

He returned and bought it, etc.

חזר ולקחה כולי –

OVERVIEW

ר' שמואל queried רב. What is the ruling if a גזלן sold a field to a לוקח, and then the גזלן purchased this very same field from the נגזל? The גמרא did not clarify under what circumstances the גזלן sold the field to the לוקח, and what are the two sides of the query.¹ תוספות clarifies this

בלא הכיר בה מיירי² –

The גמרא is **discussing** a case **where** the purchaser **did not realize** that it was a stolen field –

וקמיבעיא ליה אם הגזלן יכול לבטל המקח ולהחזיר לו מעותיו או לאו:

And the query is whether the thief can nullify the sale and return the money to the purchaser, or whether he cannot nullify the sale; in which case if the גזלן purchases the field from the rightful owner, the field will belong (not to the גזלן, but rather) to the one who purchased it from the גזלן..

SUMMARY

The query of חזר ולקחה is in a case of לא הכיר בה, and the query is if the original sale can be nullified by the גזלן, or not.

THINKING IT OVER

מה מכר that גמרא מסקנא of the ruling (according to the גמרא that מכר, but the גזלן bought the field from the נגזל, but the property depreciated in value, can the purchaser demand his money back (since there was never a sale) and decline the field, or can the גזלן force him to accept this field which he originally purchased in lieu of the purchase price?

¹ The query is seemingly not understood. If it was a case of לא הכיר בה, then there is no sale; the גזלן either returns the money (according to רב that מעות פקדון) or keeps the money (according to שמואל that מעות מתנה); either way the גזלן keeps the field that he purchased since there was no sale. If it was לא הכיר בה, then obviously the גזלן must return the money [regardless if חזר ולקחה or not].

² From the buyer's perspective, there was a sale, and therefore the buyer claims that when the גזלן bought the field from the נגזל he bought it in order to assign it to the initial buyer, while the גזלן claims that there was never a sale since at the time of purchase the גזלן did not own the field, and he merely owes the purchaser the money he paid for this bogus sale.