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Bava Basra Daf 47

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Daf Notes is currently being dedicated to the neshamot of

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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

Next Generation Chazakah

Rabbi Yochanan adds on to the laws in our *Mishna*, which stated that a craftsman, sharecropper and a robber cannot establish a *chazakah*. The child of a craftsman and a sharecropper may establish a *chazakah*, but the child of a robber cannot. His grandchild, however, may establish a *chazakah*.

The *Gemora* analyzes the circumstances of Rabbi Yochanan’s *halachah*. If children are repeating their father’s claim, the child of a craftsman and a sharecropper also should not have a *chazakah*. If the children are making their own claim, then even the child of a robber should have a *chazakah*.

The *Gemora* concludes that Rabbi Yochanan is referring to a case when witnesses saw the challenger admit to the father that this property was really sold. In the case of a craftsman and sharecropper, this is considered valid evidence. In the case of the robber, however, the admission is meaningless, for the challenger must have been coerced to admit. The robber must have said, “If you don’t, I will turn you and your donkey in to the authorities.”

Rava adds: Sometimes, even a grandson of a robber cannot establish a *chazakah*, if he is using the claim of his grandfather.

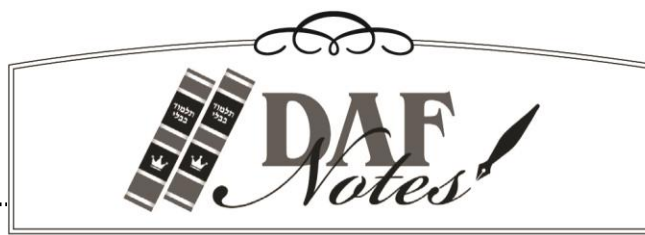
The *Gemora* inquires: Who is considered a robber? Rabbi Yochanan says: If it was established that this particular field was stolen. Rav Chisda says: If the person is known to be a murderer.

A craftsman may not establish a *chazakah*, but if he quits being a craftsman, he can establish a *chazakah*.

The *Gemora* notes: The same *halachah* applies to sharecroppers, to children who become independent of their fathers, and to wives who get divorced from their husband.

The *Gemora* understands why it was necessary to teach this *halachah* concerning children. One might think that a father, who cares for his son, will allow the son to stay on his property even though he has become independent. Therefore, the son’s being in possession of the property would not constitute proof of ownership. The *Gemora* must therefore teach us that this line of reasoning is incorrect.

The *Gemora* asks: Why is it necessary to teach this *halachah* concerning a divorced wife? Clearly, a



divorced husband would not allow his ex-wife to have possession of his property!?

The *Gemora* answers: It is necessary to teach the *halachah* concerning a case where it is uncertain if the wife is divorced or not. [*In a case where it is unclear whether a woman has received a get, for example, where a get was thrown to her, but it is unclear whether it landed closer to the wife or the husband, the woman has the status both of being married and divorced. We apply to her the stringencies of both. She, therefore, cannot get remarried, but if her husband dies, she cannot perform the mitzvah of yibum.*] Since her husband is still obligated to provide her with food, one might have thought that he would let her stay on his property. Therefore the *Gemora* much teach us that this logic is not correct. (47a – 47b)

Evidence

Rav Nachman said: Huna told me that the people listed in the *Mishna* who cannot establish a *chazakah*, can bring proof (*i.e. witnesses*) that the property was sold to them, and we will allow them to take possession of the property. The exception to this rule is the robber. Even if a robber brings proof, it is inadmissible.

The *Gemora* asks: What is the novelty of Rav Nachman's *halachah*? We already know this *halachah* from a *Mishna*. The *Mishna* says: If one buys land from a gangster, and he also buys it from the original owner, the sale is void. [*If a gangster has coerced someone to sell his property, the sale is not binding. This is because the original owner intends to*

retrieve his property in court. If a third party buys the field from the gangster and then buys it from the original owner, that sale is also not binding. In such a case, the original owner only acquiesced to sell to the third party because he was afraid of the gangster. However he still intends to retrieve his property in court. It is understood from the Mishna that any proof of sale concerning a robber is null and void and Rav Nachman's halachah seems superfluous.]

The *Gemora* answers: Rav Nachman is teaching us that he holds like Shmuel and not Rav in their dispute concerning this *Mishna*. Rav holds that the *Mishna* is only applicable when the original owner tells the third party to go and establish ownership of the property. If however, the original owner agrees to provide a document of sale, it is considered a legitimate sale. Shmuel argues and says that the only way that the sale is considered legitimate is if the original owner agrees to guarantee the sale. Rav Nachman agrees with Shmuel's opinion.

Rav Bibi qualifies Rav Nachman's *halachah*. If witnesses see money exchanged, the robber can retrieve the money he paid. This is only if witnesses actually saw a money exchange. An admission on the part of the seller that he received money is unacceptable evidence because it is assumed that the admission was coerced.

Rav Huna disagrees with the previous *halachah*. He holds that if one is coerced to sell property, the sale is never the less binding. [*The reason for this is that a person will feel that he has no choice, and he might as well give up the property and take the money.*] The *Gemora* says that all sales are done under duress and



nevertheless, they are binding. [*People only sell when they need money but they really have no desire to sell.*]

The *Gemora* asks on this logic. There might be a difference when the coercion is not internal, but coming from someone else. (47b)

INSIGHTS TO THE DAF

Coerced Admission

The *Gemora* establishes that there is a difference between the child of craftsman and a child of a robber in the case where there are witnesses that saw the father admit that he sold the property.

Tosfos asks on this that if witnesses saw an admission, even a craftsman and a sharecropper themselves would be believed!?

He therefore emends the text of the *Gemora* to read that the children claim that the original owner admitted to them that the land was sold to their father. In the case of the child of the sharecropper and craftsman, this claim is believed. In the case of the robber, however, it can be assumed that the owner admitted to the son because he was afraid of the father.

Rabbeinu Yonah defends the original text. He says that the case of the craftsman/sharecropper, and the case of the robber are not identical. The case of the craftsman/sharecropper is when they claim to have bought the property. In such a case, they are not believed. The case of the robber is when there are

witnesses who saw the owner admit. This is teaching us a bigger novelty - that even when the owner admits in front of witnesses, which is a serious admission, it is still considered to be a false admission motivated by fear.

DAILY MASHAL

Honest Business

A person may imagine he can profit from swindling in this world. In the next world, though, the sole accepted currency is truth. Rabbi Elimelech of Lizhensk zt"l was sure he would earn a portion in the World to Come. Asked by the heavenly Beis Din, "Did you occupy yourself with the Torah?", he would truthfully reply "No." Asked if he prayed as he should, he would also answer the negative. "If so", they'll say, "you tell nothing but the truth and for that, you deserve a portion in the World to Come" (Sipurei Chasidim 'al HaTorah, p. 331)