

## What difference is it [to him]

## מאי נפקא<sup>1</sup> מינה -

### Overview<sup>2</sup>

The גמרא asked if the seller (ראובן) has no other assets, what difference is it to him whether the buyer (שמעון) wins the case (against לוי), or not; in either case he does not have to pay (since he has no assets). תוספות struggles with this question.

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תוספות asks:

תימה דנפקא מינה שיפטרו אם יתעשר<sup>3</sup> -

**It is astounding! there is a difference** to ראובן, whether שמעון retains the field or not, for if שמעון retains the field, ראובן **will be exempt** from paying יהודה, even if ראובן **becomes rich** later!

תוספות answers:

ושמא בשביל כן אין לפוסלו לעדות כיון דהשתא<sup>4</sup> לא מרויח מידי:

**And perhaps we cannot disqualify ראובן to testify on account of this** (which may happen in the future), **since now** (when he is testifying) **he is gaining nothing** (for now he has no assets, and cannot pay his creditor).

### Summary

One may not be a נוגע בעדות on account of something which may happen in the future.

### Thinking it over

Is this answer of תוספות (that we are not concerned for the future) applicable only in a case where we do not know for sure that the seller owes money,<sup>5</sup> or is it applicable even if we know that the seller owes money?<sup>6</sup>

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<sup>1</sup> In the גמרא the text reads מאי נפקא ליה מינה.

<sup>2</sup> See 'Overview' to previous תוס' ד"ה אי.

<sup>3</sup> ראובן wants that the field remain by שמעון, for then יהודה will collect his debt, and ראובן is free from paying. However if שמעון loses the field and יהודה cannot collect from שמעון, the debt remains and if שמעון becomes wealthy later, he will have to pay יהודה, so how can the גמרא ask מאי נפקא ליה מינה?! It is a major difference to him and therefore he is a נוגע בעדות!

<sup>4</sup> See 'Thinking it over'.

<sup>5</sup> In this case it is kind of a double ספק; perhaps he owes money (but perhaps not), and even if he owes money he may become wealthy (but perhaps not). Therefore in his type of ספק (which is a ספק ספיקא), we are not concerned.

<sup>6</sup> See נחלת משה.