

דאיכא למימר חד מינייהו קדים –

Where it is possible to say; one of them preceded the other

OVERVIEW

The ברייתא states that if he sold (all) his fields to one person or to three people simultaneously, the rule is כולן נכנסו תחת הבעלים. The גמרא tries to ascertain under what circumstances did he sell it to one person. It cannot mean that he sold all three fields to one person בבת אחת, for then it is obvious that כולן נכנסו תחת הבעלים, and there is no need to state it. It is obvious because if by מכרן לשלשה בנ"א, where there is a presumption that it was not sold simultaneously, nevertheless we rule that כולן נכנסו תחת הבעלים, certainly if he sold it to one person בב"א, that כולן נכנסו תחת הבעלים. It is not clear why the גמרא assumes by בנ"א, there is an assumption that חד מינייהו קדים. There are שטרות, and in the שטרות it is written when the sale took place. The ברייתא stated that they were sold בב"א, at one time. Why should we assume that one preceded the other?! תוספות answers this question.

דאין כותבין שעות אלא בירושלים:

For they do not write hours on שטרות, except in ירושלים. Therefore even though the three שטרות have the same date, nevertheless it is possible (and even likely¹) that they were sold at different times during this day. This is what the גמרא means דאיכא למימר דחד מינייהו קדים.

SUMMARY

Only in ירושלים was the hour of the transaction recorded on the note; everywhere else, only the date was recorded, not the time.

THINKING IT OVER

If different creditors came to collect their respective debts, which are all dated on the same date, and there are witnesses that one preceded the other (on that date); does the earliest creditor have priority in claiming his debt?

¹ The sale was made to three different buyers; it is highly unlikely that the three קנינים transpired simultaneously.