אִי אָמַרְתְּ בִּשְׁלָמָא: מוֹסִיף עַל דְּבָרָיו הָוֵי – מִשּׁוּם הָכִי בַּעַל הַבַּיִת מָעַל, אֶלָּא אִי אָמְרַתְּ: מַעֲבִיר עַל דְּבָרָיו הָוֵי – בַּעַל הַבַּיִת אַמַּאי מָעַל? וְהָתְנַן: הַשָּׁלִיחַ שֶׁעָשָׂה שְׁלִיחוּתוֹ – בַּעַל הַבַּיִת מָעַל, לֹא עָשָׂה שְׁלִיחוּתוֹ – שָׁלִיחַ מָעַל.

Granted, if you say that the agent **is adding to the words** of the host, this *halakha* is understandable, because then, when the agent said to the guests: Take two pieces, he presented one of the pieces as the agent of the host. It is **due to that** reason that **the host is guilty of misusing consecrated property. However, if you say** that the agent **is disregarding the words** of the host, **why** is **the host guilty of misusing consecrated property? Didn't we learn** in a mishna (*Me'ila* 20a): If **an agent who performed his** assigned **agency** caused consecrated property to be misused, it is **the host** who appointed him who **is guilty of misusing consecrated property;** however, if the agent **did not perform his** assigned **agency,** and did not act in accordance with his instructions, it is **the agent** who **is guilty of the misuse** and not the employer?

הָכָא בְּמַאי עָסְקִינַן – דַּאֲמַר לְהוּ "טְלוּ אַחַת מִדַּעְתִּי שֶׁל בַּעַל הַבַּיִת וְאַחַת מִדַּעְתִּי" וְשָׁקְלוּ אִינְהוּ תְּלָת.

The Gemara answers: **With what are we dealing here?** This is a case **where** the agent **said** explicitly **to** the guests: **Take one** piece **with the consent of the host, and one** piece **with my consent, and they took three** pieces. Since every piece of meat was taken with the consent of someone else, they are all guilty of the misuse of consecrated property.

תָּא שְׁמַע: הָיְתָה כְּתוּבָּתָהּ מָנֶה, וּמָכְרָה שָׁוֶה מָנֶה וְדִינָר בְּמָנֶה – מְכָרָהּ בָּטֵל.

The Gemara suggests: **Come** and **hear** an understanding of the mishna: If **her marriage contract was** worth **one hundred dinars, and she sold** property **worth one hundred dinars and a dinar for one hundred dinars, the sale is void.**

מַאי לָאו – דְּזַבִּין שָׁוֶה מָנֶה וְדִינָר בְּמָנֶה וְדִינָר, וּמַאי "בְּמָנֶה" – מָנֶה שְׁלָהּ, וּמַאי "אֲפִילּוּ" – אֲפִילּוּ הִיא אוֹמֶרֶת אַחֲזִיר אֶת הַדִּינָר לַיּוֹרְשִׁים, בְּדִינָר מְקַרְקְעֵי. וְקָתָנֵי: מְכָרָהּ בָּטֵל.

The Gemara interprets the case of the mishna: **What, is it not that she sold** property **worth one hundred dinars and a dinar for one hundred dinars and a dinar,** and there was no error in the sale? **And what** does it mean when the mishna says that she sold the property **for one hundred dinars?** It means that she sold it in order to receive the **one hundred dinars** owed to **her** because of her marriage contract. **And what** does it mean when it says in the mishna: **Even** if she says: I will return the one extra dinar to the heirs, nevertheless the sale is voided? It means that **even if she says: I will return the dinar to the heirs by** giving them **a dinar's** worth **from my land,** the heirs will not be losing anything at all. The Gemara concludes the proof: **And** the mishna **teaches** that even so the **sale is void,** implying that not just what she added is void, but the entire sale is voided.

אָמַר רַב הוּנָא בְּרֵיהּ דְּרַב נָתָן: לָא, בְּדְאוֹזִיל.

Rav Huna, son of Rav Natan, said: No, the correct understanding of the mishna is not that she sold the land for its proper price. Rather, the mishna is referring to a situation **where she reduced** its price[N] and sold the property for less than its worth, and there was an error in the sale itself.

NOTES

Where she reduced its price – בְּדְאוֹזִיל: Since she is considered an agent of the orphans, the sale is void. An agent who misrepresents his employer and causes him to suffer a loss is no longer considered his representative (Rivan).

Perek **XI**
Daf **99** Amud **a**

הָא מִדְּסֵיפָא בְּדְאוֹזִיל – הָוֵי רֵישָׁא בְּדְלָא אוֹזִיל, דְּקָתָנֵי סֵיפָא: הָיְתָה כְּתוּבָּתָהּ אַרְבַּע מֵאוֹת זוּז, מָכְרָה לָזֶה בְּמָנֶה וְלָזֶה בְּמָנֶה, וְלָאַחֲרוֹן יָפָה מָנֶה וְדִינָר בְּמָנֶה, שֶׁל אַחֲרוֹן – מְכָרָהּ בָּטֵל, וְשֶׁל כּוּלָּן – מְכָרָן קַיָּם!

The Gemara asks: **Since the last clause** of the mishna deals with a case **where she reduced** the price, it stands to reason that **the first clause** of the mishna **is** a case **where she did not reduce** the price. Why would the mishna repeat itself for no reason? **As it teaches** in **the last clause** of the mishna: If **her marriage contract was** worth **four hundred dinars** and **she sold** property **to this** one **for one hundred dinars, and** she sold property **to that** one **for one hundred dinars,** and again to a third one, **and** she sold property **to the last one worth one hundred dinars and a dinar for** only **one hundred dinars, the** sale **of the last** property **is void. And** as for **all of the others, their sale is valid** because they were sold for the correct price.

