# Bava Batra, Chapter Five, Mishnah Three

# Introduction

Mishnah three deals with what is included in the sale of various items such as donkeys, cows, and beehives. Mishnah four deals with the a person who buys trees in another person’s field and whether or not the buyer has acquired the land on which the trees grow.

# Mishnah Three

1. If a man sold a donkey he has sold its foal.
   1. If a man sold a cow he has not sold its calf.
2. If he sold a dungheap, he has sold the dung on it.
   1. If he sold a cistern, he has sold the water in it.
   2. If he sold a bee-hive he has sold the bees.
   3. If he sold a dovecote he has sold the pigeons.
3. If a man bought “the fruit of a dovecote” from his fellow he must let go the first pair that are hatched.
   1. [If he bought], the “fruit of a beehive” he may take three swarms and then [the seller] may make the rest sterile.
4. [If he bought] honeycombs he must leave two honeycombs.
   1. [If he bought] olive trees to cut down the branches, he must leave two shoots.

# *Explanation*

**Section one**: The question in this section is whether or not a person has sold the young child of a mother animal, when he has sold the mother. According to the mishnah when he sells a donkey he has sold the foal but when he sells a cow he has not sold the calf. The Talmud explains that the mishnah is dealing with a case where the seller says that he is selling a “nursing” donkey or cow. Since people do not use donkeys for milk, it can be assumed that when he said “nursing donkey” he intended to sell the donkey and its young, who may be nursing from its mother. However, since people do use cows for milk, it may be that he was selling the cow on its own, without the young, and the reason why he called it a “nursing cow” was to let the buyer know that this cow produces milk.

**Section two**: In this section four things are listed, which if the outer container is sold, the contents are sold with it. Since the sole purpose of the container is to hold the contents, we can assume that when the sale was made, the intent of both the buyer and the seller was to include the contents.

**Section three**: If a person buys the young pigeons that will be born in a dovecote (where pigeons are raised), then he return to the seller the first pair that are born. This is in order for the parents, who are still owned by the seller, to have a pair of young to take care of, so that the parents won’t fly away. If one buys the bees that will be born in a beehive, he may take three swarms. After taking the three swarms, the seller may cause the bees to be sterile so that their energy will be devoted to making honey and not to making young. Alternatively, the last phrase of this section of the mishnah may state that after taking the first three swarms, the buyer takes alternative swarms. The lack of clarity in the mishnah is due to the dual meaning of the Hebrew word.

**Section four**: When a person buys honeycombs from another person’s beehive, he must leave at least two honeycombs behind, in order to feed the bees that are left. Similarly, when a person buys an olive tree with the intent to cut down the branches he must leave two branches so the tree can regenerate.

**Questions for Further Thought:**

* How is a person who buys a dovecote different from a person who buys the “fruit of a dovecote”?