

16 Adar 5777
March 14, 2017



Bava Basra Daf 51

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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Husband Selling a Field to his Wife

The *Mishna* had stated that the woman cannot establish a *chazakah* in the property of her husband.

The *Gemora* asks: Is that not obvious? Since the husband has to sustain her, when she occupies the field, she is merely deriving her sustenance from it?

The *Gemora* answers: The rule had to be stated regarding the case where he designated for her another field for her sustenance.

The *Gemora* notes: By the fact that the *Mishna* taught us that the woman cannot establish a *chazakah* in the property of her husband, we may infer that if she brings a proof (*witnesses or a contract that her husband sold her the property*), it would be effective. But cannot the husband claim against this that he merely desired to reveal the money which she had taken from him? It would seemingly be a proof from our *Mishna* that if a man sells a field to his wife, the sale is effective and we do not say that he merely desired to reveal the money which she had taken from him!

The *Gemora* rejects the proof: No! We may only infer from the *Mishna* that if she brings a proof it is effective in the case of a deed of a gift (*from her*

husband, but not when it was a deed of sale).

Rav Nachman said to Rav Huna: You weren't near us, within the boundary (*of Shabbos*) last night, when we asked about good things. He asked: What were the good things?

He replied: If a man sells a field to his wife, the sale is effective and we do not say that he merely desired to reveal the money which she had taken from him.

Rav Huna asked: This is obvious! Take away the money, and she still would become the legal owner of the field by means of the contract. For have we not learned in a *Mishna*: Properties that have responsibility (*real property, such as land or a house; they are called "property that has responsibility" because a lender can always collect his debt from the borrower's land, even if he subsequently sells it*) can be acquired through money, a document, or *chazakah* (*a proprietary act; one that demonstrates that he owns it, such as plowing the field or locking the gate*).

Rav Nachman responded: Shmuel has said regarding that *Mishna* that it applies only to a document of a gift, but if it is one of sale, legal ownership is not acquired until money has been paid (*for the seller does not intend to sell the land until he receives*

compensation for it)?

Rav Huna replied: Did not Rav Hamnuna refute this from the following *braisa*: How does one acquire with a document? If the seller writes for him on a paper or a shard, even if it is not worth a *perutah*: “My field is sold to you,” or “My field is given to you as a gift,” it is sold or given. [*This proves that a document is valid even for a gift!?*]

He asked the question and he answered it himself: The *braisa* is referring to a case where he sold the field because of its poor quality (*and the seller wants the acquisition to be effective immediately in order that the purchaser cannot retract*).

Rav Ashi answers: The *braisa* is referring to a case where he wanted to give him the field as a gift (*and he wrote in the document: “My field is sold and given to you”*). He wrote that it is sold in order to enhance the rights of the purchaser (*so if the seller’s creditors should seize this field, he will be compensated by the seller*).

The *Gemora* asks on Rav Nachman from a *braisa*: If a man borrows money from his slave and then emancipates him, or from his wife and then divorces her (*and he wrote for them a document with security on the debt*), they have no claim against him. What is the reason for this? Is it not because we say that his purpose in borrowing was only to reveal the money which they had taken from him?

The *Gemora* answers: These cases are different, because we presume that a man would not readily place himself in the position of “a borrower who is a

servant to the lender” (*and therefore we assume another reason; this applies only to a loan but not to a sale*).

Rav Huna bar Avin sent the following message to the Academy: If a man sells a field to his wife, she becomes the legal owner, but he is still entitled to its produce. However, Rabbi Abba, Rav Avahu, and all the great people of that generation, said that the husband does not eat the produce, for his real intention was to give it to her as a gift (*and then he would not eat the produce*), and he only wrote a sale document to her in order to make her title more secure (*so if the land is seized from her she can receive another in its place*).

The *Gemora* asks on these *Amoraim* from the following *braisa*: If a man borrows money from his slave and then emancipates him, or from his wife and then divorces her (*and he wrote for them a document with security on the debt*), they have no claim against him. What is the reason for this? Is it not because we say that his purpose in borrowing was only to reveal the money which they had taken from him?

The *Gemora* answers: These cases are different, because we presume that a man would not readily place himself in the position of “a borrower who is a servant to the lender” (*and therefore we assume another reason; this applies only to a loan but not to a sale*).

Rav said: If a man sells a field to his wife, she becomes the legal owner, but he is still entitled to its produce. If he gives her the field as a gift, she becomes the legal owner and he is no longer entitled to the

produce. Rabbi Elozar, however, said that in either case, the wife becomes the legal owner and the husband is not entitled to its produce.

In an actual case, Rav Chisda followed the ruling of Rabbi Elozar. Rabban Ukva and Rabban Nechemyah, the sons of the daughters of Rav Chisda, said to Rav Chisda: Why are you abandoning the greater authorities and following the lesser authorities? He replied: I also am following a great authority, for when Ravin came from *Eretz Yisroel* to Bavel, he said in the name of Rabbi Yochanan: In either case, the wife becomes the legal owner, and the husband is not entitled to its produce.

Rava said: The *halachah* is that if a man sells a field to his wife, she does not become the legal owner, but he is still entitled to its produce. If he gives her the field as a gift, she becomes the legal owner and he is no longer entitled to the produce.

The *Gemora* explains his first ruling: The first half (*where he ruled that she does not acquire the field*) refers to a case where money was hidden away (*and we presume that the husband wanted to find it*), and the second half is referring to a case where the money was not hidden away (*and therefore the husband has no such claim; she therefore does acquire the field, but the husband still eats the produce*). This is based upon Rav Yehudah's ruling that if the money (*used by the woman*) was hidden away, she does not acquire it, and if the money was not hidden away, she does acquire it.

DAILY MASHAL

The Steipler was once approached by a husband who said, "I come home, the house is a wreck, the place is in turmoil, my wife is not in control of the situation! What should I do?" The Steipler's answer: Get a broom! (Don't just stand there. Get involved and do something constructive. It's your house too, and you share the responsibility to make sure it runs smoothly.)