לָא, רֵישָׁא וְסֵיפָא בְּדְאוֹזִיל. וְסֵיפָא הָא קָא מַשְׁמַע לָן: טַעְמָא – דְּאוֹזִיל בְּדִידְהוּ – מִכְרָה קַיָּים.

The Gemara rejects this: **No,** both the **first and the last clauses** discuss cases **where she reduced** the price of the land and sold it for less than its worth. **And the last clause teaches us this: The reason** that the sale is void is that in that case, since she had already received full payment of her marriage contract, **she reduced** the price in a sale that she made **with** property **of the orphans** and at their expense. However, when she reduced the price of the land **in** the sale of **her own** property, as in the earlier clauses of the mishna, **her sale is valid.**

הָא מִדְּרֵישָׁא שָׁמְעַתְּ מִינָּהּ: הָיְתָה כְּתוּבָּתָהּ מָאתַיִם, וּמָכְרָה שָׁוֶה מָנֶה בְּמָאתַיִם, אוֹ שָׁוֶה מָאתַיִם בְּמָנֶה – נִתְקַבְּלָה כְּתוּבָּתָהּ!

The Gemara asks: How can it be that this is what the last clause of the mishna is teaching? It can already be **concluded from the first clause** of the mishna, which states: In the case of **a widow whose marriage contract was** worth **two hundred** dinars **and she sold** property that was **worth one hundred dinars for two hundred** dinars, **or** if she sold property **worth two hundred** dinars **for one hundred dinars, she has received** payment of **her marriage contract** and can demand nothing more. This teaches that although she reduced the price of her own property by half, the sale is valid.

מַהוּ דְּתֵימָא: הָתָם הוּא דְּאִיסְתַּלְּקָא לָהּ מֵהַאי בֵּיתָא לְגַמְרֵי, אֲבָל הָכָא – נִיגְזוֹר מָנֶה רִאשׁוֹן אַטּוּ מָנֶה אַחֲרוֹן, קָא מַשְׁמַע לָן.

The Gemara answers: **Lest you say: There,** in the first clause of the mishna, the sale is valid because through the sale **she has left this house entirely,** i.e., she no longer has anything to do with her husband's estate, as her entire claim has been paid off; **however, here,** in the latter clause, **decree** that the **first** sale for **one hundred dinars** will be void **due to the last one hundred dinars.** If the first sale is allowed to take effect, this may lead to the error of the last sale taking effect as well. Therefore, the first sale should be void if she reduces the price. Lest you make this argument, the mishna **teaches us** that this is not the case.

וְאֵיפָא דְּאָמְרִי: הָא לָא תִּיבָּעֵי לָךְ, הֵיכָא דַּאֲמַר לֵיהּ ״זִיל זַבֵּין לִי לִיתְכָא״ וְזָבֵין לֵיהּ כּוֹרָא – דְּוַדַּאי מוֹסִיף עַל דְּבָרָיו הָוֵי.

The Gemara returns to the question asked earlier (98b): **And there are** those **who say: Don't raise this dilemma** in a case **where** the employer **said to** his agent: **Go** and **sell** on **my** behalf **a half-*kor*, and** the agent **sold for him a *kor*,**[H] **as he was certainly adding to the** employer's **words,** and the sale of the first half-*kor* is valid.

כִּי תִּיבָּעֵי לָךְ – דַּאֲמַר לֵיהּ ״זִיל זַבֵּין לִי כּוֹרָא״ וַאֲזַל וְזַבֵּין לֵיהּ לִיתְכָא, מַאי? מִי אָמְרִינַן: אָמַר לֵיהּ דְּטָבָא לָךְ עֲבַדִי לָךְ, דְּאִי לָא מִצְטָרְכִי לָךְ זוּזֵי – לָא מָצֵית הָדְרַתְּ בֵּיהּ.

Where you should **raise the dilemma** is a case in **which** the employer **said to** his agent: **Go sell** on **my** behalf **a *kor*, and he went and sold for him a half-*kor*.**[H] **What** is the *halakha* in that case? **Do we say** that the agent can **say to** the employer: **I did what is good for you**[N] by not selling everything, because you now have the opportunity to determine if you are truly in need of more money. If you decide that you do not need the money then you will not have to sell more property, **because if** you will realize that **you do not need the money** after the sale has been completed, **you will not be able to reverse** the sale. I therefore did you a favor by selling as little as I could.

HALAKHA

Sell on my behalf a half-*kor*, and the agent sold for him a *kor* – זַבֵּין לִי לִיתְכָא וְזָבֵין לֵיהּ כּוֹרָא: If one says to his agent: Sell on my behalf a *beit se'a* from my land, and the agent sells two *beit se'a*, the agent added to the intent of the man and the buyer acquired only one *beit se'a*. This is in accordance with the conclusion of the Gemara. However, the buyer may revoke the sale by saying that he intended to buy the land only if he could buy the two *beit se'a* together (Rambam *Sefer Kinyan*, *Hilkhot Sheluḥin VeShutafin* 1:4; *Shulḥan Arukh*, *Ḥoshen Mishpat* 182:8).

