

A בס"ד

Intro

Today we will Be"H learn דף צ"ח of בבא בתרא.
Some of the topics we will learn about include:

המוכר יין והחמיץ

If one sells wine and it soured, whether he is responsible to reimburse the customer? This may depend on whether

ידוע שיינו מחמיץ

If it was known that this seller's wine sours;

אם אמר ליה למקפה

If the buyer specified that he needs the wine for cooking, and therefore must store it for a long time; and

בקנקנים דמוכר או לוקח

Whether the wine is still in the seller's utensil, or in the buyer's;

A

המוכר יין והחמיץ
ידוע שיינו מחמיץ
אם אמר ליה למקפה
בקנקנים דמוכר או לוקח

B The Mishnah also discusses the following stipulations:

יין מבושם

He is selling superior wine;

ישן משל אשתקד

He is selling old wine; and

ומיושן משל ג' שנים

He is selling aged wine.

המוכר מקום לחבירו

The Mishnah discusses the minimum size required for various structures, including:

רפת בקר, a barn;

בית קטן, a small dwelling;

בית גדול, a large dwelling;

טרקלין, a pavilion with many windows and adorned with flowers; and

קנתיר, the large courtyard of a mansion.

B

יין מבושם
ישן משל אשתקד
ומיושן משל ג' שנים
המוכר מקום לחבירו

1 So let's review...

Zugt di Mishnah

המוכר יין לחבירו והחמיץ
אינו חייב באחריותו

If one sold wine to another and it subsequently soured, the seller is not responsible.

However,

ואם ידוע שיינו מחמיץ
הרי זה מקח טעות

If it was known that this seller's wine sours, the sale was made under mistaken assumptions, and is void.

The Gemara offers two interpretations of the Mishnah:

1.

ר' יוסי בר' חנינא explains that

בדלא אמר ליה למקפה
לימא ליה

לא איבעי לך לשהויי

If the buyer did not specify that he needs the wine for cooking and must therefore store it for a long time, the seller can argue that he should not have stored it for so long. Therefore, the seller never assumes responsibility, even if it was known that he sells souring wine.

However, the Mishnah is discussing

דאמר ליה למקפה

He did specify that he needs the wine for cooking.

Therefore,

בקנקנים דמוכר

אמר ליה

הא חמורך והא קנקנך

If the wine is still in the seller's utensil, the buyer can tell the seller, "Take back your utensil with your wine," because ®

ודאי יינך וכליך גרמו

Certainly, your wine and utensil were faulty. Therefore, the sale is void.

1

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המוכר יין לחבירו והחמיץ
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2 However, the Mishnah is discussing בקנקנים דלוקח
 The buyer transferred the wine to his own utensils.
 Therefore, in the first case, אינו חייב באחריותו
 The seller is not responsible, because, as the Rashbam explains, איכא למימר כליו גרמו
 It is possible that his utensils caused the wine to sour.
 However, in the second case ואם ידוע שיינו מחמיץ
 הרי זה מקח טעות
 If it was known that the seller's wine usually sours, the seller is responsible even דלוקח, because ®
 ליכא למימר כלי הלוקח גרמו
 דאנן סהדי שהיין רגיל בכך
 We do not assume the damage was caused by the buyer's utensil, since the seller's wine is known to sour.

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3 2.
 חמרא מזלא דמריה גרים explains that
 Wine's spoilage is caused by its owner's מזל.
 Therefore, in the first case, אינו חייב באחריותו
 The seller is never responsible, even דמוכר, because we assume that the מזל of the wine's current owner, namely the buyer, caused it to sour.
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3
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4 The Gemara discusses other cases where the seller is responsible:

1.

האי מאן דזבין ליה חביתא דחמרא לחנואה אדעתא לסבויה

ותקיף אפלגא או אתילתא

If someone sells a barrel of wine to a storekeeper for him to sell it gradually, and it soured when there was still a half or a third of the wine remaining;

דינא הוא דמקבל לה מיניה

The seller must accept the loss of the spoiled wine.

However,

שני בברזא

לא

If the buyer changed the location of the spigot, the seller is not responsible, because this might have caused the wine to spoil.

Or,

מטא יומא דשוקא

לא

If the market day had passed, the seller is not responsible, because the buyer did not do his best to sell all the wine.

4

Other cases where the seller is responsible

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האי מאן דזבין ליה חביתא דחמרא לחנואה אדעתא לסבויה ותקיף אפלגא או אתילתא

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5

2.

האי מאן דקביל חמרא
אדעתא דמוטי ליה לפרוותא דוול שפט
ואדמטי התם זל

If someone agreed to sell another's wine for a share in the profits and the owner stipulated that he sell it at a specific location for a premium, and by the time he arrived there the price had dropped;

דינא הוא דמקבל ליה

The owner of the wine must accept the entire loss, because he expressly forbade him to sell it elsewhere, even for a high price.

However,

הוה חלא

If the wine turned to vinegar, it is a מחלוקת whether the owner must accept the entire loss, based on the earlier Machlokes in the reasoning of the Mishnah:

According to the second opinion, that of ר' יוסף בר יוסף, that

חמרא מזלא דמריה גרים

Wine's spoilage is caused by its owner's מזל;

חלא לא

The seller does not have to accept the entire loss, because

מצי אמר ליה

מזלך נמי גרם

The buyer's מזל also contributed to the loss.

According to the first explanation, that of ר' יוסי בר' חנינא, that it depends on in whose utensils the wine was stored; אפילו חלא נמי מקבל

The seller must accept the entire loss in this case as well, because

א"ל לוקח

הא חמרך והא קנקנך

Your wine and utensil were clearly substandard.

