

And not to a gentile teacher

ולא לסופר ארמאי –

OVERVIEW

The חצר השותפין teaches us that one may not rent out his house in a חצר השותפין to a gentile teacher (because of the noise the students will make). תוספות reconciles this גמרא with a seemingly contradictory בריתא.

משמע דאם לא¹ סופר הוה שרי להשכיר לארמאי² -

It seems from this בריתא that if this gentile was not a teacher, it would be permitted to rent out one's house to a Gentile.

תוספות asks:

ואם תאמר דאמרינן בהגוזל בתרא (בבא קמא דף קיד,א) האי בר ישראל -

And if you will say, in פרק הגוזל בתרא where רב אשי stated, 'this Jewish person - דזבין ליה ארעא לעובד כוכבים אמיצרא דבר ישראל חבריה משמתינן ליה -

Who sold to a gentile land, which bordered the property of another Jew, the rule is, the seller is placed in חרם (excommunication) -

דאמר ליה אריא ארבעת אמיצראי³ -

For the Jewish neighbor says to the seller 'you placed a lion (the נכרי) at my border'; we see that it is forbidden to sell land to any gentile (next to a ישראל), so why here do we only prevent a סופר ארמאי to rent, but not a regular ארמאי –

תוספות rejects an anticipated solution:

ודוחק לחלק בין מכר לשכירות⁴ -

And it is difficult to differentiate between a sale and a rental –

תוספות answers:

ונראה לרבינו יצחק דהתם כשישראל רצה לקנות אבל אם אין ישראל רוצה לקנות מותר:

And it is the view of the ר"י that there in פרק הגוזל it is in a situation where a Jew wanted to buy this property, therefore the seller should not sell it to the נכרי, however if no ישראל wants to buy, it is permitted to sell it to a נכרי, and similarly it is permitted to rent it to a נכרי (near another ישראל).

¹ The הגהות ה"ח amends this to read, לא היה סופר שרי (instead of שרי הוה סופר שרי).

² The בריתא only prohibits renting to a סופר ארמאי, but not to a 'plain' ארמאי.

³ The gentile buyer will make all sorts of problems for the Jewish neighbor (like a lion, which causes problems).

⁴ One may choose to say that the prohibition is only to sell to a נכרי (who borders a ישראל), for then the damage is for an extensive time; however renting to a gentile is only temporary and may be permitted. תוספות finds this distinction not to be adequate, for even a temporary damage is untenable.

SUMMARY

The prohibition of selling (or renting) to a gentile a property near another Jew, is only if there is another Jew who wants to buy (or rent) the property; otherwise it is permitted.

THINKING IT OVER

What would be the ruling if there is another ישראל who is interested in buying, however the נכרי is offering a higher price; may the ישראל sell it to the נכרי?⁵

⁵ See נחלת משה.