Sell on my behalf a *kor*, and he went and sold for him a half-*kor* – זַבֵּין לִי כּוֹרָא וְאָזַל וְזַבֵּין לֵיהּ לִיתְכָא: If one told his agent to sell two *beit se'a* of his field and the agent sold only one *beit se'a*, the agent is considered to have disregarded his employer's instructions and the buyer has not acquired any land.

According to the Rif, this ruling follows from the discussion in the Gemara. The *Maggid Mishne* adds that since the problem was not resolved in the Gemara, it remains a matter of uncertainty, and the court does not take property away from the land owner in a situation of uncertainty (Rambam *Sefer Kinyan*, *Hilkhot Sheluḥin VeShutafin* 1:4; *Shulḥan Arukh*, *Ḥoshen Mishpat* 182:9).

NOTES

I did what is good for you – דְּטָבָא לָךְ עֲבַדִי לָךְ: The Ra'ah and the Ritva said that the intent here is not to say that the agent on his own decided to deviate from the employer's instructions for the employer's own good. In that case, the agent certainly violated the employer's intention. Rather, the case here is one where the employer instructed the agent in a way that the agent understood that he was to sell up to one *kor* of property. For this reason, the agent thought he was doing his employer a favor by selling only a half-*kor*, as in ordinary circumstances one would rather not have to sell his property (Rivan). Most of the authorities feel that even in that case, the agent violated his employer's intent (see Rif and Ramban). Others rule that one who sells less than he was told to is still considered to be performing his agency and his actions are effective (Rav Hai Gaon).

אוֹ דִּלְמָא אֲמַר לֵיהּ: לָא נֵיחָא לִי דְּלִיפְשׁוּ שְׁטָרֵי עִילָּוֵאי?

Or perhaps the employer can **say to** the agent: I do not agree to this. **I am not amenable** to the fact **that** this **will increase the** number of **bills** of sale that **I** have[N] because I will have to write a separate promissory note for each sale, and if I will have to go to court then I may earn a reputation as someone who has many mortgages.

אֲמַר רַבִּי חֲנִינָא מִסּוּרָא, תָּא שְׁמַע: נָתַן לוֹ דִּינָר שֶׁל זָהָב, וְאָמַר לוֹ ״הָבֵא לִי חָלוּק״, וְהָלַךְ וְהֵבִיא לוֹ בְּשָׁלֹשׁ חָלוּק, וּבְשָׁלֹשׁ טַלִּית – שְׁנֵיהֶם מָעֲלוּ.

Rabbi Ḥanina of Sura said: Come and **hear** a proof from the mishna for that which we learned about the *halakhot* of misusing consecrated property (*Me'ila* 21a): If **one gave** his agent **a gold dinar,**[NH] which is equal in value to twenty-five dinars or six *sela*, **and said to him: Get me a robe. And he went and brought him a robe that** cost **three** *sela*, **and a cloak that** also cost **three** *sela*, after which it was discovered that the original dinar was consecrated property, the *halakha* is that **both are guilty of misusing consecrated property.**

אִי אָמְרַתְּ בְּשִׁלְּמָא שָׁלִיחַ כִּי הַאי גַּוְונָא עוֹשֶׂה שְׁלִיחוּתוֹ, וּמוֹסִיף עַל דְּבָרָיו הָוֵי – מִשּׁוּם הָכִי בַּעַל הַבַּיִת מָעַל. אֶלָּא אִי אָמְרַתְּ מַעֲבִיר עַל דְּבָרָיו הָוֵי – אַמַּאי מָעַל?

Granted, if you say that the **agent in a case like this** is considered to be **performing his** assigned **agency, and he was** merely **adding to the words** of the employer, it is **due to that** reason that **the homeowner is guilty of misusing consecrated property. However, if you say** that the agent is **disregarding the words** of the employer, as the employer intended for him to buy a robe with all six *sela*, **why** is the employer **guilty of misusing consecrated property?** In this instance, the agent did not fulfill his assignment.

הָכָא בְּמַאי עָסְקִינַן – דְּאַייְתֵי לֵיהּ שָׁוֶה שֵׁשׁ בְּשָׁלֹשׁ.

The Gemara answers: **Here we are dealing with** a case **where he brought him** a robe **worth six** *sela* that he had succeeded in buying **for** only **three** *sela*, so that the employer received exactly what he wanted. And the agent did not deviate from his intentions, he merely added to them because he also bought him a cloak.

אִי הָכִי שָׁלִיחַ אַמַּאי מָעַל? אַטַּלִּית.

The Gemara asks: **If that is so,** if the employee did exactly what the employer had asked him to do, then **why** is the agent **guilty of misusing consecrated property?** The Gemara answers: He is guilty of misusing consecrated property because he spent three *sela* of consecrated property to buy **the cloak,** which the employer never requested from him.

אִי הָכִי אֵימָא סֵיפָא, רַבִּי יְהוּדָה אוֹמֵר: אַף בָּזֶה בַּעַל הַבַּיִת לֹא מָעַל, מִפְּנֵי שֶׁיָּכוֹל לוֹמַר: חָלוּק גָּדוֹל הָיִיתִי מְבַקֵּשׁ, וְאַתָּה הֵבֵאתָ לִי חָלוּק קָטָן וְרַע!

The Gemara asks: **If that is so,** then **say the last clause** of the mishna quoted by Rabbi Ḥanina of Sura (*Me'ila* 21b): **Rabbi Yehuda says: Even in this** case **the homeowner is not guilty of misusing consecrated property because he is able to say: I would have requested a large robe and you brought me a robe** that is **small and bad.** If the agent had brought him a robe worth six *sela* as requested, then this should not be a bad robe.

