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Bava Basra Daf 72

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Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h

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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

***Selling and Consecrating
Trees Excluded or Included?***

Rav Huna had said that although the Sages say that if one buys two trees on someone’s land, he does not acquire the land between them, if one sells his land except for two trees, he does retain the land between and around them.

The *Gemora* clarified that even Rabbi Akiva, who says that one who sells is generous, and doesn’t retain a pathway to his retained pit, agrees to Rav Huna’s statement. The pit itself does not harm the land sold, and the new owner cannot demand that it be removed, so the seller had no need to retain a pathway. However, if the seller does not retain the land necessary for the trees, the new owner of the land can demand that the trees be removed, since they impinge on the land itself. The seller therefore retains the land, to ensure his use of the retained trees.

The *Gemora* challenged Rav Huna’s statement from Rabbi Shimon’s opinion in our *Mishna*. Rabbi Shimon says that only grafted carob and cut sycamore trees are included in a consecrated field. The *braisa* explains that Rabbi Shimon’s rationale is that these trees are nourished from the consecrated land, and therefore they are also consecrated. If Rav Huna is correct, and one who retains trees also retains the land necessary for them, Rabbi Shimon should say that the one consecrating the field retained the trees, and the land necessary for them, and the trees would therefore not be consecrated.

The *Gemora* deflected this by saying that Rav Huna stated

his *halachah* only according to the Sages, who say that a seller is stingy. Rabbi Shimon is following the opinion of Rabbi Akiva, who says that even a seller is generous, and all the more so regarding one who consecrates.

The *Gemora* asks: If Rav Huna is ruling according to the Sages, why does he need to state it at all; is it not obvious?

The *Gemora* answers: Rav Huna is teaching us that even if the trees die, the seller is entitled to plant them again (*for his ownership of the land around the trees is permanent*).

The *Gemora* asks: But can Rabbi Shimon concur with Rabbi Akiva, seeing that it has been taught in the following *braisa*: If a man consecrates three trees in a field where ten trees are planted to a *beis se’ah* (*a tree sucks nutrients 16 amos on each side of it; this produces an area of 250 square amos*), he automatically consecrates the soil and the small trees between them. Therefore if he wants to redeem them, he must do so (*like the Torah prescribes for an ancestral field*) at the rate of fifty *shekels* of silver for the planting ground of a *chomer* of barley. [See below in the “*halachah*” section for an in-depth explanation of this.] If they are planted closer together or farther apart than this, or if he consecrates them one after another, he has not consecrated the soil and the trees between them. Therefore if he wants to redeem them, he redeems the trees according to their market value (*and not in the manner described above for an ancestral field*). And furthermore, even if he first consecrates the trees (*one after another*) and then consecrates the soil, when he wants to redeem them, he must redeem the trees at their

actual market value and then redeem the soil at the rate of fifty *shekels* of silver for the planting ground of a *chomer* of barley.

[*The Gemora now proves from the braisa that Rabbi Shimon does not hold like Rabbi Akiva.*] The *Gemora* asks: Who is the authority for this rule (*that the land is not hekdesh if he consecrates less than three trees*)? It cannot be Rabbi Akiva, for he says that the seller sells generously; and certainly this would be so regarding a consecrator (*and therefore the soil would be included in his hekdesh*). It cannot be the Sages, for according to them, it is only the seller who is stingy, but one who consecrates does so generously!?! Obviously then it must be Rabbi Shimon (*who rules in our Mishna that even one who consecrates does so stingily*)!

And who is Rabbi Shimon following? It cannot be Rabbi Akiva, for he says that the seller sells generously; and certainly this would be so regarding a consecrator. He obviously is following the opinion of the Sages and Rabbi Shimon maintains that just as a seller is stingy, so too is a consecrator, and he therefore keeps the soil to himself (*when he is consecrating less than three trees*).

But then this would conflict with what Rabbi Shimon said above, that the grafted carob and cut sycamore trees are included in a consecrated field because they are nourished from the consecrated land (*if he is stingy when he consecrates, the trees and the soil should not be hekdesh*)!?

Rather, we must say therefore that Rabbi Shimon was arguing according to the opinion of the Sages (*in our Mishna, who hold that when one consecrates a field, even the pits and the winepress, which are separate entities, are included*) as follows: According to my opinion, just as the seller is stingy, so is the consecrator, and he therefore keeps the soil to himself. But even according to you (*that he consecrates generously*), agree to me at least that he

consecrates no more than the grafted carob and cut sycamore. The Sages would answer that no distinction is made (*and even the pits and winepress are included*).

The *Gemora* analyzes the *braisa*: We have established that the *braisa* is following Rabbi Shimon's opinion. But let us look at the last clause: And furthermore, even if he first consecrates the trees (*one after another*) and then consecrates the soil, when he wants to redeem them, he must redeem the trees at their actual market value and then redeem the soil at the rate of fifty *shekels* of silver for the planting ground of a *chomer* of barley. Now if this *braisa* is following the opinion of Rabbi Shimon, it should go according to the time of the redemption, so that the trees should be redeemed as part of the land (*at the rate of fifty shekels of silver for the planting ground of a chomer of barley*)! For we learned in the following *braisa* that Rabbi Shimon goes according to the time of redemption (*in determining how it should be redeemed*): How do we know that if a man buys a field from his father and then sanctifies it and his father subsequently dies, it is reckoned as "an ancestral field"? [A "*sedeh achuzah*," *an ancestral field is one that has been in his family since the original division of Eretz Yisroel in the times of Yehoshua. If he consecrates such a field, he has the right to redeem it before Yovel. If he chooses not to, it may be sold to anyone, and the field is returned to hekdesh by the next Yovel. They, in turn, give the field to the Kohanim, and it then becomes their "sedeh achuzah."*] It is because it is written: *And if he sanctifies to Hashem a field which he has acquired, which is not of the field of his ancestral heritage.* This is referring to a field which is not capable of becoming an ancestral field (*such a field has the laws of an acquired field*), and we therefore exclude a field such as this one, which is capable of becoming an ancestral field; these are the words of Rabbi Yehudah and Rabbi Shimon. Rabbi Meir says: How do we know that if a man buys a field from his father and his father dies, and then he sanctifies it, it is reckoned as "an ancestral field"? It is because it is written: *And if he sanctifies to Hashem a*

