

מאי איריא חצי¹ אפילו כולו נמי – Why teach ‘half’, it is also even by ‘all’

OVERVIEW

The גמרא reconciles the two ברייתות, saying that the ברייתא which stated לא קנו is where it was אחד. The גמרא asked why then does the סיפא of this ברייתא state that if it was חצי חצי in one שטר they are not קונה, but why mention חצי (which is more reason not to be קונה [since he is משייר]), since the rule of לא קנו applies even if he said כולו. Our תוספות explains why the גמרא did not attempt to answer this question with the same answer it gave previously in a similar situation.²

תוספות responds to an anticipated difficulty:

הכא ליכא לשנויי תנא סיפא לגלויי ארישא³ -

Here the גמרא could not have answered תנא סיפא לגלויי ארישא -

דפשיטא דבשטר אחד אין חילוק⁴ בין אמר חצי חצי לאמר כולו:

For it is obvious that the רישא is discussing even כולו, for if he gave them both one שטר, there is no difference whether he said חצי חצי or whether he said כולו. It is (the same) פסול in either case

SUMMARY

By one שטר there is no conceivable difference between חצי and כולו.

THINKING IT OVER

Why can't we say that without the סיפא we would have thought that the רישא is only by חצי,⁵ and by writing חצי in the סיפא it is ארישא that it is even by כולו because of ולהברתה?⁶

¹ In our text the text reads חצי חצי אפילו (instead of חצי אפילו).

² The גמרא initially reconciled the two ברייתות by saying that the ברייתא of לא קנו is where he said חצי. The גמרא asked but in the סיפא of that ברייתא it states 'ואם אמר חצי לא קנו', indicating that the רישא is not discussing חצי. The גמרא answered that the סיפא is merely explaining the רישא and מסתברא ה"נ for if the רישא is by כולו then why mention חצי in the סיפא since it is obvious. The גמרא rejected this מסתברא ה"נ, saying תני סיפא לגלויי רישא that even by כולו, it is לא קנו. [see 'Overview']], because it was necessary for the ברייתא to inform us that לא קנו even by כולו (if it is אחד), so it mentions חצי in the סיפא so we now know that the רישא is כולו and nevertheless לא קנו.

³ The reason the סיפא mentions that by לא קנו (even though it is obvious, since לא קנו even by כולו [see 'Overview']], because it was necessary for the ברייתא to inform us that לא קנו even by כולו (if it is אחד), so it mentions חצי in the סיפא so we now know that the רישא is כולו and nevertheless לא קנו.

⁴ If it is one שטר to both עבדים it is פסול because of ולהברתה (see רש"י ד"ה בשטר), so it makes no difference whether he said כולו or חצי. Previously however where the פסול is because of משייר, in that case there may be a difference between כולו (where he is not משייר) and חצי (where he may be משייר), therefore it is appropriate to say תנא פסול. nevertheless it is פסול that even by כולו (where he may not be משייר), nevertheless it is פסול.

⁵ We may not have known of this rule; לה ולא לה ולהברתה, this is what the ברייתא is teaching us!

⁶ See # 124. אוצר מפרשי התלמוד.