

There is a monetary involvement

דאיכא דררא דממונא –

OVERVIEW

The הפה שאסר הוא הפה explains the necessity for the משנה to teach us that שדה is effective by the case of ולקחתיה ממנו and by the case of שדה של אביך היה ולקחתיה ממנו. We would not be able to derive that the (הפה שאסר) are believed to say (on account of) אבל אנוסים היינו from the fact that the buyer is believed to say (הפה שאסר) ולקחתיה הימנו (on account of). The reason is that by שדה there is a דממונא, however by שדה there is no דממונא. Our תוספות explains this difference.

פירש¹ רבינו חננאל שהאומר הוא מוחזק בשדה אבל העדים אין בידם כלום:

The ר"ה explained that in the case of שדה של אביך היה he is believed because the one who is saying שדה זכר כו' ולקחתיה ממנו is in possession of the field, therefore the הפה supports his חזקה and is effective; however the witnesses are not in possession of anything (they are not in possession of the money which the לוי may owe the מלוה); we may have thought that in this case הפה שאסר is insufficient. Therefore it was necessary for the משנה to teach us that הפה שאסר is effective even if he is not a מוחזק.

SUMMARY

There may be more reason to say הפה שאסר if one is a מוחזק than if he is not a מוחזק.

THINKING IT OVER

The ר"ה explains that by שדה זכר כו' he is the מוחזק, therefore the הפה שאסר is effective; seemingly implying that the הפה preserves the status quo where the money is.² However, the same is by עדים, when they say אבל אנוסים היינו (and the שטר is פסול) they also maintain the status quo that the money remains בחזקתו by the לוי. What is the difference between the two?!³

¹ פירש"י (בד"ה משום ובד"ה אבל) negating תוספות. According to רש"י (See ב"ב,ב) the term דממונא means a loss of money, therefore he explains the גמרא here to mean that since the buyer will suffer a loss if he says שדה זכר אביך היה, therefore we are more inclined to say that he meant to continue and say ולקחתיה הימנו so as not to suffer a loss; however the עדים suffer no loss when they say שדה זכר כו', therefore it is possible that they did not [necessarily] intend to say אבל אנוסים היינו. However, תוספות interprets דממונא (ibid) to mean that דררא דממונא means he has a legitimate claim, therefore here too תוספות prefers the ר"ה פ"ה that דררא דממונא means he has a monetary interest and therefore as a מוחזק there is more reason to believe him. See 'Thinking it over'.

² See (end of) footnote #1.

³ See אילת השחר בד"ה והנה מדברי הר"ה.