

26 Adar 5777
March 24, 2017



Bava Basra Daf 61

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

Daf Notes is currently being dedicated to the neshamot of

Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h
Tzvi Gershon ben Yoel (Harvey Felsen) o”h

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

Mishna

[The Mishna deals with the sale of a house and defines which property is included in the sale.] One who sells a house does not sell the annex even though it opens into the house. Nor does he sell the storage room in the back of the house. [Even though the only way to get to the storage room is through the house, it is not meant to be included in the sale since it has a distinct purpose separate from the house.] If a roof has a fence ten *tefachim* high, it is also not included in the sale, Rav Yehudah argues and says that if a roof has a doorway, even if it does not have a fence, it is considered a separate entity and, is not included in the sale. (61a)

Annex

The *Gemora* asks regarding the meaning of the word annex used in the *Mishna*. In Bavel they defined it as a low chamber. Rav Yosef, however, said that it is a room with many windows. Such rooms were of a decorative nature and, because they were open to the outside, were used to cool off.

The *Gemora* draws a *halachic* distinction between the two opinions. The opinion who says the *Mishna* is referring to a low chamber would agree that a window room is also not sold with the house. The opinion that the *Mishna* is referring to a window room, however, would assume that a low chamber is included in a sale of a house. [A chamber with a low ceiling is used for a similar purpose as the rest of the house and is, therefore, more likely to be included in the sale of a house than a window room which has a different purpose.]

The *Gemora* provides Scriptural proof that the word for annex “*yetziya*” (the word used in the *Mishna*), “*tzela*” and “*ta*” all have the same meaning. The proof is brought from the building of the first Temple and the prophecy of the building of the third Temple. In *Melachim*, the additional chambers built onto the Temple are referred to as “*yetziya*.” In *Yechezkel*, the additional chambers, which will be in the third Temple, are referred to as “*tzela*” and “*ta*.”

The *Gemora* brings an alternate proof that “*ta*” means annex from a *Mishna* in *Middos*. The *Mishna* is speaking about the length of the Temple from east to west. The *Mishna* says that the “*ta*” was built behind the Temple and was five *amos*. From the



description of the location of the “*ta*,” it is evident that it is referring to the annex. (61a)

What is Included in the Sale?

Mar Zutra qualifies the *Mishna*. The annex is not sold if it is at least four *amos*. If it is less, however, it is not considered an independent entity, and is sold with the house.

The *Gemora* challenges Mar Zutra’s assumption. The *Mishna* says that a pit is not sold with a house. Should a distinction be made here too between a pit that is four *amos* deep and one which is less?

The *Gemora* answers: The two cases cannot be compared. In the case of a pit, the pit has a different function than the house (*to hold water*). Therefore it is never included in the sale. In the case of the annex, it has the same basic function as the rest of the house. Therefore, if it is small, it is not considered separate from the rest of the house and is sold.

The *Gemora* asks: Why is the case of a storage room included in the *Mishna* when it could have been deduced from the case of the annex.

The *Gemora* answers: It comes to teach us that even if outer boundaries were specified in the sale, the

storage room is still not included. [*The contract of the sale detailed boundaries in which the storage room fell. Nevertheless, since the contract specified a house, we can assume the storage room was not meant to be included. The boundaries were only specified because they were clearly identifiable. They were, therefore, used in describing the house being sold, and were not meant to be exact.*]

This is similar to the ruling Rav Nachman said in the name of Rabbah bar Avuah. One who sells a house in a large building sells only the apartment and not the entire building, even if outer boundaries were indicated in the sale.

The *Gemora* asks: If people use the word house to mean apartment and not building, this ruling is obvious. If people use the word house also to refer to the entire building, since outer boundaries were used, the entire building should be included!?

The *Gemora* explains: Rav Nachman’s ruling is needed for a case where some people use the word house to refer to the entire building and some do not. Since he did not specify in the sale, “I did not leave anything out of this sale,” we can assume he kept something for himself and only meant to sell one apartment.

Rav Nachman said in the name of Rabbah bar Avuah a parallel *halachah* in regards to a field situated in a



large valley. If one says he is selling a field, he only means to sell an individual field and not the entire valley. This is true even if outer boundaries were indicated. As in the case of the house, this ruling is referring to a situation where some people use the word field to refer to an individual field and some people use it to refer to an entire valley.

The *Gemora* says that it was necessary to teach both the case of the house and the case of the field even though they appear to be identical. If only the case of the house was taught, one might have thought that the apartment building was not included in the sale because the apartment is used separately than the rest of the building. The field, however, is plowed with the rest of the valley. Therefore, one might have thought that the entire valley is included in the sale and it is necessary to teach that, in fact, only the individual field is sold.

It is also necessary to teach the case of the house. If only the case of the field was taught, one might have thought that in the case of the field, it is necessary to indicate outer boundaries, since this might be the only recognizable way of describing the field being referred to. The house, however, could have been described without using outer boundaries, and the fact that outer boundaries were used might indicate the entire building was meant to be sold. Therefore, Rav Nachman had to teach that this logic is incorrect.

The *Gemora* asks: Whose opinion is being followed in Abaye's statement that one must specify in a sale, "I'm not leaving anything out of this sale"?

The *Gemora* concludes that this statement follows the opinion of Rav Nachman in the name of Rabbah bar Avuah.

The *Gemora* discusses the case where someone says, "I'm selling you land from the house of Chiya." Rav Ashi says even if the seller has two pieces of land which fit that description (*for he bought them both from Rabbi Chiya*), only one is sold. If the seller uses the word "lands," even if the seller has many pieces of land, only two were meant to be sold. If the seller says, "all my lands," all his land are included in the sale except for gardens and vineyards. If the seller uses the word "*zihara*" even gardens and vineyards are included. Houses and slaves are not. If he says, "my property," even houses and slaves are included. (61a – 62a)

INSIGHTS TO THE DAF

A sale where the Object Sale is Subject to Debate

The *Gemora* speaks of a case where some people use the word house to refer to an individual apartment and some people refer to the entire apartment building.



Tosfos asks: Why we don't look at the amount of money paid? Obviously, a building is more expensive than an individual apartment and this fact can help shed light which property was meant to be included in the sale!? Whether or not the amount of money can be used as evidence is actually an argument in the fifth *perek* of Bava Basra.

Tosfos answers that perhaps our *Gemora* is in accordance with the *Chachamim* who hold that the amount of money cannot be used as proof.

Tosfos also gives another answer. In our case, even Rav Yehudah, who normally holds that the amount of money given can be sufficient proof, would agree to the *Chachamim*. The reason is in our case we are speaking about land, and land, as opposed to movable objects, is often bought for much more than its actual worth. Therefore, even if the amount of money exchanged is much greater than the individual apartment, it would still not be proof of intention to sell or buy the entire building.

DAILY MASHAL

All who mourn for Yerushalayim merit to see its joy.

Onions, Tears and the Wise

Concerning the above promise, Rabbi Sholom Schwadron zt"l would tell an instructive parable:

A person went walking and noticed his neighbor at home, peeling a large onion and weeping from the

smell. He pitied him but realized the chore was worth the trouble as the onion would surely be used in a robust meal. Walking on, he came to the backyard of a hotel where some kitchen staff were peeling a huge amount of onions and weeping copiously. He understood that some grand celebration must be planned for the evening as such a large quantity could only be meant for hundreds of guests.

The same lesson applies to us: For generations we have wept rivers of tears, unprecedented suffering and torment comprised our lot but the wise understand that they have all been a preparation for the great celebration yet to come.