

ואי כורכמא דרישקא¹ – **And if he sold him a כורכמא דרישקא**

OVERVIEW

רבא stated that if the buyer claims that he was sold the קרקע as well as the tree and he had a חזקת ג"ש, he acquires the land as well. מר קשישא asked what can a seller do to protect himself if he sells a כורכמא דרישקא (but not the land beneath it or around it), to insure that the buyer will not claim that he bought the land as well. תוספות explains why the גמרא mentioned כורכמא דרישקא specifically; this question seemingly applies to any plant or tree which is sold (without the קרקע).

לכך נקט כורכמא דרישקא שמתקיים בקרקע ג' שנים זהיינו שני חזקה –

The reason he mentions כורכמא דרישקא specifically is because it lasts three years in the ground, which are the required חזקה years -

ודרך להשהותו בקרקע כמו שיכול להתקיים:

And furthermore it is customary to allow it to remain in the ground as long as it can last in the ground. Therefore when one sells a כורכמא דרישקא it is assumed that the buyer will hold on to this plant (in the ground) for three years, and will then have the opportunity to claim that he bought the land as well.

SUMMARY

כורכמא דרישקא is kept in the ground for three years, and so there is the concern that he might claim that he bought the land as well.

THINKING IT OVER

1. Seemingly trees last much longer than three years in the ground, so why the need to mention כורכמא דרישקא, when he could have mentioned any tree?²
2. What is must usual (or unusual); a. to sell trees with the land, b. to sell trees without the land, c. to sell כורכמא דרישקא with the land, d. to sell כורכמא דרישקא without the land?³

¹ Others translate this to mean Saffron (from the) Orient; a certain (expensive) plant.

² See נח"מ.

³ This may solve 'Thinking it over' # 1.