

Bava Basra – Simanim

דף פג – Daf 83

פרק ה – המוכר את הספינה

1. *Machlokes* about the required distance between three trees to acquire land

The previous Daf discussed the minimum and maximum space between three purchased trees where the buyer would acquire land. Rav Yosef quoted Rav Yehudah, in the name of Shmuel, saying between four and eight *amos*, but Rav Nachman quoted Shmuel saying between eight and sixteen *amos*. Abaye supported Rav Nachman from a Mishnah in *Kilayim*, which permitted planting between vines set sixteen *amos* apart. Rav Yosef responded that the *halachah* should not follow that Tanna (rather, the other opinion in that Mishnah, Rebbe Shimon), based on an incident in which Rav Yehudah *paskened* that the buyer acquires land if they are at a distance of *כמלא בקר וכליו* – *enough for cattle and their plowing implements* to walk, which was proven to mean four *amos*. There are explicit sources that Rebbe Shimon holds the maximum space between trees ("מפוזרין" – *spread out*) is eight *amos*, and the minimum ("רצופין" – *close together*) is four *amos*, and that the Rabbonon's maximum space is sixteen *amos*. Rav Nachman inferred that the Rabbonon's minimum space is half their maximum, like Rebbe Shimon's. However, Rava *paskens* the space is between four and sixteen *amos*. He rules like the Rabbonon's maximum, and asserts they agree with Rebbe Shimon's minimum.

2. Various questions about combining three trees (e.g., different properties)

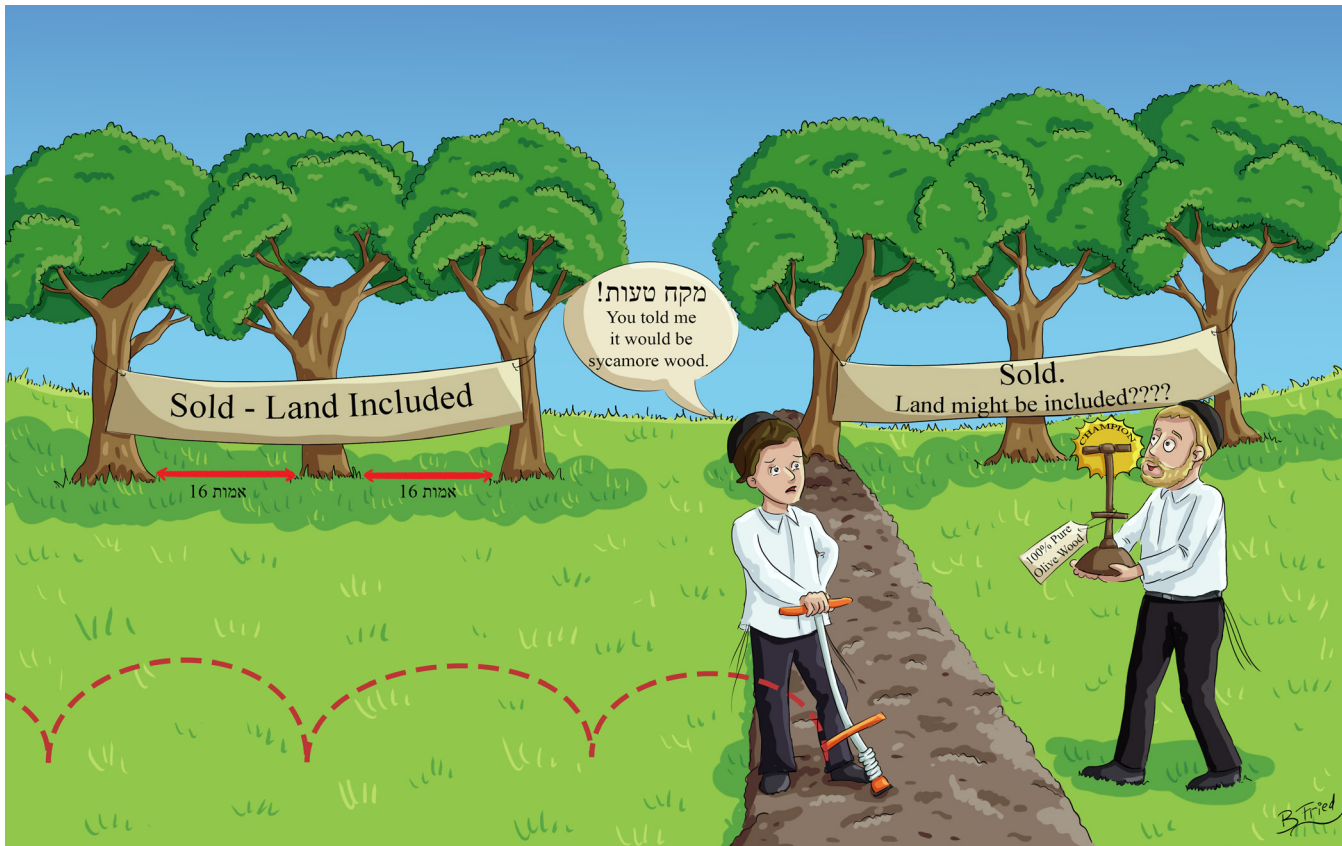
Rebbe Yirmiyah asked: *מכר לו שלשה בדי אילן* – *if he sold him three stalks of one tree* which are connected underground (and appear separate), are they considered three trees and he acquires land, or are they considered a single tree? A proof is brought from *כלאים* that they would combine as three trees. Rav Pappa asked: *מכר לו שנים בתוך שדהו* – *if he sold him two trees inside his field*, *ואחד על המצר* – *and one more on the raised boundary* of the field, do they combine to a "field of trees," or is it considered separate? If they do combine, what if the third tree he sold was in a neighbor's field? Rav Ashi asked if various barriers between the trees separate them, such as a pit, an irrigation stream, *רשות הרבים*, or a row of palms. The Gemara concludes: *תיקו* – *let [these questions] stand unresolved*. Hillel asked Rebbe (as per the Gemara's emendation): *היה ארז ביניהן* – *if there was a cedar between [the three trees]*, does it separate them? Rebbe responded: *קנה וקנה* – *he definitely acquired land, and the cedar as well*.

