

## בעינן דומיא דערים מצורות –

**We require that it be similar to fortified cities**

### OVERVIEW

The גמרא explained that even if we maintain דמי כמקרקעי עבדי, it is still understood why if קנין אגב must be similar to the ערים מצורות, because the קרקע that can create אגב, from which we derive אגב.<sup>1</sup> However, עבדים, since they move, are not similar to the ערים מצורות, therefore they cannot be considered as קרקע for אגב. The question arises if עבדים are not considered as קרקע to create אגב, then they should be allowed to be acquired through אגב. However we learnt in this ברייתא that עבדים לא קנה בקרקע! Our תוספות resolves this difficulty.

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anticipates and resolves an apparent difficulty:

**והחזיק בקרקע לא קנה עבדים -**

**And when he made a חזקה in the קרקע he is nevertheless not קונה**; when seemingly he should be קונה the עבדים since עבדים are not considered קרקע in regards to creating a קנין. They should (at least) be באגב.

responds; the reason why קנה קרקע לא קנה עבדים is -

**משום דאין קרקע נקנית<sup>2</sup> באגב:**

**because קרקע cannot be acquired through אגב.** It is true that עבדים cannot create a קנין אגב because they are not similar to ערים מצורות; but nevertheless they are considered like קרקע and therefore cannot be acquired through אגב, since only מטלטלין can be נקנה through אגב but not קרקע.<sup>3</sup>

### SUMMARY

cannot be נקנה through אגב (קנין אגב) (according to the מ"ד that דמי כמקרקעי עבדי), for קנין אגב cannot be acquired through אגב.

### THINKING IT OVER

How do we know that קרקע is not נקנה through אגב קנין אגב?

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<sup>1</sup> See previous ד"ה אגב תוספות.

<sup>2</sup> It is evident from this תוספות that the ruling of שמואל concerning עבדים, מכר לו עשר שדות וכו', is not on account of אגב (but rather it is a ruling in חזקה).

<sup>3</sup> See 'Thinking it over'.