מַאי רַע – רַע בְּדָמִים. דַּאֲמַר לֵיהּ: אִי אַייְתִית לִי בְּשִׁית – כָּל שֶׁכֵּן דַּהֲוָה שָׁוֶה תְּרֵתֵי סְרֵי.

The Gemara answers: **What** is meant by **bad? It is bad** in its **monetary** value because the agent spent on the robe less than what the employer instructed him. That is why the agent is considered to have violated the wishes of his employer, as the employer can **say to him:** Since you chanced upon a merchant who reduced his prices to such a degree, **if you had brought me** a robe **for six** *sela* as I asked you, it would **all the more so** have **been worth twelve** *sela*, and it would have been a much finer robe.

דַּיְקָא נַמִּי, דְּקָתָנֵי: מוֹדָה רַבִּי יְהוּדָה בְּקִטְנִית, שֶׁשְּׁנֵיהֶם מָעֲלוּ,

The Gemara notes: The language of the mishna **is also precise** when understood in this way, **as it teaches: Rabbi Yehuda concedes** that **both are guilty of misusing consecrated property** in the following case: The agent purchased only part of what the employer requested **in** the case of **legumes,** which are sold for a set price under all circumstances,

NOTES

This will increase the number of bills of sale that I have – לִיפְשׁוּ שְׁטָרֵי עִילָּוֵאי: There are several opinions concerning how to understand why one would not want to be swamped with numerous bills of sale. According to Rabbeinu Yitzḥak, cited in *Tosafot* (99b), one does not wish to create a situation in which he would become involved in a court case, and the more people he sells property to, the more suits he may find himself facing, as each one is a potential litigant. This is also the approach of the *ge'onim*.

Rabbeinu Tam, cited in *Tosafot* (99b), is of the opinion that a person simply does not wish to have to write out so many contracts, find witnesses for each one, and provide warranties for each of the sales. Another explanation is that if there are many bills of sale originating from the same seller, he will earn a reputation as a person who needs money, and this may hurt his business (Meiri). See HALAKHA, where it is explained that there is a legal difference between these different explanations, for example in a case where he would have to write for a single person multiple bills of sale.

A gold dinar, etc. – דִּינָר שֶׁל זָהָב וכו': Rashi briefly explains that a gold dinar is equal in value to twenty-five silver dinars, which are equivalent to six *sela*. This calculation is based on the discussion in tractate *Bava Metzia* and the Gemara here, which says that the agent bought one item with three *sela* and a second item with another three *sela*. This calculation, however, is not precise, as a *sela* is equivalent in value to four dinars, in which case a gold dinar is only equal to twenty-four silver dinars. The Rivan answers that the *tanna* was not concerned with being precise, and the mishna is describing a case where the agent spent an additional half of a dinar. *Tosafot* explain that a gold dinar is worth exactly six *sela*, and the twenty-five dinars refers to the exact sum plus an extra dinar, which must be paid to the moneychanger when he exchanges a large coin for smaller coins.

HALAKHA

Gave him a…dinar, etc. – נָתַן לוֹ דִּינָר וכו': If one gave his agent two *peruta* and instructed him to use the money to purchase an *etrog*, and the agent brought him an *etrog* purchased with one *peruta* and a pomegranate purchased with the second *peruta*, and then the money turned out to be consecrated property, then the agent and not the employer is responsible for misusing consecrated property. This is because the agent is considered to have disregarded his employer's instructions. But if he purchased an *etrog* worth two *peruta* with the one *peruta*, then they are both guilty of misusing consecrated property (Rambam *Sefer Avoda*, *Hilkhot Me'ila* 7:4).

שֶׁהַקְּטָנִית בְּסֶלַע, וְקִטְנִית בְּפְרוּטָה, שְׁמַע מִינָּהּ.

As, whether he bought **legumes for a *sela*** [N] **or** whether he bought **legumes for a *peruta*,** the price would have been the same even if he bought in bulk. The Gemara concludes: **Learn from here** that this is the proper interpretation of the mishna.

הֵיכִי דָּמֵי? אִילֵימָא בְּאַתְרָא דִּמְזַבְּנֵי בְּשׁוּמָא – הֵיכָא דְּיָהֵיב לֵיהּ סֶלַע מוֹזְלֵי גַּבֵּיהּ טְפֵי!

The Gemara asks about the sale of legumes: **What are the circumstances** where the price stays the same even if one bought in bulk? **If we say** that it occurs **in a locale where they sell** legumes **by appraisal** of an article's value, **then when he gives the merchant a *sela*** as payment, the seller **reduces the price for him more** than if he had bought less. In such a place the buyer profits, and it is clear that even legumes do not have a fixed price.

אָמַר רַב פָּפָּא: בְּאַתְרָא דְּכָיְילֵי בְּכַנֵּי, דְּאָמַר לֵיהּ: כַּנָּא כַּנָּא בְּפְרוּטָה.

Rav Pappa said: It is referring to **a locale where one measures with vessels** and to a case where the merchant **said to him:** Fill each **vessel for a *peruta*.** The buyer then receives the product in accordance to how much he pays, and does not pay less if he buys in bulk.

תָּא שְׁמַע: הָיְתָה כְּתוּבָּתָהּ אַרְבַּע מֵאוֹת זוּז, מָכְרָה לָזֶה בְּמָנֶה וְלָזֶה בְּמָנֶה, וְלָאַחֲרוֹן יָפָה מָנֶה וְדִינָר בְּמָנֶה, שֶׁל אַחֲרוֹן – בָּטֵל, וְשֶׁל כּוּלָּן – מִכְרָן קַיָּים.