3. *where the sold item was found different than what was agreed upon*

The next Mishnah states: *ארבע מדות במוכרין* – *there are four different laws regarding sales*. *מכר לו חטין יפות* – *if [the seller] sold what was supposed to be superior wheat, and it was found inferior, הלוקח יכול – and the buyer can retract* from the sale, but not the seller. If it was supposed to be inferior wheat, but was found superior, only the seller can retract. These cases are not a *מקח טעות* – *mistaken sale*, since wheat was sold as ordered, rather they are *אונאה* – *defrauding*, in which only the defrauded party can retract. If the wheat was inferior as ordered, or superior as ordered, neither party can retract (even if the price changed). *עצים של זית* – *if they agreed on red wheat, and it was found to be white, or the reverse, שחמתית ונמצאת לבנה* – *or they agreed on olive wood, and it was found to be sycamore wood, or the reverse, ונמצאו של שקמה* – *or they agreed on wine, and it was found to be vinegar, or the reverse, שניהם יכולין לחזור בהן* – *both of them can retract*. This is a *מקח טעות*, since it is a different item than agreed upon, and each party may prefer the item he was supposed to have.

Siman – Pogo Stick

The pogo stick champion who jumped **the full sixteen *amos* space between three sold trees where the *קרקע* between them was also included** and finished the race right next to **the third tree of another sold set, which was on the border in between two fields**, claimed that the whole race was a *מקח טעות* because **they gave him a trophy made of olive wood when sycamore wood was what they had agreed on**.



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3 things to remember

1. **Machlokes** about the required distance between three trees to acquire land
2. Various questions about combining three trees (e.g., different properties)
3. **מוכר** where the sold item was found different than what was agreed upon

