

לא שנו אלא בעל הבית בכהן -

It was not taught, only regarding the owner with the *Kohain*

Overview

The ברייתא taught, regarding the rule of lending money to a כהן, etc. in order to be repaid from תרומה, etc., that if he wants to retract from this deal, he cannot. רב פפא commented that this means that the lender (the בעה"ב) cannot retract, but the כהן may retract. תוספות explains this ruling.

אפילו לרבנן דפליגי ארבי שמעון בפרק הזהב (שם דף מד, א) -

This ruling of רב פפא applies even according to the רבנן who argue with ר"ש in פרק הזהב -

ולית להו כל שהכסף בידו ידו על העליונה¹ -

And they do not maintain that the upper hand is by the one who has the money, nevertheless -

הכא לא גרע מכי לית ליה לא יהיב² -

Here it is not worse than a situation where if there is no תרומה (the produce did not grow), the כהן does not have to give him other payments -

אי נמי כדפירש בקונטרס³ דהכא דאין לו למשוך ממנו כלום⁴ לא מצי הדור ביה:

Or you may also say like רש"י explained that here by מלוה את הכהן where the בעה"ב has no need to pull anything from the כהן, therefore the בעה"ב cannot retract.

Summary

¹ The משנה there states that if the buyer (of מטלטלין) paid the money but did not make a משיכה (he did not take possession of the item), both sides can retract from the sale (since מטלטלין are acquired by משיכה but not through כסף). However ר"ש argues and maintains that once the money was paid, the seller (who has the money) has the upper hand, only he can retract from the sale, but not the buyer. In our case here, the כהן has the money (and the בעה"ב wants the פירות as payment), therefore according to ר"ש the כהן can retract from this deal (and say he wants to repay the loan in cash and not have the בעה"ב use his תרומה as payment הזול), however the בעה"ב, who gave the loan and does not have the cash, cannot retract (and say I don't want to deduct the תרומה for payment but I would like to be paid in cash), but rather he must keep the agreement. However according to the רבנן, who maintain that both the buyer and the seller can retract, why is it that here only the כהן can retract, but not the בעה"ב.

² The understanding was that if there will be no crops, the כהן is not obligated to pay back the בעה"ב at all, so certainly the בעה"ב cannot retract and say, 'I want my payment in cash'.

³ בד"ה בעל.

⁴ In the case of the sale (in ב"מ) where the buyer is supposed to make a משיכה in the פירות, which he is buying, and he did not make the משיכה yet, therefore he too can retract. However here, where the בעה"ב is not taking something from the רשות of the כהן, he is merely withholding the תרומה, therefore he cannot retract, because he is not lacking any further action; he completed the transaction by lending money to the כהן.

The רבנן agree that only the כהן can retract but not the בעה"ב; either because it was agreed that לא יהיב ליה, or because there is no need for משיכה here.⁵

Thinking it over

The produce which is being given to the בעה"ב is a דבר שלא בא לעולם, so even if we maintain אדם מקנה דבר שלא בא לעולם, nevertheless the rule is that before it is בא לעולם, one can retract, so why cannot the בעה"ב retract?⁶

⁵ See שיטות רש"י ותוס' on the גמרא ד"ה לא שנו, for a detailed explanation of נחלת משה.

⁶ See חידושי הרשב"א.