיקח שוכר את מקומן. We must say as follows ואם ברשות בעלים היא אם היה פיקח שוכר את מקומן. If the produce was in the seller's jurisdiction, the לוקח cannot acquire the produce through the מדידה alone, because it was not his חצר. Therefore, only if the לוקח rents the property he acquires the produce, because now the property became the לוקח's חצר.

8 While according to רב אסי the Mishnah must refer to a רשות הרבים

<p><i>In the לול</i></p> <p><b>משך ולא מדד קנה</b></p> <p>We must say <b>משך מרה"ר לסימטא</b></p> <p>The לוקח pulled the produce from the רשות הרבים into the סימטא, because <b>משיכה ברשות הרבים לא קניא</b></p> <p>If he pulled the produce within the רשות הרבים he does not acquire the produce, because קנין משיכה is not effective in a רשות הרבים.</p>	<p><i>While in the סימטא</i></p> <p><b>מדד ולא משך לא קנה</b></p> <p>Even if was in the לוקח's utensil, he does not acquire the produce, because one has no permission to put a utensil in a רשות הרבים.</p> <p>However <b>בסימטא קנה</b></p> <p>Even if it was in the מוכר's utensil, he does acquire the produce because one does have permission to put a utensil in a סימטא.</p>
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*And regarding the next case*

**אם היה פיקח שוכר את מקומן**

We must say as follows **ואם ברשות בעלים היא אם היה פיקח שוכר את מקומן**

If the produce was in the seller's jurisdiction, the לוקח cannot acquire the produce through the מדידה alone, because it was not his חצר. Therefore, only if the לוקח rents the property he acquires the produce, because now the property became the לוקח's חצר.