

אמר קרא יהיו בהוייתן יהו –

The verse reads, ‘they shall be’; they retain this status

Overview

The גמרא concludes that initially one may not deal with (or derive any benefit from) non-kosher animals (based on the פסוק of יהיו¹). This would seem to conflict with common practice where Jews buy and sell non-kosher animals. תוספות discusses and resolves this contradiction.

asks: תוספות

ואם תאמר אם כן סוסים וחמורים היכי זבנין –

And if you will say; if this is so, that initially one may not derive benefit from non-kosher animals, how can we buy/sell horses and donkeys?

answers: תוספות

ויש לומר דבמידי דאכילה מיירי דווקא² –

And one can say that the prohibition of 'יהיו' is dealing specifically with edible items; horses and donkeys are not bought and sold for food, but rather for work.

supports this view: תוספות

ובירושלמי דמסכת שביעית סוף פרק ח' פריך והרי חמור וגמל –

And in ירושלמי of תלמוד מוסכת שביעית at the end of 'פרק ח' he asks; ‘but what about a donkey and a camel’; why may we do business with them?

ומשני למלאכתן הן גדילים –

And he answers; they are raised for their work; not for food.

asks: תוספות

ואם תאמר דאמרינן במרובה (בבא קמא פב, ב ושם) אסור לישראל לגדל חזירים⁴ –

And if you will say; the גמרא states in פרק מרובה that it is forbidden מדרבנן for a ישראל to raise pigs; why was it necessary for the רבנן to enact this איסור -

תיפוק ליה דמדאורייתא אסור –

¹ וטמאים יהיו לכם (לה) and טמאים הם לכם (שם ח) ושקץ יהיו לכם, ויקרא (שמיני) יא, יא.

² The פסוק of יהיו which the גמרא cites deals with שרצים which are used only for food; they cannot be used for work. Therefore it is understood that the הנאה to derive איסור לכתחלה from them is regarding selling them for food; by סוסים וחמורים; however there is no איסור trading them since they are used as beasts of burden.

³ The פ"ז ה"א amends this to א"ה.

⁴ The ברייתא there relates the story that during the wars between the חשמונאים when ירושלים was beleaguered, they would nevertheless provide sheep for the תמיד קרבן, by passing it over the wall. The attackers were advised that as long as they people inside will offer קרבנות it will not be possible to capture ירושלים. At the next opportunity instead of sending up a sheep they sent up a חזיר, who inserted his fingernails in the wall of ירושלים and י"א trembled for a distance of four hundred פרסא squared. At that point the חכמים declared: חזירים וכו'.

It can be derived for it is forbidden מדאורייתא; since חזירים are used for food?

answers: תוספות

ויש לומר דנפקא מינה למיקם בארור⁵ –

And one can say that the difference the איסור דרבנן makes by חזירים is that he is liable for the ‘curse’ the רבנן placed on anyone who raises חזירים.

offers an alternate answer: תוספות

אי נמי⁶ הא דאסור מדאורייתא היינו להשתכר ולמכור לנכרי לאכול –

Or you may also say; that which is prohibited מדאורייתא is only to profit by selling the animals to נכרים for food -

אבל להשתכר בשומנן או בעורן לא –

However to profit from their fat or hide there is no תורה prohibition -

או שמגדל שלא למכור אלא למשוך ולהדליק –

Or when he raises the animals not to sell them but merely to use the fat as lubrication or for lighting purposes, then generally it is permitted, since it is not for food, but nevertheless -

אפילו הכי בחזירים אסור –

Even for such purposes (non food usage), it is forbidden with pigs.

offers a final solution: תוספות

אי נמי בנזדמנו לו כגון שנפלו בירושה אין לגדלן⁷:

Or you may also say; that if he happens to possess non kosher animals, for instance if he inherited them, he is not permitted to raise them if they are pigs.

Summary

The prohibition of doing business with non-kosher animals is limited to those animals that are raised for food; not for work, and only if the sale is for food, but not if it is for their hide or fat.

Thinking it over

If someone inherited חזירים may he sell them (for food)?⁸

⁵ In addition to the איסור מדאורייתא there is also a curse of the רבנן.

⁶ According to the first תירוצ (based on the ירושלמי) animals which are raised for work are אסור (מותר לסחורה). However animals which are raised for food (such as חזירים) are אסור בסחורה. The א"נ maintains that even those animals that are עומד לאכילה (like חזירים), nevertheless מדאורייתא we may trade for their oil or hide (which are not לאכילה). See אור החמה.

⁷ See ‘Thinking it over’.

⁸ See footnote # 6 and 47 הערה in הרא"ש.