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Bava Metzia Daf 46

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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

Coins for Chalifin

Rav Pappa said: Even if you hold that a coin cannot be used to effect an acquisition of *chalifin* (*the buyer gives the seller something as a token exchange to settle the transaction*), it could, however, be acquired through *chalifin*. This would be the same as produce according to Rav Nachman: He holds that produce cannot be used to effect an acquisition of *chalifin*; it could, however, be acquired through *chalifin*.

The *Gemora* asks on Rav Pappa from the following *Mishna*: If one is standing in a granary and has no money with him (*to give to a friend for him to redeem the ma’aser sheini; he wishes to do so, for then, he will not be obligated to add the surcharge of a fifth, for that is only required when he redeems his own produce*), he may say to his friend (*someone who will understand that this is merely a ruse to avoid paying the fifth, and will therefore return it to him afterwards*), “Behold, this produce is given to you as a gift,” and then he may say, “Let the produce be deconsecrated onto the money I have at home.” Now, the reason he does it in this manner is because he has no money with him, but if did have money in his hand, he should rather give possession of the money to his friend through *meshichah* (*pulling it*). He would then deconsecrate the *ma’aser*, which is a preferable procedure (*more than giving away the produce*), since he would then be a clear stranger (*for it would be evident that the money*

is not his own). But, the *Gemora* asks, if you say that coins may be acquired through *chalifin*, let the owner of the produce give possession of the money that he has elsewhere to his friend by means of a kerchief, and then let his friend redeem it!?

The *Gemora* answers: We are dealing with a case where they do not have a kerchief (*or any other suitable utensil for chalifin*).

The *Gemora* asks: Then let him give possession of the coins through land (*kinyan agav - acquiring movables through a valid acquisition in land*)!?

The *Gemora* answers: He has no land.

But, the *Gemora* asks, it is stated: If one is standing in a granary!?

The *Gemora* answers: the *Mishna* is referring to a case where the granary did not belong to him.

The *Gemora* asks: And does the *Tanna* take such pain to teach us about a naked man, who possesses nothing (*to be used for chalifin*)!?

Rather, it must surely be that coins cannot be acquired through *chalifin*. This *Mishna* clearly proves it.

The *Gemora* notes that even Rav Pappa retracted from his earlier position, for there once was an incident where Rav Pappa was owed 12,000 zuz by people in Bai Chozai. He transferred the money to Rav Shmuel bar Abba along with his door post (*which is real estate*), using *kinyan agav*, and when Rav Shmuel bar Abba returned with the money, Rav Pappa (*who was extremely happy*) went out to greet him all the way to Tavach.

Ulla also said that a coin cannot be used to effect an acquisition of *chalifin*. Rabbi Assi also said that a coin cannot be used to effect an acquisition of *chalifin*. Rabbah bar bar Chanah also said in the name of Rabbi Yochanan that a coin cannot be used to effect an acquisition of *chalifin*.

The *Gemora* asks on this viewpoint from the following *Mishna*: Anything which takes on monetary value (*as payment*) in place of something else, once the seller acquires it, the buyer becomes obligated for its exchange (*this is what is known as chalifin*). [*If the object being sold gets lost or stolen, he is responsible for it, since by the seller's meshichah, the buyer acquires the seller's object wherever it is, even though he has not yet made a physical acquisition.*] If the object that the *Mishna* is referring to is a coin, this would prove that it would be valid if a coin was the object used for *chalifin* (*and we hold that it cannot be used for chalifin*)!?

Rav Yehudah explains the *Mishna* as follows: Anything, whose value must be evaluated (*any object except for a coin*), which takes on monetary value (*as payment*) in place of something else, once the seller acquires it (*the coin*), the buyer becomes obligated for its exchange.

Proof to this explanation can be brought from the language of the *Mishna* which states: How is this so? If one exchanged an ox for a cow (*and it did not say "if one exchanged money for a cow"*), or a donkey for an ox, once this one acquires one, the other one becomes obligated for its exchange.

The *Gemora* asks: According to what we initially thought that a coin can be used for *chalifin*, what did the *Mishna* mean when it said "How so etc." (*it should have said, "if one exchanged money for a cow"*)?

The *Gemora* answers: The *Mishna* would have been coming to teach us that produce (*anything that is not a utensil*) can be used for *chalifin*.

The *Gemora* asks: This would be understandable according to Rav Sheishes, who holds that produce can be used for *chalifin*. However, according to Rav Nachman, who disagrees, how would he explain the *Mishna*?

The *Gemora* answers: The following is what the *Mishna* means: There is money that can be used as *chalifin*. How is this so? If one exchanged money which he owed for an ox (*he had purchased an ox from him, but did not yet pay for it*) for a cow (*the benefit that he is giving him for cancelling the loan is in exchange for the cow*), or money which he owed for a donkey for an ox, it is valid (*for he is actually making the kinyan with money*).

The *Gemora* asks: What is the reason for this (*generally, money cannot be used to make a kinyan on movable properties*)?

