



## The Three Tree Sale

The *Mishnah* (5:4) records the following debate. If someone purchased two trees in another person's field, according to the *Chachamim*, that is all they purchased. *R' Meir* however argues that he also purchased the land around the trees – the space necessary for one to pick the fruits. If however, one purchased three trees, then everyone agrees that the person also purchased the land. The *Mishnah* explains that this means that if the trees dies, he would be able to plant other trees in place of them. The *Bartenura* explains that once there are three trees it is considered an orchard. For that to be true, the *Bartenura* explains that the trees must be spaced no less than four *amot* and not more than sixteen *amot* apart.

The *Gemara* (81a) compares our *Mishnah* with a similar *Mishnah* in *Bikkurim*. There the *Mishnah* explains that if one purchased two trees in his friend's field, while he would still bring *bikkurim* from those trees, he would not perform the *mikra bikkurim*. *Rashi* explains that since it is not considered his land, he would not be able to say as part of the recitation, "the fruits of the land that You have given me". Once again *R' Meir* disagrees. Understanding that *Mishnah* will help us understand our own.

The *Rambam* (*Bikkurim* 2:13) rules that if one however purchased three trees in his friend's field, then "even though all he purchased was the trees, it is considered as if he purchased the land" and would therefore be able to perform the *mikra bikkurim*.

The *Raavad* argues, that the reason why he can recite the *mikra bikkurim*, is because, as we explained in our *Mishnah*, he acquires the land along with the trees also. How then do we understand the *Rambam* that is only "as if" he purchased the land?

The *Grach* explains that *Rambam* maintains that when purchasing three trees one does not also purchase the land. We do not consider the land as being *batel* to the trees as part of the purchase. What is different about the case when purchasing three trees, is that he has the right continue planting trees in that space.

If this is true, how then can he bring *bikkurim* from those trees? The *Grach* explains that the *Rambam* understands that since the individual has the perpetual right to keep planting the trees in that space, it is enough to be considered "the land You have given me."

One could ask that even if he purchased one tree, he has the rights to the land at least while the tree is standing. Yet, the *Rambam* rules in that same *halacha* that he would not be able to bring *bikkurim* from that tree. The *Grach* explains that purchasing a single tree is different. In that case, all he has is the rights for the tree to draw nutrients from that land.

Alternatively, purchasing a single tree is even worse than that. The purchaser of the single tree has no rights to the land at all. It is simply that the seller must ensure that the tree gets adequate nutrients, somewhere, so that that the tree he sold endures. When purchasing three trees, since he maintains the perpetual right in the land, as explained above, even though he did not purchase the land directly, it is indeed "as if he purchased the land" and he is able to declare that the fruits were from "the land You have given me".

This understanding explains why the *Rambam* rules that when purchasing a single tree, he could not even bring *bikkurim*. Compare this to a case where one purchased the *peirut* (fruit) of another tree. In that case the *Gemara* (*Bava Batra* 136b) rules that he may still bring *bikkurim* yet not perform *mikra bikkurim*. *Rashi* there explains that he cannot perform *mikra bikkurim* since it is not "the land You have given me". Yet he can still bring *bikkurim* from that land since it satisfies the *pasuk*, "that you shall bring from your land". *Rashi* explains that *pasuk* is satisfied, since when he purchased that *peirut* there was a lien on that land on which the trees are located to enable it to produce that fruit. As explained, when purchasing a single tree however, there is no lien on the land at all.

**Revision Questions**

בבא בתרא ד' ט' - ו' ב'

- In what special case is everything that is in the field transferred to the other party? (ד': ט')
- What are two cases are similar to the previous question? (ד': ט')
- What is and is not included in the sale of:
  - A boat?
  - A wagon? (ה': א')
- According to R' Yehuda when does the sale of a yoke include the ox that pulls it? (ה': א')
- What are the three opinions regarding whether the sale of a donkey includes its equipment? (ה': ב')
- What has someone purchased if the rubbish comes with it? (ה': ג')
- If someone purchased honeycomb from a beehive, how much can he take? (ה': ג')
- What is debated regarding the sale of two trees? (ה': ד')
- List the three differences according to the *Tana Kama* between whether a person purchase two or three trees in another person's field? (ה': ד')
- In what situation can the sale of a part of an animal include more than the stated part? (ה': ה')
- Regarding the sale of wheat, when can the seller cancel the deal? When can the buyer cancel the deal? When can either cancel the deal? (List one example for each.) (ה': ו')
- In what two ways are large amounts of fruit acquired? (ה': ז')
- In what two methods is flax purchased? (ה': ז')
- During the sale of wine, at what point is the sale finished even in the face of fluctuating prices (and what is the case that the *Mishnah* describes)? (ה': ח')
- What is a *sarsur* and when is he responsible? (ה': ח')
- What is the debate regarding a case where a person sent his son with money, to a shop to purchase a oil? In what case is there agreement? (ה': ט')
- What obligations are placed on a shopkeeper based on the following *pasuk* (ה': י'):
 

"מאזני צדק אבני צדק איפת צדק והין צדק יהיה לכם"  
(ויקרא י"ט : ל"ו)
- Regarding the previous question, when does *Rabban Shimon ben Gamliel* maintain that these obligations do not apply? (ה': י"א)
- If a seller measured perfectly, what percentage must he add for dry goods? For liquids? (ה': י"א)
- Can a buyer claim *mekach ta'ut* if he purchased fruit, and using them, was not able to grow fruit? (ה': י"א)
- If someone purchased figs, what percentage of wormy figs is acceptable? (ה': ב')

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1 December ל' חשוון	2 December א' כסלו	3 December ב' כסלו	4 December ג' כסלו	5 December ד' כסלו	6 December ה' כסלו	7 December ו' כסלו
Bava Batra 6:3-4	Bava Batra 6:5-6	Bava Batra 6:7-8	Bava Batra 7:1-2	Bava Batra 7:3-4	Bava Batra 8:1-2	Bava Batra 8:3-4

