

## **מידי דהוה אלקדש אחותו - For it is similar to one who betroths his sister**

### **Overview**

רב ענן ruled that if one sold his field during the יובל year the sale is not valid. The גמרא explained that even though שמואל stated אינה מכורה it does not necessarily mean that the money goes back, because this case may be similar to one who is מקדש אחותו where שמואל rules that the money remains as a gift for the woman.

ולפי האמת<sup>1</sup> יש לחלק דלא שייך התם למימר אדם יודע כמו במקדש אחותו<sup>2</sup> -

And according to the truth that מעות חוזרין (by מוכר שדהו ביובל), we can differentiate, because there (by יובל) it is not that applicable to say that a person knows that one cannot sell his field on יובל, as it is plausible to say that by מקדש - מקדש אחותו, where everyone knows that one cannot be מקדש אחותו -

דהא רב קאמר דמכורה<sup>3</sup> ויוצאה<sup>4</sup>:

For רב maintains that it is a sale, but it goes out from the buyer to the seller, so obviously there is no universal agreement that a field cannot be sold on יובל.

### **Summary**

People (even according to שמואל) are more aware that באחותו than אין קידושין תופסין באחותו being aware that a field cannot be sold on יובל.

### **Thinking it over**

Since even according to רב the field returns to the owner,<sup>5</sup> so all the buyers know (even according to רב) that the sale will be reversed (just as the קידושין will not take effect) so (according to שמואל) he is giving the money מתנה just like by מקדש - מקדש אחותו; what is the difference?!<sup>6</sup>

<sup>1</sup> The גמרא resolved the issue from a ברייתא that in the case of שדהו ביובל the ruling of שמואל is that מעות חוזרין. The question is why is this case different from מקדש אחותו, where מעות מתנה, but not מעות חוזרין.

<sup>2</sup> Therefore by מקדש אחותו it is understood why שמואל maintains מתנה, because everyone knows that one cannot be מקדש his sister.

<sup>3</sup> Therefore שמואל can maintain that even though he personally maintains מכורה however there is an opinion (of רב) that it is מכורה, and therefore the person who sold it on יובל can claim he was not aware that it may not be sold, and therefore he is entitled to receive his money back.

<sup>4</sup> See 'Thinking it over'.

<sup>5</sup> See footnote # 4.

<sup>6</sup> See מהר"ם.