The *Gemora* answers: He holds like Rabbi Yochanan, who maintains that Biblically, only money can acquire movable property, and why was there a Rabbinic

decree where they replaced the *kinyan* of “money” with the *kinyan* of “pulling it near”? *This was because a seller might tell the buyer, “Your wheat was destroyed in a fire.” [Since the wheat belonged to the buyer when the money changed hands, the seller will not try hard to save the wheat. The Rabbis therefore abrogated the kinyan of money and replaced it with meshichah.]* The Rabbis issued decrees only in common cases. However, in our case (*where the purchaser is buying the animal with the cancelled loan*), where it is an unusual one, the Rabbis did not impose this decree.

The *Gemora* asks: But according to Rish Lakish, who holds that “pulling it near” is the *kinyan* that the Torah specifies for movable properties, how can the *Mishna* be explained (*for “money” would certainly not be effective*)?

The *Gemora* answers: He must hold like Rav Sheishes that produce is valid for *chalifin*. (45b – 46b)

INSIGHTS TO THE DAF *Kinyan through Admission*

The *Gemora* struggles to figure out a way how Reuven can transfer his money that he has at home to Shimon, who will then use that money to redeem the *ma’aser sheini* of Reuven and avoid the additional fifth surcharge.

The *Gemora* suggests that if Reuven would have land to transfer to Shimon, he could transfer the money “*agav*” the property. Although Tosfos in Bava Kamma (12a) writes that *kinyan agav* is only Rabbinical, apparently Tosfos understands that even a Rabbinical *kinyan* would be sufficient to establish Shimon as an

owner of the money to redeem the *ma’aser sheini* and biblically avoid the additional fifth surcharge.

Tosfos raises a question: Even without a *kinyan agav* or *kinyan chalifin*, can’t Reuven very directly transfer to Shimon the money by “admitting” that it actually belongs to Shimon?

In this question, Tosfos evidently assumes that an admission doesn’t merely allow *Beis Din* to act as if witnesses testified, but it actually transforms the ownership of the item to belong to Shimon and would be considered Shimon’s money for *ma’aser sheini* redemption purposes.

The Ketzos HaChoshen (40) answers Tosfos question by establishing a clause in this type of *kinyan* that it must be done in the presence of witnesses. Therefore, we can easily state that we are dealing with a case where there are no witnesses available to allow the *kinyan hoda’ah* (*admission*) to go into effect.

The Ketzos (194:4) has an elaborate discussion where he explains that this type of admitting would serve as a *kinyan* even for the purpose of transferring *chametz* that is another place to belong to a gentile. We see from the fact that it works for *ma’aser sheini* that it not only works for monetary purposes, but even for prohibition purposes, therefore it should work for *chametz* as well.

However, Tosfos in Bava Kamma (104b) implies that it would not work on a Biblical level and wouldn’t work for *ma’aser sheini* purposes. Nevertheless, the Ketzos argues that it should still work for *chametz* since one has nullified the *chametz* and the requirement to rid himself of the *chametz* is only Rabbinical. But in truth, the Ketzos points out that even if *kinyan hoda’ah* is only



Rabbinic in origin, it shouldn't be any worse than *kinyan agav* which works for *ma'aser sheini*.

Reb Avi Lebowitz suggests that Tosfos in Bava Kamma doesn't necessarily contradict our Tosfos because Tosfos in Bava Kamma is speaking about a case where he is admitting that he owns property by which he will transfer the money through a *kinyan agav* - to which Tosfos says that it doesn't work on a Biblical level. But our Tosfos speaks of directly transferring the money through an admission, which would work on a Biblical level.

The rationale for the distinction is that admitting to owning property would require two Rabbinical allowances - one for the *kinyan hoda'ah* and a second for *kinyan agav*. A *kinyan* which is based on a combination of two Rabbinical allowances is weaker and perhaps would not work on a Biblical level.

QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF to refresh your memory

Q: Is one permitted to lend a gold *dinar* and receive a gold *dinar* in return?

A: No.

Q: Why might one hold that a coin cannot be used for a *kinyan chalifin*?

A: For the seller focuses on the figure which is stamped on the coin, and that figure may eventually become outdated (*by the government; it is therefore not regarded as "whole," and it is different from a "shoe," which is the torah's model of a utensil used for chalifin*).

Q: What cannot effect a *chalifin*, but it may be acquired through *chalifin*?

A: Produce, according to Rav Nachman (*and the Gemora initially thinks that this would be true regarding coins as well*).

DAILY MASHAL

A Torah girdle for \$10,000: In past generations a father would donate a cloth girdle (gartel or vimpel in Yiddish) to bind a sefer Torah which was placed over his son during his bris. Merchants of Judaica now trade these items as antiques. An antiquary once bought a vimpel for \$10,000. After a while, he wrathfully returned to the seller, claiming he had shown it to experts who were surprised at the high price he had paid. They thought, he said, that it was not worth over \$3,000. The beis din judging the case inclined to rule that one who buys something from an antiquary must consider that it is worth much less than what he pays: The cost of antiques depends on several variables and a customer should consider that prices may be exaggerated.