The Gemara suggests: **Come** and **hear** a proof from the mishna: If **her marriage contract was** worth **four hundred dinars,** and **she sold** property **to this** one **for one hundred dinars, and** she sold property **to that** one **for one hundred dinars,** and again to a third one, **and** she sold property **to the last** one **worth one hundred dinars and a dinar for** only **one hundred dinars, the** sale **of the last** property **is void, and all of the others, their sale is valid,** as they were sold for the correct price. Here, the widow was appointed as an agent to sell property worth four hundred dinars, and she initially sold property worth only one hundred dinars, and nevertheless the sale is valid. The mishna does not say that she disregarded the orphan's instructions and the sale is void.

בְּדַאֲמַר רַב שֵׁישָׁא בְּרֵיהּ דְּרַב אִידִי: בִּקְטִינֵי, הָכָא נַמִּי – בִּקְטִינֵי.

The Gemara answers: **It is as Rav Sheisha, son of Rav Idi, said** in another context: This is stated **with regard to small** tracts of land that are geographically separated and do not form one land mass that can be sold as a single unit. **Here too,** the ruling of the mishna is stated **with regard to small** tracts of land that are not part of one larger field, and so this case is not proof that an agent who sells less than he was instructed to is considered to be adding to and not disregarding his employer's instructions.

פְּשִׁיטָא, אֲמַר ״לְאֶחָד וְלֹא לִשְׁנַיִם״ – הָאֲמַר לֵיהּ לָאֶחָד וְלֹא לִשְׁנַיִם. אָמַר לֵיהּ ״לְאֶחָד״ סְתָמָא. מַאי?

§ In continuation of the previous discussion, the Gemara raises another problem: **It is obvious** that if the employer **said to** his agent: Sell my property **to one**[N] person, **but not to two,** and the agent sold the property to two people, since **he said to him: To one, but not to two,**[H] it is certain that the agent has disregarded his instructions and is no longer considered an agent. However, if the employer **said to** the agent: Sell **to one** person, **without specifying**[H] that he should not sell to two people, **what** is the *halakha* if the agent did sell the property to two people?

NOTES

As whether he bought legumes for a *sela*, etc. – שֶׁהַקְּטָנִית בְּסֶלַע וכו׳: Many explanations have been offered as to why Rabbi Yehuda's *halakha* in the case of the legumes shows that when the mishna speaks of a bad robe it means that the robe was purchased at a discounted rate and not a robe of inferior quality (see Ritva). Rashi explains that if Rabbi Yehuda had said that the employer was not guilty of the misuse of consecrated property because the agent brought him a small, inferior robe and not what was requested, then there would be no difference between that case and the case of the legumes. In the case of the legumes, the agent also brought him less than the amount requested and bought with the remaining money some other product that the employer had no interest in. Rather, it is certain that the agent bought a robe worth six *sela* for only three *sela*.

The Ra'ah questioned Rashi's interpretation by pointing out that even if the agent bought another product that the employer was not interested in, he could always sell it and buy something else in its stead. The Ritva replied in defense of Rashi that the employer does not want to have to act like a merchant and begin buying and selling merchandise.

The Ra'ah himself explains simply that the reason is because the only case where Rabbi Yehuda concedes that both the agent and the employer are guilty of misusing consecrated property is in a case of legumes. Had he conceded that both are guilty where the agent bought an item worth six *sela* for only three *sela*, he would have offered that as his example (see Rabbeinu Crescas Vidal).

It is obvious that if the employer said to his agent: Sell my property to one, etc. – פְּשִׁיטָא, אֲמַר לְאֶחָד וכו׳: There are two versions found in the early commentaries of the text of this statement and the following dispute. The version found here, which is that of Rashi, has the Gemara asserting as obvious that if the homeowner instructed: Sell my property to one person but not to two people, and the agent sold it to two people, the sale is void. According to this version, the dispute between Rav Huna and Rav Ḥisda is in a case where the homeowner instructed: Sell to one person, without adding: And not to two people. The dispute is if he meant, as Rav Huna understands, that he may sell to only one person, or, as Rav Ḥisda understands, that he said the phrase: To one person, as that is the norm, but he is not particular how many purchasers there are.

By contrast, the version of the Gemara before Rabbeinu Ḥananel and the Rif has the Gemara asserting as obvious that if the homeowner instructed: Sell my property to one person, even without adding: But not to two, and the agent sold it to two people, that the sale is void. According to this version, the dispute between Rav Huna and Rav Ḥisda is in a case where the homeowner instructed: Sell my field, without any mention of the amount of purchasers. According to the opinion of Rav Huna, the assumption is that the homeowner prefers that there be only one purchaser, even if he did not state so explicitly. Therefore, if the agent sold to two people, the sale is void. According to the opinion of Rav Ḥisda, the fact that he did not mention the amount of purchasers indicates that he is not particular about this matter, so the agent's sale will be valid even if it is to more than one purchaser.

HALAKHA

To one but not to two – לְאֶחָד וְלֹא לִשְׁנַיִם: If one said to his agent: Sell my field to one person, and the agent went and sold it to two people, the sale is void because the agent disregarded his employer's instructions, in accordance with Rabbeinu Ḥananel and the Rif's version of the initial statement of the Gemara, which reads: It is obvious (*Kesef Mishne*). The Rema writes that some say that the sale is void only in a case where the agent sold the field to the two individuals using two separate bills of sale (*Tur*), in accordance with the standard version of the text (Rambam *Sefer Kinyan*, *Hilkhot Sheluḥin VeShutafin* 1:4; *Shulḥan Arukh*, *Ḥoshen Mishpat* 182:10).

