Bava Batra, Chapter Five, Mishnah Seven

Introduction

Mishnah seven defines the precise moment when a sale occurs and is therefore not retractable.

# **Mishnah Seven**

1. If a man sold produce to his fellow and the buyer drew it towards him but did not measure it, [the buyer] has acquired [the produce].
   1. If [the seller] had measured it but [the buyer] did not draw it towards him, he has not acquired [the produce].
   2. If [the buyer] is clever he will rent the place [in which the produce is located].
2. If a man bought flax from his fellow he has not acquired it until he has moved it from one place to another.
   1. If it was still attached to the ground, and he plucked any small quantity of it, he has acquired possession.

## *Explanation*

**Section One**: According to Jewish law, movable items (as opposed to real estate) are acquired by taking hold of them (either by lifting them or by drawing them near) and not through the transfer of money. In other words, if Reuven gives Shimon money for his television set, the deal is not final until Reuven takes possession of the television set. If the set should break after Reuven has given the money, but still in Shimon’s possession, Shimon will have to return the money. If, on the other hand, Reuven took the television and did not pay the money, and then the set broke, Reuven will still owe Shimon the money. Our mishnah teaches that when a person buys produce, the moment he takes the produce is when the sale is final and not retractable. If the buyer wishes to ensure that the seller does not change his mind, he can rent the place where the produce is located. Thus when the buyer gives the money it is as if the produce is already in his possession and the seller may not retract the sale.

**Section Two:** With regards to flax, according to the mishnah it is not enough that he draw the flax towards him, he must carry it from place to place. Alternatively, if he purchased flax still attached to the ground, he can acquire the flax by plucking it.