

ומודה רב הונא בקרנא ולופתא –

And admits by a ‘corner’ and an ‘angle’

OVERVIEW

סמך לפלגא סמך ר"נ and ר"ה cited the dispute between גמרא After the קרנא ולופתא by ר"נ admits to ר"ה and concludes that גמרא, למאי דסמך סמך or לכולא תוספות (ד"ה סמך) In the previous. אפריזא ובאקבעתא דכשורי by ר"ה admits to ר"נ we learnt that the מחלוקת between ר"ה ור"נ is in a case where the new wall is shorter than the party wall either in height or in length. It is therefore preferable to assume that the 'ומודה' of both ר"ה ור"נ refer to both types of cases where the new wall was shorter than the party wall either in height or length.¹ תוספות will explain that this is indeed so. Each one was מודה to the other in these two types of לפלגא.

מפרש רבינו תם קרנא להיכר שלא יאריך החומה יותר –

The ר"ה explains that the ‘corner’ that was made in the new wall, is for a sign that he will not lengthen the wall further. תוספות goes on to explain, how in the case of 'קרנא', we can assume that the wall will not be extended any longer -

שבסוף אותו כותל שסמך² כייפיה לקרנא כלפי כותלו של חבירו –

For at the end of the wall which he juxtaposed to the party wall he turned the corner of the wall towards his friend's party wall. He discontinued extending the wall; but rather began building at a right angle to his wall, which caused his wall to extend in the direction towards his friend's party wall. In this case רב הונא will admit that we do not say סמך לפלגא, since it is obvious that he will not extend his wall lengthwise anymore; but rather we maintain that למאי דסמך סמך. This explains the case of shorter in length.

תוספות will now explain the case where it was shorter in height:

ולופתא הוי היכר שלא יגביה הכותל יותר –

And 'לופתא', a (pitched) angle is a sign that he will not raise the wall higher.

תוספות goes on to explain -

כגון שעשה היכר בראש החומה³ לפי שרגילין לעשות החומה צרה למעלה –

for instance; that he made an indication at the top of the wall, that he is not

¹ In support of this assumption is that the גמרא (seemingly) mentions two cases by each 'ומודה'. This also indicates that the 'ומודה' is in the two types of לפלגא. See the מפרשים why רש"י disagrees with תוס'.

² שסמך עושה כיפיה לקרנא amends this to read הגהות הב"ח.

³ החומה כמו שרגילים amends this to read הגהות הב"ח.

building higher (for) [as] it is customary to make the wall narrow on top; it is pitched at an angle -

שיפלו הגשמים מחוץ לחומה ולא ישהו שם –

So that the rain water will fall down away from the wall and will not remain there, on top of the wall; which may cause water damage. A wall pitched on top is not extended any higher. When he built the לופתא on the wall, we are assured that he will not raise the wall any higher. Again, רב הונא will admit in this case, that למאי דסמך סמך וכו' has concluded citing both cases according to ר"ה.

ר"נ continues to explain both cases according to תוספות.

ומודה רב נחמן באפריזא היא היכר שיאריך עדיין הכותל –

And ר"נ admits to ר"ה in the case of a broken staggered wall. תוספות explains that אפריזא is an indication that he yet intends to lengthen the wall. תוספות explains that אפריזא means –

שבסוף אורך החומה אינו שווה אלא אבן אחת בולטת ואחת שוקעת דודאי עדיין יאריכנו –

That at the end of the length of the wall it is not straight and finished properly but rather the stones are staggered, one stone protrudes lengthwise and one stone is indented lengthwise, for in this case he will yet certainly lengthen the wall. רב נחמן will agree that in this instance we maintain סמך לפלגא סמך לכולא.

ר"נ will now discuss the case of a lower wall according to תוספות.

ואקבעתא דכשורי היינו שעשה מקום הנחת ראשי קורות⁴ –

And the placement of the crossbeams that means that he made on top of the new wall place to put the ends of the crossbeams.

דמוכח שסופו להגביה עד שיעור גובה עלייה:

For then it is evident that ultimately he will raise the wall up to the height of an attic; he intends to build a second story, which will eventually raise the height of his wall to the same height as the party wall.

SUMMARY

Both ר"ה and ר"נ agree that if there is a clear indication that the new wall will be definitely not extended in length or height; or that it will be definitely extended either in length or height, that we follow this indication, concerning סמך לכולא or למאי דסמך סמך.

⁴ The crossbeams generally serve as a floor for the attic above.

THINKING IT OVER

When a person begins to build a wall adjacent to a party wall, at what point is he obligated to pay for the party wall? Can he eventually exempt himself from full payment?⁵

⁵ See סוכ"ד אות ט.