To one, without specifying, what is the *halakha* – לְאֶחָד סְתָמָא מַאי: If one said to his agent: Sell my field, without specifying to how many purchasers, then even if the agent sold the field to one hundred people, the sale is valid. This is in accordance with the opinion of Rav Ḥisda and Rav Naḥman, according to Rabbeinu Ḥananel and the Rif's version of the Gemara. This is the *halakha* if the agent sold to all of the purchasers using a single bill of sale (Rabbeinu Yitzḥak cited in *Tosafot*), or if he sold using more than one bill of sale but went to the trouble himself to find witnesses to sign all of the documents (Rabbeinu Tam). It is explained in the *Sma* that, in accordance with the opinion of Rabbeinu Yitzḥak, the *halakha* is primarily that the sale is valid only if there was one bill of sale (Rambam *Sefer Kinyan*, *Hilkhot Sheluḥin VeShutafin* 1:4; *Shulḥan Arukh*, *Ḥoshen Mishpat* 182:11).

רַב הוּנָא אָמַר: לְאֶחָד וְלֹא לִשְׁנַיִם, רַב חִסְדָּא וְרַבָּה בַּר רַב הוּנָא דְּאָמְרִי תַּרְוַיְיהוּ: לְאֶחָד, וַאֲפִילּוּ לִשְׁנַיִם. לְאֶחָד, וַאֲפִילּוּ לְמֵאָה.

Rav Huna said: The employer meant to sell **to one** person and **not to two** people. It is **Rav Ḥisda and Rabba, son of Rav Huna, who both say:** He meant **to one** person **and even to two** people. When he said **to one** person, he meant **and even to one hundred** people, as he did not mean one person specifically.

אִיקְּלַע רַב נַחְמָן לְסוּרָא, עְיֵיל לְגַבֵּיהּ רַב חִסְדָּא וְרַבָּה בַּר רַב הוּנָא. אָמְרוּ לֵיהּ: כִּי הַאי גַּוְונָא מַאי? אֲמַר לְהוּ: לְאֶחָד, וַאֲפִילּוּ לִשְׁנַיִם. לְאֶחָד, וַאֲפִילּוּ לְמֵאָה.

Rav Naḥman happened to come **to Sura.**[B] **Rav Ḥisda and Rabba bar Rav Huna entered before him. They said to him: In a case like this** one, which was discussed above in the Gemara, **what** is the *halakha*? **He said to them:** When he said **to one** person, he meant **and even to two** people. When he said **to one** person, he meant **and even to one hundred** people.

אָמְרוּ לֵיהּ: אַף עַל גַּב דְּטָעָה שָׁלִיחַ? אֲמַר לְהוּ: דְּטָעָה שָׁלִיחַ לָא קָאָמִינָא. אָמְרוּ לֵיהּ, וְהָאָמַר מָר: אֵין אוֹנָאָה לְקַרְקָעוֹת!

Rav Ḥisda and Rav Huna **said to him:** Is **the agent** considered to be performing his assigned agency **even though he erred,** e.g., by selling property for less than its value? Rav Naḥman **said to them: I do not say** so in a case **where the agent erred.**[H] **They said to him: But didn't the Master say** that **there is no** prohibition against **fraud** in the sale **of land,**[H] and land does not have a set value?

הָנֵי מִילֵּי – הֵיכָא דְּטָעָה בַּעַל הַבַּיִת, אֲבָל טָעָה שָׁלִיחַ – אֲמַר לֵיהּ "לְתַקּוּנֵי שְׁדַרְתִּיךְ וְלָא לְעָווּתֵי".

He replied to them: **This applies only where the homeowner erred,** e.g., where he sold land for less than its market value. In that case, he cannot claim that the sale is invalid because of fraud. **However,** in a case where **the agent erred,** the homeowner can **say to** the agent: **I sent you to** act for **my benefit and not to my detriment,** and his appointment as an agent is nullified.

וּמְנָא תֵּימְרָא דְּשָׁאנֵי בֵּין שָׁלִיחַ לְבַעַל הַבַּיִת,

The Gemara explains: **And from where do you say that** there is **a** legal **difference between** an error made by **an agent and** an error made by **a homeowner?**

דְּתָנַן, הָאוֹמֵר לִשְׁלוּחוֹ: צֵא וּתְרוֹם – תּוֹרֵם כְּדַעַת בַּעַל הַבַּיִת. וְאִם אֵינוֹ יוֹדֵעַ דַּעְתּוֹ שֶׁל בַּעַל הַבַּיִת – תּוֹרֵם בְּבֵינוֹנִית, אֶחָד מֵחֲמִשִּׁים. פִּיחֵת עֲשָׂרָה אוֹ הוֹסִיף עֲשָׂרָה – תְּרוּמָתוֹ תְּרוּמָה.

