

בית כור¹ – והוא דקרו ליה בית כור – provided that they call it

Overview

The גמרא teaches us that if a buyer offers to sell a בית כור to a seller, and instead gives him a smaller land that is called בית כור it is a valid sale, provided that people call this property בית כור. Our תוספות will be discussing a few issues; a) was the buyer aware that there is a field called בית כור; b) was the buyer aware of the size of the negotiated field; and finally c) how much did the buyer pay; for a complete בית כור or for less than a בית כור.

תוספות makes an additional proviso:

– and for instance that the buyer is aware –

– that the seller owns a piece of land –

– which is commonly called by everyone בית כור.² It is only in this case, that the sale is valid. תוספות explains his point:

– דאם לא כן – for if it were not so; if the buyer is not aware that the seller owns a (small) field that is called בית כור, then even if the seller owns such a field, nevertheless it is not a valid sale. The reason the sale is not valid –

– הרי הטעהו – for the seller misled him. The seller offered to sell him a בית כור. The buyer was not aware that the seller owned a property that was commonly called בית כור. The buyer was under the assumption that he would receive a field that was the size of a בית כור. The owner dealt with him dishonestly, therefore the sale is void.

תוספות now discusses an additional issue: This ruling that the buyer must be aware that the seller owns a property called בית כור; otherwise the sale is void; this is true

– ואפילו אם רואה בשעת מכירה (and) even if the buyer sees at the time of the sale, that the proposed field for sale –

– שאין שם בית כור – does not contain a בית כור; the buyer sees that the intended field is smaller than a בית כור; one might assume that since the buyer is aware of the size of the field and he agreed to buy it, it should be a valid sale regardless of its size. Nevertheless the sale will be void if the buyer is not aware that the owner possesses a field which is called בית כור. The reason the sale is void is because the buyer –

– יכול לומר – is empowered to claim –

– סבור הייתי – I was under the impression that even though the negotiated field did not have a בית כור, nevertheless since you told me you were selling me a בית כור, I was sure –

¹ A בית כור literally is the size of a field that a כור of grain can be planted there. It measures a hundred אמות by fifty אמות; for a total of five thousand square אמות. Despite this, it is obvious that any field can be given the name 'בית כור' regardless of its size.

² It seems from תוספות that the sale is valid, even if the buyer is unaware that the field being negotiated for resale is called בית כור.

that you were planning to augment me a complete בית כור; that in addition to this (small) field, you would give me additional fields, that together would total a בית כור. Therefore if the buyer was not aware that the seller had a field that was called בית כור, even if the negotiated field was less than a בית כור it is a voided sale. However if the buyer is aware that the seller owns a (small) property called בית כור, then the sale is valid even if the buyer did not see the negotiated field.

presents a difficulty:

you may ask; let the amount of money being paid in this transaction inform us as to the intent of the buyer. If the price paid was for a field less than a בית כור, then the buyer cannot revoke the sale (even if he was not aware that the seller owns a small field called בית כור), for it is obvious that he would receive a small field; that is what he paid for³.

and if the buyer gave the seller the money for a complete בית כור, then –

even if they call it בית כור (and the buyer is aware that seller owns a field which is called בית כור), nevertheless the seller –

should be required to supplement his sale until he gives him a **complete בית כור**, since that is what the buyer paid for.⁴

answers:

and one can say, that we are discussing a case where the seller is lowering the price for this buyer –

and the buyer is not paying the seller even the price of a לתך (which is half the size of a בית כור). Therefore –

if they call the negotiated field a בית כור –

even if it does not contain but a לתך (half a בית כור) –

he attained his goal; the sale is valid. The לוקח knew that the מוכר owned a לתך of land called בית כור and he agreed to buy it. In fact he paid less than the price of a לתך.

however if they do not call this לתך field, בית כור (the buyer is not aware of any field being called בית כור), then –

³ It would seem that if the price paid was for a field less than a בית כור, however the owner did not possess a field that is called בית כור, then the owner would be required to sell him a field the size of a בית כור, regardless of the price being paid. It is only when the owner possesses a field that is called בית כור that we maintain that it should be a valid sale even if the buyer is unaware that such a field exists; the buyer should have realized that something was amiss since he was being offered such a low price for a בית כור.

⁴ This question may be based on the premise that תוספות set forth in the beginning; that if the buyer was misled, there is no sale. Therefore if the buyer paid for a בית כור that is what he should receive; otherwise he is being misled. If we would maintain, however initially, that it is not necessary for the buyer to be aware that the seller owns a property called בית כור, and nevertheless it is a valid sale, for we are not concerned that the seller is being misled; then there would seemingly be no question that the price paid should be our guide. The sale will be valid regardless of the payment as long as the seller possesses a field called בית כור.

then the seller is obligated to give to the buyer a complete בית כור שלם. The amount paid is irrelevant. The seller sold the property for a price below market value. Nothing can be determined by looking at the price paid. The seller sold a בית כור; he is required to give the seller a בית כור. If however the buyer paid market value then the price will determine the validity of the sale.

offers an alternate solution:

there is also another option; that he did not sell it cheaper to this buyer, but charged him the regular price –

and for instance that the buyer paid the seller the price of a בית כור which is the size of the field that is known as בית כור –

and therefore if they do not call it בית כור –

the buyer would be able to claim –

if you are willing to sell to me a complete בית כור שלם –

for the price paid, as was stipulated that a בית כור is being sold –

and to stand by the transaction; then stand by it! Give me a complete בית כור.

and if not; you do not want to give me a full בית כור; but rather you want me to accept this smaller field which is called בית כור (of which I was never aware), then –

return my money to me; there is no sale at all!⁵

however if they called this field בית כור and the לוקח was aware of it, then the sale –

is valid, even though the field is only the size of a בית כור. The לוקח knew that the owner owns a small field called בית כור. The לוקח realized that he is paying for the value of a בית כור; he has no recourse but to accept this sale.

Summary

The case of the valid sale of a field the size of a בית כור that is called בית כור is under the following circumstances:

The buyer is aware that the seller owns a field that is called בית כור and paid less than the price of a בית כור; otherwise even if the buyer was aware that the field in question was less than a בית כור the sale is void.

Thinking it over

1. Is the לוקח merely required to know that the מוכר owns a field which is called בית כור; or is he also required to know that the field which is called בית כור is actually smaller than a בית כור?

⁵ This answer rejects the assumption that paying market value price should determine the validity of the sale. See 'Thinking it over' # 2.

2. What is the ruling if the buyer paid the price of a לתך and he did not know that the seller owns property that is called בית כור?
3. What is the ruling if the buyer paid the price of a complete בית כור?
4. Why is it that in his question תוספות only mentions the option if the field is called בית כור; however in both answers תוספות discusses both options whether the field is called בית כור or not?