

## רצה מזה גובה ומזה גובה –

**If he wants he can collect from this one or from this one**

### OVERVIEW

teaches that if sold all his fields to שמעון, and שמעון sold one (the only field to לוי, then the ראוּבֵן of בע"ה has the option of collecting his debt from either (לוקח the first) or לוי (the second לוקח)

anticipates a difficulty:

ואף על גב דאמרין<sup>1</sup> אין גובין מנכסים משועבדים במקום שיש נכסים בני חורין -

**And even though the משנה rules that one may not collect from encumbered properties when there are unencumbered properties.** This rule applies -

**אפילו הן זיבורית -**

**Even if the משועבדים are of an inferior quality;** nevertheless collection must be made from the בני חורין.<sup>2</sup>

responds:

**שאני הכא דכולהו משעבדי נינהו:**

**Here it is different; for all the properties (both by שמעון and לוי) are משעבדים.<sup>3</sup>**

### SUMMARY

The rule of בני חורין שיש applies only to a buyer from a לווה; not to a (second) buyer from a (first) buyer.

### THINKING IT OVER

Explain how the concepts of שיעבוד נכסים and שיעבוד הגוף can clarify the difference between the לווה and the לוקח versus the similarity between the ראשון לוקח and the שני לוקח.<sup>4</sup>

<sup>1</sup> גיטין מח,ב

<sup>2</sup> The purchaser can tell the creditor, 'I left over fields for you by the seller (the debtor), from which you can collect'. In our case, seemingly the field of לוי (the לוקח שני) should be considered משעבדים relative to the fields of שמעון (the לוקח ראשון) which should be considered בני חורין (לוי). Before לוי bought the field the responsibility of paying the debt was on שמעון's fields. Seemingly here too לוי should claim, 'I left you properties by שמעון, from which you can collect'.

<sup>3</sup> The rule of מנכסים משעבדים וכו', applies only to the debtor and the buyer; for the debtor incurred the debt. It is his responsibility to repay it. Therefore the לוקח is always exempt from paying as long as the debtor has assets (no matter which kind; even זיבורית). However when we are discussing a ראשון לוקח and a שני לוקח, where they both are not the debtors, the responsibility lies equally on both their properties. See the following two מצי ד"ה אבל וד"ה מצי for further clarification.

<sup>4</sup> See נח"מ.