field which he has acquired, which is not of the field of his ancestral heritage. This is referring to a field which is not his ancestral field at the time of consecration, and we therefore exclude a field such as this one, which is his ancestral field at the time of consecration. [However, a field which he sanctifies before his father dies is treated as an acquired field, not like Rabbi Yehudah and Rabbi Shimon.] Now how do Rabbi Yehudah and Rabbi Shimon know that if he sanctifies a field and then his father dies that it is regarded as an ancestral field? It cannot be derived from the verse just quoted, for perhaps the verse justifies only Rabbi Meir's ruling (that it is like an ancestral field if he sanctifies it after his father dies). We must therefore say that they rule in this manner because they go according to the time of redemption (when it belongs to the son)!?

Rav Nachman bar Yitzchak said: In general, Rabbi Yehudah and Rabbi Shimon do not go according to the time of redemption, but in this case they do for they found another text to expound from (and therefore derived both cases from these verses). If the Torah would have only wanted to exclude the case where the son sanctifies the field after the father died, it could have merely said: And if he sanctifies to Hashem a field which he has acquired, which is not his ancestral heritage. Why did the Torah have to write the seemingly superfluous words, "of the field" of his ancestral heritage? He therefore excludes from there even a field which is capable of becoming an ancestral field (if he sanctifies the field and then his father dies).

Rav Huna said that the grafted carob and the cut sycamore are included in the law of trees and the law of land. They are regarded as trees to the extent that if a man consecrates or buys two trees and one of these, the soil in between goes with the trees. They are regarded as land to the extent that they are not included in the sale of land.

Rav Huna further said that a bundle of two se'ahs is

regarded as a bundle for some laws and as a stack regarding others. It is regarded as a bundle to the extent that while two bundles can be regarded as 'forgotten' (and the owner cannot retrieve them; he must leave them for the poor), while two with this one are not regarded as 'forgotten' (for three bundles are not considered 'forgotten'). It is regarded as a stack as we have learned in a Mishna: If an owner forgot a bundle of two se'ahs, it is not regarded as 'forgotten.'

Rabbah bar Chanah said in the name of Rish Lakish: With respect to the grafted carob and the cut sycamore, we have come to the difference of opinion between Rabbi Menachem son of Rabbi Yosi (who holds that when one consecrates a field, these trees are not included) and the Sages (who maintain that they are included).

The Gemora asks: Why didn't he state that it is a dispute between Rabbi Shimon and the Sages (which would have taught us Rabbi Shimon's actual viewpoint on the matter)?

The Gemora answers: He wanted to teach us that Rabbi Menachem son of Rabbi Yosi holds in accordance with Rabbi Shimon. (71b – 73a)

WE SHALL RETURN TO YOU, HAMOCHEIR ES HABAYIS

HALACHOS OF THE DAF

An Ancestral Field

S'dei Achuzah is a field in Israel that was inherited throughout the generations, from the time of Yehoshua. If it has the specific parameters, which will be elaborated below, then there are unique laws when someone consecrates this type of field. Usually, a field that is



hekdes, may be redeemed at full value (if redeemed by the owner, then he must pay an additional fifth of the value). However a *S'dei Achuzah*, has a specific price tag.

Dimension: 75,000 square *amos* of land, which can be planted upon. This size enables one to plant a *chomer* (30 *se'ah*) of barley.

Price: 50 *shekalim* for the entire 50 years of *Yovel*. This price is for each *chomer*. If the field is the size of ten *chomers*, then the price would be 500 *shekalim* for the entire 50 years. This is the amount one pays, regardless of the field's real value.

As mentioned, the price of 50 *shekalim* is for the entire 50 years. This means, in a case where person redeemed the field, within the first year after *Yovel*, then he has to pay that amount. However, if for example there are only 8 years left to *Yovel*, then he has to pay 8 *shekalim*. If there are 4 years left, then he has to pay 4.

He cannot pay a *shekel* a year; rather, he must pay the entire amount when he redeems the field.

One may not redeem the field within the last year before *Yovel*, nor on *Yovel*. One may not consecrate the field on *Yovel*.

If there are trees on the field, although they are also *hekdes*, they must be redeemed separately, at their own price. If there are 3 trees in a *beis se'ah*, and he did not specify that he is only consecrating the trees, then he consecrated the trees, the ground and the little trees in between, and they are part of the *S'dei Achuzah*. Meaning, they don't need to be redeemed separately; rather, they are included in the 50 *shekalim*. However, if the 3 trees were planted closer or further apart (*i.e. each tree has either more or less space than 250 square amos*), or he consecrated the 3 trees one after another, then the *halachah* is that the ground and the little trees in between

are not *hekdes*, and the trees are redeemed at their regular value.