

OVERVIEW of the Daf

1) Redeeming ma'aser sheni coins (cont.)

R' Sheishes completes formulating the contradiction between Mishnayos related to deconsecrating coins of ma'aser sheni and of ma'aser sheni of demai.

R' Yosef offers an answer to the contradiction and cites a Baraisa in support of one of his rulings.

Ravina challenges R' Yosef's resolution.

Abaye comments on the first discussion of the Gemara (55b) between R' Elazar and Shmuel and then notes that rather than challenge R' Yosef from one Mishnah Ravina should have cited an alternative Mishnah that would constitute support for R' Yosef.

Rava asserts that Shmuel's challenge to R' Elazar was on target.

2) **MISHNAH:** The Mishnah discusses different items that are not subject to the laws of fraud. Additionally, the Mishnah mentions other halachos that do not apply to slaves, contracts, land and hekdesch.

3) Exemptions from fraud

A Baraisa is cited that presents the source for the cases enumerated in the Mishnah that are exempt from fraud.

The novelty that selling documents to a spice seller is subject to fraud is explained.

The assertion that the term **יד** means specifically a hand is challenged.

The Gemara responds by demonstrating that the term **יד** does mean hand and explains why in the first source it is not

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REVIEW and Remember

1. How does R' Ilai prove that one is permitted to separate terumah from inferior quality produce on behalf of superior quality produce?
2. What items are exempt from אונאה?
3. According to the Gemara's conclusion, is the word **יד** intended to be understood literally?
4. Why is a rental subject to the parameters of אונאה?

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Distinctive INSIGHT

Pricing of a commodity that is precisely measured or counted
 כל דבר שבמדה ושבמשקל ושבמנין אפילו פחות מכדי אונאה חוזר

Rava teaches that if a commodity is measured, weighed, or counted, even if the discrepancy from the actual price is less than one-sixth, the sale is reversed. The Rishonim offer varied explanations regarding this ruling of Rava.

Rashi explains that in this case, if the price is off even slightly, the sale is completely void. The object must be returned and the money refunded. It is unlike other situations when the discrepancy is less than one-sixth off the actual price, where the sale is final and the overcharge is considered waived (מחילה). In fact, it is only when the price is off by a full sixth that the sale is normally voided, whereas here the sale is cancelled immediately, due to the precise care involved in counting or measuring the item in preparation for the deal. The concern exhibited by precise counting and measuring indicates that the buyer is not willing to compromise at all, and if the item is not as represented, it is not his interest to buy it.

Ramban writes that in this case, in some situations the sale is void, but in other circumstances the sale can be salvaged and an adjustment of the overpayment can be made. For example, if the item is deficient in a way that cannot be restored, the sale is cancelled. For example, if an arrangement was made to buy a house with certain specifications or features, and the house presented is too small or it is lacking the features expected, or if clothing was bought that was supposed to be a certain size, and it is too small, in these cases the object was not as agreed upon, and the sale cannot be corrected. However, if the purchase was for a certain measured volume of grain and the delivery was short, here the sale is valid, but the seller must supply the balance of the product.

Rashba explains that Rava's ruling was not that the sale was void, but rather that the overcharge is negated, as it must be returned. In other words, when the item is one which is precisely measured or counted, the sale will be valid, but the price adjustment must be made and the excess refunded. Rashba contends that this is true in all cases, unlike Ramban, as it applies even in cases where the shortage cannot be corrected. The reasoning is that both the seller and the buyer agreed on a price based upon what was measured, and if the product delivered is deficient, the understanding is that the price will be adjusted accordingly.

Meiri explains that the outcome depends upon the nature of the error. If the seller intends to sell ten sheep, and he accidentally counts only nine, the sale is valid and the mistake must be corrected. If a particular designated field was sold as covering an acre, and it turns out that it was misrepresented, the sale is void. This is a classic case of a מקח טעות. ■

HALACHAH Highlight

אונאה for *esrogim*

אלו דברים שאין להם אונאה

The following are items that are not subject to **אונאה**

Rav Aharon Levin, author of *Teshuvos Avnei Cheftetz*¹, presented the following incident. During World War II travel to and from countries that grew esrogim was almost impossible and it was extremely difficult to obtain esrogim. It was only after incredible efforts and pleading with the government that they were able to import a few esrogim into the capital city. The quantity of imported esrogim was so small that there were going to be numerous communities that would not have any esrogim for Yom Tov. Some time close to Sukkos someone came to a town and sold the community an esrog for a very high price. Later that same day another merchant came to town and offered to sell them an esrog for a considerably cheaper price. The residents were furious that they were gauged by the first seller and claimed that since they were defrauded by the first seller they could return the esrog and have their money refunded.

