

And he returned and bought it

וחזר ולקחה –

OVERVIEW

taught that if one partner is his half of a בהמה and then he buys out his partner and is the other half; the rule is that this בהמה is קדושה and also that it is ¹ כיוצא בה¹ and ואינה קריבה. Our תוספות will explain why ר"י could not have offered a simpler case to state his point.

anticipates a question:

הא דנקט וחזר ולקחה ולא נקט בהמה של שני שותפין שהקדיש כל אחד חציה –
The reason he mentions ‘and he returned and bought it from his partner’, and he does not mention a case where there was a cow which belonged to two partners and each partner successively² sanctified his half of the cow; seemingly the same law would apply (namely; קריבה). Why was it necessary to cite a (more unusual) case where a partner bought out his partner after he was מקדיש חציה?!

replies:

משום דלא שייך התם ועושה תמורה ותמורתה כיוצא בה –
Because in this suggested case, the ruling of ועושה תמורה ותמורתה כיוצא בה is not applicable -
דשותפין אין ממירין כדאמר בתמורה (דף יג,א) ובפרק קמא [דזבחים] (דף ו,א):
because partners cannot make תמורה, as the משנה states in ³ מסכת תמורה³ and in the first פרק of זבחים. And since ר' יוחנן wanted to teach us also the rule of חזרה ולקחה, ועושה תמורה ותמורתה כיוצא בה, therefore he needed a case where חזרה ולקחה.

SUMMARY

תמורה cannot make שותפין.

THINKING IT OVER

Perhaps the reason ר"י cited a case of וחזרה ולקחה (and then והקדישה) to teach us that if there was no subsequent והקדישה it would not become קדוש on its own.⁴

¹ If he exchanges this animal with an animal of חולין, both retain the same קדושה; namely; קריבה.

² If the partners would simultaneously be מקדיש the בהמה it would be קריבה. See footnote # 197.

³ The משנה states there that it says (ויקרא [בחקותי] כז,י) that לא יחליפנו ולא ימיר (in the singular), indicating that only a יחיד can effect תמורה but not (a צבור or) שותפין.

⁴ See footnote # 195.