

And עסיקין came out on it

ויצאו עליה עסיקין -

OVERVIEW

עסיקין taught that if ראוּבֵן sold a field to שמעון without אחריות and there were עסיקין on this field, שמעון cannot retract (after he made a חזקה) and must keep to the terms of the sale. However if the sale was with אחריות, then שמעון can void the sale (even if he was מחזיק).

פירוש עוררים -

The interpretation of the word עסיקין is **challengers**. There were people who challenged the alleged ownership of this property. The עסיקין claimed it was their property and not the seller's (or the buyer's).

אבל אין לפרש אנסים -

However the word עסיקין **cannot be translated to mean confiscators**; people who seized the property by force without a valid legal claim. עסיקין cannot be referring to אנסים -

דאם כן אפילו באחריות משהחזיק בה אמאי יכול לחזור¹ לימא ליה מזלך גרם:

For if עסיקין is referring to אנסים, then even if the field was sold with a guarantee, why can the buyer retract once he took possession, let the seller tell the buyer it is your 'luck' that caused that אנסים should seize your field. No one is denying the legitimate ownership of the seller. It is not the responsibility of the seller to guarantee against such unforeseen circumstances, which are beyond his control. However if we are referring to עוררים, who claim that it is their field; then it is certainly the responsibility of the seller to stand by his guarantee.

SUMMARY

If אנסים took possession of the field after the לוקח made a חזקה, he cannot nullify the sale even if he bought the field באחריות. He can nullify the sale only when there are עוררים who claim the field is theirs legitimately.

THINKING IT OVER

תוספות states that by אנסים even if he purchased it באחריות he cannot be חוזר after he was מחזיק because the מוכר can say גרם. It would seem that the מוכר has no need to respond at all if there is a problem with אנסים. Once an item is sold, it is sold. If the לוקח loses it or it is stolen from him, it is not the responsibility of the מוכר; why the need for גרם?!²

¹ The גמרא states that (according to the קמא) that if he bought it with אחריות and עסיקין, the buyer can nullify the sale.

² See סוכ"ד אות ט.