As we learned in a mishna (*Terumot* 4:4): In the case of **one who says to his agent: Go out and separate** the portion of the produce designated for the priest [*teruma*], the agent **separates** *teruma*[B] **in accordance with the mind-set of the homeowner.**[H] He must separate the amount that he assumes the owner would want to give, as there is no fixed fraction for the amount that one must set aside as *teruma*. A generous person would give as much as a fortieth of the produce as *teruma*, while a stingy person would give a sixtieth. **And if he does not know the mind-set of** the **homeowner, he separates an intermediate** measure, i.e., **one-fiftieth** of the produce. If **he subtracted ten** from the denominator and separated one-fortieth, **or added ten** to the denominator and separated one-sixtieth of the produce, **his *teruma*** is considered ***teruma*.**

HALAKHA

The agent erred – טָעָה שָׁלִיחַ: If an agent mistakenly sold property for any amount less than its value, whether he sold land or movable property, the transaction is void, as his employer can say to him that he sent him to mend things and not to ruin them. This ruling is in accordance with the opinion of the Gemara (Rambam *Sefer Kinyan*, *Hilkhot Sheluḥin VeShutafin* 1:2; *Shulḥan Arukh*, *Ḥoshen Mishpat* 182:2–3).

There is no fraud in the sale of land – אֵין אוֹנָאָה לְקַרְקָעוֹת: There is no fraud with regard to the sale of land. Even if one sold a tract of land worth a thousand dinars for a single dinar, or land worth a single dinar for one thousand dinars, no fraud can be claimed, in accordance with the opinion of the Gemara here.

The Rema writes that there are some who say that there is no fraud with regard to the sale of land as long as the difference between the sale price and the fair market value is no more than half of the value of the land, as this is implied in several sources (*Tur*, citing Rabbeinu Ḥananel and Rosh; Rambam *Sefer Kinyan*, *Hilkhot Mekhira* 13:8; *Shulḥan Arukh*, *Ḥoshen Mishpat* 227:29).

Separates *teruma* in accordance with the mind-set of the homeowner – תּוֹרֵם כְּדַעַת בַּעַל הַבַּיִת: If one tells his agent to separate *teruma* from his produce on his behalf, the agent must separate *teruma* in exactly the manner that his employer would have done himself. If he is a generous giver, the agent sets aside one-fortieth of the produce, and if the employer is miserly, the agent sets aside one-sixtieth. If the agent does not know his employer's wishes, he sets aside an intermediate amount of one-fiftieth. This ruling is in accordance with the mishna cited here (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 4:7).

BACKGROUND

Sura – סוּרָא: A town in southern Babylonia, Sura did not become an important Jewish community until the great *amora*, Rav, moved and established the yeshiva there, c. 220 CE. From then until the end of geonic period, c. 1000 CE, Sura was a major Torah center. The yeshiva in Sura, under the leadership of Rav and his closest disciples, was influenced by the halakhic traditions of Eretz Yisrael and was renowned for its unique approach to Torah study. Among the great Sages and leaders in Sura were Rav, Rav Huna, Rav Ḥisda, Ravina, and Rav Ashi. The Babylonian Talmud was, for the most part, redacted in Sura. There was another city with the same name. In order to distinguish between them, the other city was called Sura on the Euphrates.

***Teruma* – תְּרוּמָה:** Whenever this term appears without qualification, it refers to *teruma gedola*, the portion of the produce designated for the priest. In the book of Numbers (18:12), the Torah commands that "the first fruit of your oil, your wine, and your grain" be given to the priest. The Sages extended the scope of this mitzva to include all produce. This mitzva applies only in Eretz Yisrael. After the first fruits have been separated, a certain portion of the produce must be separated for the priests. The Torah does not specify the amount that must be separated. Theoretically, one may fulfill his obligation by separating a single kernel of grain from an entire crop. The Sages established a measure: One-fortieth for a generous gift, one-fiftieth for an intermediate gift, and one-sixtieth for a miserly gift. Nowadays, *teruma* is not given to the priests because they have no definite proof of their priestly lineage. Nevertheless, the obligation to separate *teruma* remains, although only a small portion of the produce is separated.

וְאִילּוּ גַּבֵּי בַּעַל הַבַּיִת תַּנְיָא: תָּרַם וְעָלָה בְּיָדוֹ אֶפִילּוּ אֶחָד מֵעֲשָׂרִים – תְּרוּמָתוֹ תְּרוּמָה.

Whereas with regard to the homeowner himself **it is taught** in a *baraita*: If **he separated** *teruma* **and even one-twentieth** of the produce **came up in his hand,**[H] **his donation** is effective and is considered ***teruma.*** The agent may deviate from the intention of the homeowner only within certain parameters. If he misunderstood the homeowner's wishes and separated an unusually large percentage of the produce, his action accomplished nothing. The same action, however, when performed by the homeowner, is effective; if the homeowner himself mistakenly separated an unusually large percentage of his produce, it becomes *teruma*.

תָּא שְׁמַע: הָיְתָה כְּתוּבָּתָהּ מָאתַיִם וּמָכְרָה שָׂדֶה בְּמָנֶה וְשָׂדֶה בְּמָנֶה, וְלָאַחֲרוֹן שָׂדֶה מָנֶה וְדִינָר בְּמָנֶה, שֶׁל אַחֲרוֹן – בָּטֵל, וְשֶׁל כּוּלָּן – מְכָרָן קַיָּים!

The Gemara returns to discuss whether a person is particular about having too many documents with his name on them. The Gemara suggests: **Come** and **hear** a proof from the mishna: If **her marriage contract was** worth **four hundred dinars,** and **she sold** property **to this** one **for one hundred dinars,**[N] **and** she sold property **to that** one **for one hundred dinars,** and again to a third one, **and** she sold property **to the last one worth one hundred dinars and a dinar for** only **one hundred dinars, the** sale **of the last** property **is void, and all of the others, their sale is valid,** as they were sold for the correct price. She should have sold the land to one individual and not increased the number of documents bearing guarantees for the orphans to worry about. Still, if she did sell to several people, the sales are all valid.

