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Bava Basra Daf 65

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Is he Generous or Stingy?

Ravina asks to Rav Ashi: Shall we say that Rav and Shmuel (*who argue if a seller is generous or stingy*) follow their own opinions stated elsewhere? For Rav Nachman said in the name of Shmuel: If brothers divide an inheritance, neither is entitled to a right of way against the other (*to walk through the portion of the other*) nor the right of ladders (*to stand a ladder in the lower property in order to climb to the upper one*), nor the right of windows (*they cannot object if the other builds a structure that blocks the light from entering his window*), nor the right of an irrigation channel. And be careful regarding these rulings, since they are established laws. Rav, however, said that they have these rights. [*In this case, it is as if each of the brothers is selling his share in order to acquire his own portion. According to Rav, the terms of the division are interpreted strictly by each party (i.e. to his own advantage), and according to Shmuel, they are interpreted generously (as he gives up his rights in the property).*]

Rav Ashi answered: Both statements are necessary. For if would have learned only the latter (*with respect to the brothers dividing the inheritance*), I would say that only there Rav holds that he (*the brother*) is entitled to his rights because he can say

to the other, “I want to live on this land in the same way my father lived here.” However, in the other case (*regarding the argument between Rabbi Akiva and the Sages*), I might think that Rav agrees with Shmuel (*that a seller sells generously*). And if I had only the former statement (*regarding the argument between Rabbi Akiva and the Sages*), I might have thought that only in that case did Shmuel hold that way (*that a seller sells generously*), but here (*with respect to the brothers dividing the inheritance*), he agrees with Rav. Therefore both statements are necessary.

Rav Nachman asked Rav Huna: Does the *halachah* follow my opinion (*that a seller sells generously*) or yours (*that a seller is stingy when he sells*)?

Rav Huna replied: The law follows your view, since you are close to the gate of the Exilarch, where it is common for judges to be there.

It was stated: If there are two apartments one within the other (*owned by the same person*), and both are sold or given away (*simultaneously to two different people*), they are not entitled to a right of way against each other (*for they each bought the apartment in its entirety*). This is certainly the *halachah* if the outer one is given as a present (*where he is giving generously*) and the inner one is

sold (where perhaps he is being stingy). [If in the case where they both bought it or received it as gift, the inner one is not entitled to a right of passage; then certainly in this case, where he was given less rights than the outer one, he does not have a right of passage.] What is the *halachah* if the outer one is sold and the inner one was given?

They thought to say that there is no right of passage even in this case, but this is not correct, for we learned in a *Mishna*: This applies only to a sale, but if one gives a gift, he includes everything. This indicates that a donor is presumed to give a gift in a generous manner. So too here, the donor gives in a generous manner. (65a)

Mishna

One who sells a house (and he does not specify what is included), sold the door, but not the key (for it is movable). He sold the attached mortar, but not the movable one. He sold the mill-ring, but not the hopper (for it is movable). He has not sold the oven or the stove (for they are movable). When he said to him, "I am selling you the house and all that is in it," - all of the utensils (mentioned above) are sold (for since they are not lent out to be used elsewhere (because of their weight) they are regarded as "utensils of the house"). (65a – 65b)

Rabbi Meir's Opinion

The *Gemora* asks: Shall we say that the *Mishna* is not in accordance with Rabbi Meir, for if it were according to Rabbi Meir, surely he has ruled that if a man sells a vineyard, he sells with it the implements

of the vineyard (even if it was not specified)!?

The *Gemora* answers: You may in fact say that the *Mishna* is in accordance with Rabbi Meir, for there he was speaking of things which are permanently placed in the vineyard, but here, the *Mishna* is speaking about things which are not permanently placed in the house.

The *Gemora* asks: But doesn't the *Mishna* mention a key similar to the case of a door? Just as a door is permanently placed in the house, so too the key that the *Mishna* is referring to one that is permanently placed in the house, and yet, it is not sold with the house!?

The *Gemora* notes that evidently, the *Mishna* is not following the opinion of Rabbi Meir.

The *Gemora* cites a *braisa*: If a man sells a house (and he does not specify what is included), he has sold the door, the bolt, and the lock (that are all attached to the house), but not the key (for it is movable). He has sold the mortar that has been hollowed out from something that was attached to the ground, but not one that has been hollowed out from something that was not attached to the ground, and afterwards, it was fixed to the ground. He sold the mill-ring, but not the hopper (for it is movable). He has not sold the oven, the stove or the millstones (for they are movable). Rabbi Eliezer, however, says that everything attached to the ground (even if it was only fixed to the ground afterwards) is regarded as the ground. When he said to him, "I am selling you the house and all that is in it," - all of the utensils (mentioned above) are sold.



In either case, he has not sold the well, the cistern, or the annex. (65b)

DAILY MASHAL

Giving Generously

The *Gemora* states that one who gives a present to another gives it away generously (*with a favorable eye*).

The *Pardes Yosef* quotes from the *Vilna Gaon* the following explanation: Hashem promised that He would give *Eretz Yisroel* to Avraham Avinu's descendents. Avraham asked Him [Breishis 15:8]: *How will I know that I will inherit it?*

A righteous person obtains rewards for one of two reasons: either as a reward for his observance of *mitzvos*, or as a *matnas chinam* – it is given gratuitously. Something that is given to him as a reward can be negated if he commits a sin, for that nullifies the good actions that he performed. However, that which is given out of the kindness of the Holy One, Blessed be He, cannot be negated by a sin, for it is given gratuitously - with a good eye.

Accordingly, it can be explained that whenever Hashem promised *Eretz Yisroel* to Avraham Avenue, Avraham thought that it was a *matnas chinam*, and therefore, he was confident that his descendants will receive it. However, then it was said to him [ibid: 7]: *I am Hashem who took you out from the fire at Kasdim*. Now that the giving of *Eretz Yisroel* was dependant on the fact that Avraham threw himself into the furnace, Avraham was concerned that

perhaps, he had committed a sin which would negate the *mitzvah* that he performed. Hashem replied to him that this inheritance will not be nullified for any reason whatsoever, and that is why Hashem said: *To your children, I gave the land*, for it was regarded as if it was already given to them, for nothing can prevent its happening.