

Bava Basra - Simanim

Daf 71 – דף עא

פרק ד – המוכר את הבית

1. All agree a בעין יפה is given בעין יפה, even more than a sale

The next Mishnah states that one who sells a field, even if he sells "it and everything in it," does not include its pit, winepress, or dovecote. It then records the *machlokes* if the seller must purchase a דרך for such assets. The Mishnah continues that all the exclusions from sales taught thus far are specific to <u>sales</u>, and even items which are not included in a sale by the term "it and everything in it," such as carob and sycamore trees, pits, etc. are included with a gift. This is because all agree that a gift is given בעין יפה, and even more generously than a sale is according to Rebbe Akiva, who holds every sale is made בעין יפה. When brothers divide an estate, בעין יפה דכו בכולה "to בעולה" when they acquire a field in the division, they acquire it fully, including everything usually excluded from sales. The same applies to one who acquires the estate of a who died without heirs.

2. If one who sold land and retained two trees for himself retains any land

Rav Huna said that although one who bought two trees in someone's field does not acquire any land (whereas a purchase of three trees constitutes a field of trees, and the buyer acquires land under and around them), מכר קרקע ושייר שני אילנות לפניו – still, if one sold land and retained two trees there for himself, יש לו קרקע – he has the land beneath and around them. Even according to Rebbe Akiva, that a sale is made בעין יפה – generously, that is only in cases like where he retains pits, אבל – דלא קא מכחשי בארעא – generously, that is only in cases like where he retains pits, אבל – which do not harm the ground surrounding them (and the buyer can use his own property fully), אבל – but trees, which harm the surrounding ground, the seller retains the land beneath and around the trees, because if he does not, the buyer could tell him when the trees die: עקור – "Uproot your tree; take it and go!"

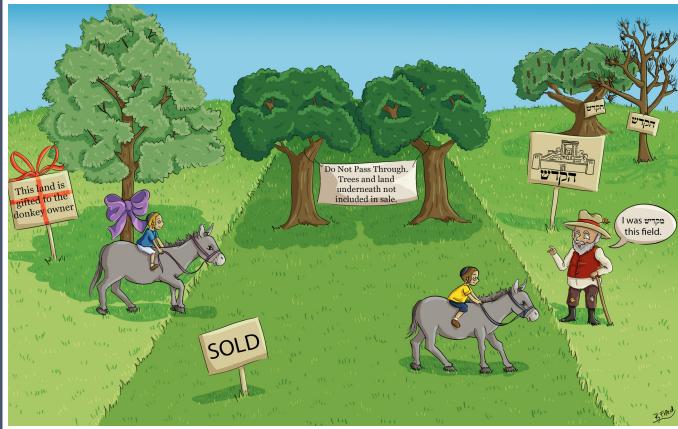
3. Rebbe Shimon says one who is makdish a field is also makdish its carob and sycamore trees

Siman – Donkey going eee-aww

The children on the donkey rides who passed under the sycamore tree that was included when the land was gifted to the donkey owner, were told not to pass through the two trees on sold land which a seller kept for himself, as they came close to the see the land the donkey owner consecrated, which included a grafted carob tree and pruned sycamore.

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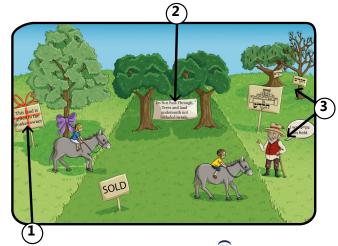
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things to remember

- All agree a מתנה is given even more than a sale
- 2. If one who sold land and retained two trees for himself retains any land
- 3. Rebbe Shimon says one who is makdish a field is also makdish its carob and sycamore trees



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