אָמַר רַב שֵׁישָׁא בְּרֵיהּ דְּרַב אִידִי: בִּקְטָנֵי.

The Gemara answers: **Rav Sheisha, son of Rav Idi, said:** This is stated **with regard to small** tracts of land that are geographically separated and do not form one land mass that can be sold as a single unit.

מתני׳ שׁוּם הַדַּיָּנִין שֶׁפִּיחֲתוּ שְׁתוּת אוֹ הוֹסִיפוּ שְׁתוּת – מִכְרָן בָּטֵל.

MISHNA The *halakha* with regard to **the assessment of the judges** of the value of a piece of property in order to sell it is as follows: **Where they decreased**[H] the price by **one-sixth** of its market value **or added one-sixth** to its market value, **their sale is void.**[N]

רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר: מִכְרָן קַיָּים, אִם כֵּן מַה כֹּחַ בֵּית דִּין יָפֶה? אֲבָל אִם עָשׂוּ אִגֶּרֶת בְּקוֹרֶת בֵּינֵיהֶן, אֲפִילּוּ מָכְרוּ שָׂדֶה מָנֶה בְּמָאתַיִם, אוֹ שָׂדֶה מָאתַיִם בְּמָנֶה – מִכְרָן קַיָּים.

Rabban Shimon ben Gamliel says: Their sale is valid. If it were **so** that the sale is void, then **what advantage** is there to **the power of the court** over an ordinary person? **However, if they made a document of inspection,**[H] i.e., an announcement that people should come to inspect the field and bid on the property, then **even if they sold** property **worth one hundred dinars for two hundred** dinars, **or** sold property **worth two hundred** dinars **for one hundred dinars, their sale is valid,** as the transaction was agreed upon and done publicly.

גמ׳ אִיבַּעֲיָא לְהוּ: שָׁלִיחַ כְּמַאן?

GEMARA **A dilemma was raised before** the Sages: **An agent** who mistakenly sold land for less than its value is **like whom?**[N] Is he comparable to a judge, whose sale is effective if he did not err by more than one-sixth of the market price, or is he comparable to a widow, whose sale is void if she sold for anything less than the market price?

HALAKHA

If he separated *teruma* and even one-twentieth of the produce came up in his hand, etc. – תָּרַם וְעָלָה בְּיָדוֹ אֶפִילּוּ אֶחָד מֵעֲשָׂרִים וכו׳: If one separated *teruma* and it turned out that he had separated more than the usual percentage for *teruma*, that which he separated is considered *teruma*. This *halakha* applies even if he ended up apportioning one-twentieth of his produce, in accordance with the *baraita* cited here (Rambam *Sefer Zera'im*, *Hilkhot Terumot* 3:6).

The assessment of the judges where they decreased – שׁוּם הַדַּיָּנִין שֶׁפִּיחֲתוּ: If a court sells property owned by orphans, regardless of whether it is land or movable property, if they erred in their sale price and the error was less than a difference of one-sixth of the actual price, then the error is overlooked. If however, they erred and deviated from the correct price by one-sixth or more of the correct price, then the sale is void. This is in accordance with the unattributed mishna (Rambam *Sefer Kinyan*, *Hilkhot Mekhira* 13:10; *Shulḥan Arukh*, *Ḥoshen Mishpat* 109:3).

If they made a document of inspection – אִם עָשׂוּ אִגֶּרֶת בְּקוֹרֶת: If a court wrote a document of inspection by making a proper announcement, investigating accordingly, and assessing the value carefully, and the court nevertheless erred and sold property worth one hundred dinars for two hundred dinars, or property worth two hundred dinars for one hundred dinars, then the sale is valid. This is in accordance with the mishna (Rambam *Sefer Mishpatim*, *Hilkhot Malve VeLoveh* 12:11; *Shulḥan Arukh*, *Ḥoshen Mishpat* 109:3 and *Even HaEzer* 104:3).

NOTES

She sold to this one for one hundred dinars, etc. – מָכְרָה לָזֶה בְּמָנֶה וכו׳: The Rivan stresses that the widow is considered the orphans' agent, as there is a lien on their property stemming from her marriage contract, and she is essentially selling land off for them.

Their sale is void – מִכְרָן בָּטֵל: The Ramban questions this *halakha*. It is understood why, when the judges sold the property for one-sixth less than its market value, the sale was void, as the judges misrepresented the orphans. What is unclear is why, when their mistake is to the detriment of the buyer, the sale is voided, as there is no fraud with regard to the sale of land. In fact, some explain that this *halakha* is referring only to the sale of movable property (see Meiri). The Ramban explains that whereas the transaction would be valid in the case of a sale, the ruling of this mishna is stated with regard to a case where the court forces the creditor to accept the land in payment for his debt at the price at which the court had evaluated it. Since the creditor is not taking the land of his own volition, if the land was assessed to his detriment, the transaction is void. The Ra'ah claims that since the sale is void if the judges overvalued the property, they did not distinguish between the cases and voided the sale even if they undervalued the property. The Rid explains that once the judges erred, they demonstrated that they are not a proper court of law and therefore their sale is void.

An agent is like whom – שָׁלִיחַ כְּמַאן: Rabbeinu Tam, quoted in *Tosafot* on 100a, explains that this discussion is not with regard to an ordinary agent, as it can be seen earlier in the Gemara that his agency is voided even if the error is minimal. Rather, the discussion of the Gemara is with regard to an agent of the court. Most early commentaries agree with this interpretation.