

לוקח ראשון מעיד ללוקח שני –

The first buyer may testify for the second buyer

OVERVIEW¹

The ברייתא teaches that the לוקח ראשון can testify on behalf of the לוקח שני against a מערער if אית ליה ארעא אחריתי. Our תוספות questions the need for a לוקח שני.

asks: תוספות

קשה לרבינו שמשון בן אברהם אמאי לא קאמר לוקח מעיד למוכר² -

The רשב"א has a difficulty, why did not the ברייתא state that the לוקח can testify for the seller -

והוא דאית ליה ארעא אחריתי בין (לפרש"י³) בין לפירוש⁵ רבינו יצחק:

Provided that the מוכר has another field besides the one being contested; this question is both according to (פרש"י) [פרשב"ם] and also according to the פר"י.

SUMMARY

Why do we need a לוקח שני; the same rule can apply by the מוכר ומוכר.

THINKING IT OVER

What is the advantage of the case over the ברייתא's case?

¹ See 'Overview; to the previous (הא') לוקח ד"ה תוס'.

² This means that if the seller has another field (besides the one he sold to the לוקח), and someone is contesting the ownership, the לוקח may testify against the מערער for the benefit of the מוכר.

³ Others amend this to read (לפרש"י) instead of פרשב"ם.

⁴ This means that the concern of the לוקח is that perhaps the seller owes someone money and the בע"ח will collect from the לוקח if the מוכר has no other field.

⁵ The concern of the לוקח is perhaps the field he bought was stolen, and if the מוכר has no other field, the לוקח will not have from where to collect.

⁶ נחלת משה (בשם הקצות [והנתיבות]) does not answer his question. See.