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Bava Basra Daf 68

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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

The *Gemora* specifies what is included in the sale of a bathhouse. Even if the seller specified he’s selling the bathhouse and everything contained in it, there are certain items that pertain to the bathhouse which is not included in the sale. The pools which provide water to the bath house are not included in the sale whether in the summer or winter time. [*One might have thought in the summer, when there is little water in the pool, the pool is not considered an independent entity and therefore, included in the sale. Therefore the Gemora must specify both winter and summer.*] The house where the wood is stored is not included in the sale. If one says the bathhouse and all of its accessories everything, including the above items is included in the sale.

The *Gemora* relates a story. A man sold an olive press and all its accessories. There were stores outside the press which were used to store sesame before they were crushed. They came before Rav Yosef for a ruling whether or not these stores were included in the sale. Rav Yosef ruled that they were included based on the above ruling.

Abaye objected, and quoted a *braisa* from Rav Chiya which taught that stores are not included with the other accessories. [*The reason is that these stores are not used primarily for the press.*]

The *Gemora* answers that if the boundaries of the sale were specified, and the store falls within them, they are included in the sale. If the boundaries of the sale were not specified, the stores are not included in the sale. (67b – 68a)

### **Mishna**

One who sells a city includes in the sale pits, ditches, caves, bathhouses, birdhouses, olive presses, and irrigated fields. Movable property is not included. If one says he is selling the city and everything in it, even animals and slaves are included in the sale. Rabbi Shimon ben Gamliel says that one who sells a city sells the *santer*. [*The Gemora will discuss the meaning of this word.*] (68a)

### **Slaves**

The *Gemora* deduces for the *Mishna* that slaves are considered movable property. For if slaves are considered as land, they should be sold with the city even when it wasn’t specified that the sale includes everything in the city. [*The question here is how people categorize slaves. The Torah equates slaves with land. The question is whether people, based on the Torah comparison, refer to slaves as land or not.*]

The *Gemora* asks that if slaves are considered movable property, the end of the *Mishna* is problematic. If

salves are considered movable property, why does the *Mishna* say that even slaves and animals are sold? Why are slaves and animals singled out more than other movable property? One must differentiate between property which can move by its own volition and property which cannot. [One might have thought even when movable property is included in the sale; this is only true regarding property which can't move by itself. It can, therefore, be considered as part of the city. The *Mishna*, therefore, must teach that even animals and slaves are included in the sale.] Once we are forced to make a distinction between things that walk and things that don't, we can say that salves are indeed considered in the category of land. There is a distinction, however between "land" that walks and land that doesn't. Only stationary property is included in the sale of a city. (68a)

### **Santer**

The *Gemora* asks regarding the meaning of the word used in the *Mishna*, *santer*. In Bavel they said it meant a slave who worked for the city determining the borders of individual properties. His function was considered essential to the city. Rav Shimon ben Avtolmos says that it is referring to fields which surround the city. The opinion which holds this particular slave is referred to in the *Mishna*, definitely will agree that the fields are also sold with the city. The opinion, however, which holds the *Mishna* is referring to fields, will hold that the slave is not sold with the city. [It is more likely that land surrounding the city be considered an integral part of the city than the slave.]

The *Gemora* attempts to deduce the meaning of the word *santer*. The *Tanna Kamma* of our *Mishna* says that an irrigated field is sold with the city. How then can Rabbi Shimon ben Gamliel be also referring to a field?

If this is so, there is no argument! It must be that *santer* means the city slave!?

The *Gemora* answers that the *Tanna Kamma* was not referring to fields but to gardens. Gardens are considered a more integral part of the city than fields. Rabbi Shimon ben Gamliel adds that even fields are included in the sale.

The *Gemora* records the opposite version of the previous discussion. The *Tanna Kamma* listed gardens as being sold with the city. How can Rabbi Shimon ben Gamliel add the city slave? He should have added also fields. It must be *santer* is referring to fields. The *Gemora* answers that the *Tanna Kamma* was not referring to gardens but fields and Rabbi Shimon ben Gamliel adds the city slave.

The *Gemora* tries to bring another proof. Rabbi Yehudah says that *santer* is not sold with the city, but the city scribe is sold with the city. From the fact that Rabbi Yehudah puts these two together, can we not infer that just like a scribe is a person, a *santer* is also a person?

The *Gemora* answers that these two items which Rabbi Yehudah lists together do not have to be similar at all.

The *Gemora* asks: How can Rabbi Yehudah hold that the fields are sold with the city? Rabbi Yehudah says in the end of the *braisa*: Left over area is not sold with the city. The *Gemora* interprets this expression to mean fields around the city.

The *Gemora* answers that Rabbi Yehudah differentiates between fields which are attached to the city and fields which are separated from the city. In the *braisa*, he is referring to fields which are detached from the city.



The *Gemora* records an opposite version of the *braisa* where Rabbi Yehudah says the scribe is not sold with the city but the *santer* is. The *Gemora* asks: How can this version of the *braisa* be correct? Rabbi Yehudah appears to agree with Rabbi Shimon ben Gamliel, but in another part of the *braisa* it's clear they argue. Rabbi Yehudah holds the villages near the city are not sold with the city, but Rabbi Shimon ben Gamliel holds they are.

The *Gemora* answers Rabbi Yehudah agrees with Rabbi Shimon ben Gamliel in one ruling but argues with him in another.

The *Gemora* notices a contradiction between two *braisos*. One *braisa* says that the enclosures of animals, birds and fish are not included in the sale of the city, and the other says they are.

The *Gemora* answers that it depends which way the enclosure faces. If it opens towards the city, it is included in the sale. If it opens away from the city, it is not. (68a – 68b)

### ***Mishna***

One who sells a field includes in the sale the rocks needed for the field, the reeds needed for the field, the produce if it's attached to the ground, an area of reed growth which is less than a quarter of a *kav*, a guard booth when it is not made with cement, a carob tree that has not been grafted yet, and a young sycamore tree. If he sells the field and everything in it, all is included except a guard booth made from plaster, a grafted carob tree, and an old sycamore tree. (68b)

## **INSIGHTS TO THE DAF**

### ***Comparing Slaves and Land***

The Torah has a *hekesh* which equates slaves with land. Our *Gemora* says that although slaves might be considered as land, there are differences between the two stemming from the fact that slaves are movable and land is not. Therefore, our *Gemora* says that even if people consider slaves like land, they don't mean to include them in the sale of the city. All real land is included in the sale.

There are other instances where the actual difference between slaves and land causes them to have different *halachos* as well. Rav Chaim HaLevi quotes a Raavad who differentiates between these two categories. If one steals a slave and the owner gives up hope of retrieving him, the owner loses ownership of him. This is not the case with land. Why should there be a difference? Rav Chaim answers that if giving up hope is related to the ability the Torah gives thief to acquire a stolen object, there would be no difference between the two. Anytime an object is out of the possession of the owner, and the owner has lost hope of retrieval, he relinquishes ownership. It doesn't matter whether the object was lost or stolen. Therefore what matters is whether the object in reality is out of the owner's possession. Slaves, which move, can be considered out of the owner's possession. Land, which is stationary, is always considered in the owner's possession. Thus, even though there is a *halachic* comparison between the two categories, sometimes the different properties of each will determine differences in *halachah*.