

## What have I stolen from you

## מאי גזלינא מינך –

### OVERVIEW

The rule is that if the גזלן purchased the field from the נגזל (we assume that he bought it on behalf of the לוקח and therefore) it belongs to the initial buyer from the גזלן. The reason is either because the גזלן does not want to be called a גזלן (by the buyer), or that the גזלן wants to retain his reputation as an honest person. The difference between these two reasons is in case where the גזלן gifted this stolen field (and he did not sell it). If the reason is because he wishes to retain his honest reputation then the field will belong to the recipient of the gift; if however the reason is because he does not want to be called a גזלן, it does not belong to the recipient, since the גזלן says to the recipient, 'I have not stolen anything from you (since he gave it as a gift)'. תוספות clarifies the difference whether the גזלן sold it or gifted it.

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תוספות asks:

**ואם תאמר וכי מכרה נמי מה גזלו והלא צריך להחזיר לו מעותיו<sup>1</sup> –**

**And if you will say; and even if he sold the field to the buyer, what did the seller steal from the buyer?! Is not the seller required to return to the buyer his money** which he paid him for the stolen field?! Therefore seemingly there is no loss to the buyer!

תוספות answers:

**ויש לומר דמכל מקום יקראנו גזלנא כל זמן שלא יפרע לו<sup>2</sup>:**

**And one can say; that nevertheless as long as the גזלן does not repay the buyer, he will call him a גזלן;** however by מתנה the receiver can never refer to him as a גזלן, since he caused him no loss.

### SUMMARY

The גזלן does not want to be called a גזלן even for a limited time.

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<sup>1</sup> Initially we could have thought that the expression גזלנא דלא נקרייה גזלנא is referring to the גזלן stealing the field from the נגזל [and then selling it or gifting it]. He will be called a גזלן for he is transferring property that does not belong to him. However, now that the גמרא says that the מקבל מתנה cannot call him a גזלן (even though the גזלן stole the field from the נגזל and transferred it illegally to the מקבל מתנה), because the מקבל מתנה suffered no loss, similarly the לוקח also suffers no loss since the גזלן must repay him. How are we to understand the מ"ד that גזלנא דלא נקרייה גזלנא?! If it does not revert to the מקבל מתנה it should not revert back to the לוקח either, since they are both not suffering any loss!!

<sup>2</sup> The גזלן does not want to be referred to as a גזלן even for a limited time. See 'Thinking it over' # 1-4.

### **THINKING IT OVER**

1. When did the גזלן buy the field from the נגזל; before the נגזל took away the field from the לוקח or afterward?
2. What would the ruling be if the גזלן is willing to pay the לוקח presently, when he wishes to take away the field from the לוקח [based on his purchase from the נגזל]?<sup>3</sup>
3. Why does not תוספות answer simply that the לוקח will call him a גזלן, since the לוקח wants the field and he paid for it, therefore now that the גזלן is taking it away from him (even if he is returning the money) nevertheless he will call him a גזלן?<sup>4</sup>
4. After the גזלן purchases the field from the נגזל, would בי"ד allow him to take away the field from the לוקח (if we would assume that he may) before he pays the לוקח?!

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<sup>3</sup> See בל"י אות תקלב and נח"מ.

<sup>4</sup> See תוה"ר.