

## **A thing which is worth any amount of money      דבר השוה כל כסף –**

### **OVERVIEW**

The גמרא initially stated that when the משנה taught us 'שוה כסף' it means that the claims for נזיקין are collected from קרקע (only). רבה בר עולא explained (the connection between שוה כסף and קרקע), that the term שוה כסף in the משנה is to be understood as דבר השוה כל כסף, which is קרקע; for קרקע is worth any amount of money paid. One cannot overpay for קרקע. Our תוספות will qualify this statement.

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לאו דוקא דיתר מפלגא יש להם אונאה<sup>1</sup> כדמשמע בפרק הזהב (ב"מ דף נז,ב) -

**This** statement that קרקע is something which is שוה כל כסף **is not precise; for the rule of fraud applies to קרקע** if the amount defrauded is **more than half** (of what he paid), **as is indicated in פרק הזהב**. Therefore we cannot say that קרקע is worth any amount of money you pay for it, for if one is defrauded by more than one half, the sale is nullified.<sup>3</sup>  
**אלא שוה כל כסף יותר ממטלטלי:**

**Rather** the phrase שוה כל כסף means that קרקע is worth **more money than מטלטלין**. If one is defrauded by more than one sixth of the value by מטלטלין the sale is nullified; however by קרקע even if one is defrauded by more than one-sixth (up to one half) the sale is valid.

### **SUMMARY**

There is אונאה by קרקע if one overpaid by more than half.

### **THINKING IT OVER**

שוה כל כסף ties the concept of אונאה to the concept of שוה כל כסף. If there is אונאה it is not worth כל כסף. However, perhaps the concept of שוה כל כסף by קרקע is that intrinsically קרקע is שוה כל כסף, since it can continually produce without end. On the other hand there is אונאה (or rather <sup>4</sup>ביטול מקח) since the buyer had no intention of paying (much) more than the market value.<sup>5</sup>

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<sup>1</sup> The rule of אונאה by מטלטלין is as follows; less than one sixth the sale is valid; one sixth, the sale is valid and the amount of אונאה (the sixth) must be returned; more than a sixth, the sale is nullified.

<sup>2</sup> It would seem that תוספות is referring to נז,א where various אמוראים state (concerning קרקע) that אונאה אין להם but ר"ת זבין מאה במאתן אין להן אונאה that גמרא where תוספות cites אמר ד"ה אמר ביטול מקח יש להם concludes that up to half במאתן מאה there is no אונאה; however more than that there is אונאה "ל ביטול מקח ואכמ"ל.

<sup>3</sup> This means that it is not worth more than double of its market value (for if it is worth any price then there should be no אונאה at all).

<sup>4</sup> See footnote #2.

<sup>5</sup> See חידושי ר"נ אות תקיח.