In his response Avnei Cheftetz analyzed numerous issues related to **אונאה** and cited a seminal piece of Machaneh Ephraim. Machaneh Ephraim² writes that **אונאה** does not apply to items that do not have a fixed market value. Accordingly, in those places that do not have an esrog market, e.g. there are no esrogim available for purchase, the halachos of **אונאה** do not apply and one is permitted to sell the esrog for any amount. Avnei Cheftetz also addressed the question of whether there is **אונאה** in this case

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understood to refer to specifically a hand.

4) Rental

R' Zeira inquires whether the halachos of fraud apply to rental items.

Abaye demonstrates that the halachos of fraud apply to rental items as well.

5) Seeds

Rava inquires whether seeds put in the ground but that did not yet take root are subject to the halachos of fraud, meaning are they considered movable objects or not?

The Gemara elaborates on the question.

Other questions related to these seeds are presented and clarified. ■

where the esrog was bought by the community. Since all the members of the community partnered in the purchase of this esrog, the amount that each person was exploited will not amount to a perutah, therefore they should not be able to demand a refund of their money.

In his final conclusion he ruled that there is no **אונאה** and based himself on an enactment mentioned by his grandfather the author of *Teshuvos Beis Yitzchok*. Beis Yitzchok³ mentioned an enactment that the parameters of **אונאה** should not apply to esrogim, even when they are available since their market value is constantly changing. Therefore, one could assert that the **אונאה** halachos should certainly not apply when dealing with a place where esrogim are not available. ■

1. שו"ת אבני חפץ סי' מ"ה.

2. מחנה אפרים ה"א אונאה סי' כ"ד.

3. שו"ת בית יצחק א"ח סי' ק"י"ח אות ג'.

STORIES Off the Daf

Absolute honesty

"אלו דברים שאין להם אונאה..."

Today's daf discusses when overcharging does not violate the prohibition of **אונאה**.

Rav Shalom Shwardron, zt"l, was known around the world for his absolute integrity. When he was first starting out as a maggid, he developed a scathing but hilarious routine making fun of the methods employed by the Zionist establishment to entice religious Jews away from Torah observance. Even though the speech definitely drove his point home, it was also received with an unusual amount of laughter at his mockery of the "progressives" who had distanced themselves and others

from Torah.

After one such shmuess, someone pointed out to the young maggid that the lecture smacked of **ליצנות** to him. Rav Shalom was very dismayed and decided then and there to consult with the Chazon Ish, zt"l, regarding this question.

The Chazon Ish, zt"l, pointed out that he could hardly tell if the speech was problematic without hearing what he said. Rav Shalom gave over his entire routine and the Chazon Ish gave his hearty approval. "That's not forbidden **ליצנות** —that's exactly how one should speak about the subject!"¹

Because he was so honest in everything, Rav Raphael Meyerson was shocked when Rav Shalom asked a ridiculous price for a sefer he was selling.

It was on one of Rav Shalom's many trips to London. As usual, Rav Shalom

sold the most recent volumes of the Maharsham that he himself had annotated and reprinted. But the price was truly exorbitant. Nevertheless, Rav Meyerson decided that he would just have to trust Rav Shalom. If that was what he asked, it was clearly necessary money and would go to a worthy cause.

A few days later, Rav Raphael received a letter from Rav Shalom with a huge refund enclosed. "I had such pain when I realized how much you paid me that I could not sleep without righting the matter. I am used to Israeli currency and did not understand the huge difference between our lirot and the British pounds sterling. Please forgive me for mistakenly overcharging you. I hope you will understand my error and accept my apology."² ■

1. מעשה איש

2. קול חוצב