=====

5

2

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6 The Mishnah continues

ואם אמר לו יין מבושם

אני מוכר לך

חייב להעמיד לו עד העצרת

If the seller said that he is selling superior wine, it must keep at least until שבועות. After that point, the Rashbam explains,

חום תקופת תמוז

מקלקל אפילו יין מבושם

It is not unusual for the wine to spoil due to the heat, and the seller is not responsible.

The Mishnah concludes

וישן

משל אשתקד

If he stipulated that he is selling him old wine, he must give him wine from last year. And

ומיושן

משל ג' שנים

If he stipulated that he is selling him aged wine, he must give him wine from the year before last, and a ברייתא explains

ומיישן והולך עד החג

It must last a full three years, until Sukkos, the time of the next harvest.

=====

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ומיישן והולך עד החג

It must last a full three years, until Sukkos, the time of the next harvest.

7 Zugt di Mishnah:
 המוכר מקום לחבירו
 If one sells a lot to another person for the purpose of building upon it;
 וכן המקבל מקום מחבירו
 Or, if one accepts a commission to build a structure for another person;
 But they did not specify the size of the lot or structure;
 It depends on what the intended structure is:
 לעשות לו בית חתנות לבנו
 ובית אלמנות לבתו
 If he wants to build an extension to his home for his newly married son, or for his widowed daughter; as the Gemara explains
 לא דרכא דחתנא
 למידר בי חמוה
 The couple usually lives next to the husband's parents, and so a father builds a home for his married son, or for his widowed daughter who is returning to her parents' home;
 בונה ארבע אמות על שש
 דברי רבי עקיבא
 The minimum size dwelling for this purpose is four אמות by six אמות. Therefore, the lot must be large enough to hold such a structure, and this is the size that must be built.
 However,
 רבי ישמעאל אומר
 רפת בקר היא זו
 רבי ישמעאל maintains that this resembles a barn, and is unfit for human dwelling.

The Mishnah continues
 הרוצה לעשות רפת בקר
 בונה ד' אמות על שש
 The minimum size of a barn is 4x6 אמות.

7

המוכר מקום לחבירו
If one sells a lot to another person for the purpose of building upon it

וכן המקבל מקום מחבירו
If one accepts a commission to build a structure for another person

But they did not specify the size of the lot or structure

It depends...

לעשות לו בית חתנות לבנו
ובית אלמנות לבתו
If he wants to build an extension to his home for his newly married son, or for his widowed daughter

לא דרכא דחתנא למידר בי חמוה
The couple usually lives next to the husband's parents, and so a father builds a home for his married son, or for his widowed daughter who is returning to her parents' home;

רבי ישמעאל אומר	בונה ארבע אמות על שש
רפת בקר היא זו	דברי רבי עקיבא
<i>This resembles a barn, and is unfit for human dwelling</i>	<i>The minimum size dwelling for this purpose</i>

הרוצה לעשות רפת בקר
בונה ד' אמות על שש
The minimum size of a barn is 4x6 אמות

8 The Gemara offers two interpretations of this statement:

1.

רבי ישמעאל קתני לה
שהרוצה לעשות רפת בקר
עושה ארבע אמות על שש
רבי ישמעאל is stating his opinion that this is the minimum
size of a barn, and unfit for people.
And as the Rashbam explains, רבי ישמעאל holds that a
dwelling must be larger, but he does not specify its
minimum size.

2.

רבי עקיבא קתני לה
אע"פ שרפת בקר היא
פעמים שאדם עושה דירתו כרפת בקר
רבי עקיבא is arguing that although it indeed resembles a
barn, people will sometimes build such a dwelling as an
extension, and so this is the minimum size he is required
to build.
And the Rashbam adds that רבי עקיבא holds that a barn can
be smaller, but he does not specify its minimum size.

8

The Gemara offers two interpretations:

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רבי ישמעאל קתני לה
שהרוצה לעשות רפת בקר
עושה ארבע אמות על שש

*רבי ישמעאל is stating his opinion
that this is the minimum size of a barn,
and unfit for people*

*The Rashbam explains,
רבי ישמעאל holds that a dwelling must be larger,
but he does not specify its minimum size*

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*רבי עקיבא is arguing
that although it indeed resembles a barn,
people will sometimes build such a dwelling as an extension,
and so this is the minimum size he is required to build*

*And the Rashbam adds
that רבי עקיבא holds that a barn can be smaller,
but he does not specify its minimum size*



9 The Mishnah continues

'בית קטן שש על ח

A small dwelling must measure at least 6x8,

גדול ח' על עשר

A large dwelling, 8x10,

'טרקלין י' על י'

A טרקלין, which the Gemara defines as

קובתא בי וורדי

A pavilion, with many windows and adorned with

flowers, used by nobles for relaxation, must be at least 10x10.

A ברייתא adds

קנתיר

שתים עשרה על י"ב

The large courtyard of a mansion must measure at least 12x12.

The Gemara offers two versions of the Mishnah's conclusion:

1.

רזמו כחצי ארכו וכחצי רחבו

The height of these structures is the average of their length and width. Therefore, for example, a small dwelling, which is 6x8, requires a height of seven, and

ראיה לדבר

רבן שמעון בן גמליאל אומר

כבנין ההיכל

רבן שמעון brings support to this ruling from the היכל, where the structure was 40x20, and its height was 30.

9

מלאך

בית קטן שש על ח'

A small dwelling must measure at least 6x8

גדול ח' על עשר

A large dwelling, 8x10

טרקלין י' על י'

A טרקלין - A pavilion, with many windows and adorned with flowers, used by nobles for relaxation, must be at least 10x10

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