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Bava Basra Daf 103

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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

Rocky Land

The *Mishna* states: If one says to his fellow, “A *beis kor* (the amount of land needed to plant a *kor*’s (30 *se’ah*) worth of barley seed; this equals 75,000 square amos) of soil (which indicates that the land should be fit for planting) I am selling to you,” if there were there clefts ten *tefachim* deep, or rocks ten *tefachim* high, they are not measured with it (for that area cannot be used for planting). If it was less than that, they are measured with it (for it is expected that some of the land would not be suitable for planting). And if he said to him, “About a *beis kor* of soil I am selling to you,” even if there were clefts deeper than ten *tefachim*, or rocks higher than ten *tefachim*, they are measured with it.

The *Gemora* cites a *Mishna*: If one consecrates his (*ancestral*) field during the time that the laws of *Yovel* apply (where the land is returned to its original owner by *Yovel*), he must pay (if he wishes to redeem it) fifty *shekels* of silver for an area in which a *chomer* of barley may be planted.

[*S’dei Achuzah* is a field in Israel that was inherited throughout the generations, from the time of *Yehoshua*. There are unique laws when someone consecrates this type of field. Usually, a field that is *hekdesh*, 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 a 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.]

The *Mishna* continues: If there were there clefts ten *tefachim* deep, or rocks ten *tefachim* high, they are not measured with it (and they must be redeemed according to their actual value). If it was less than that, they are measured with it (for it is expected that some of the land would not be suitable for planting).

The *Gemora* asks: But let these clefts or rocks be regarded as if they were consecrated by themselves (and they can be redeemed according to the *Torah*’s calculation of a *chomer* of barley for fifty *shekalim*)!?

The *Gemora* notes that we cannot answer that since they are less than a *beis kor*, they cannot be redeemed

in that manner, for a *braisa* explicitly states that the Torah's calculation for redemption applies even for fields much smaller than a *beis kor*.

Rav Ukva bar Chama answers: The *Mishna* is referring to clefts filled with water that are not suitable for planting at all (and since the Torah states, "beis zera" – a field of seeds, we do not calculate in this manner when the land cannot be planted).

The *Gemora* asks: If so, this *halachah* should apply even if the clefts are less than ten *tefachim*?

The *Gemora* answers: Clefts so small are considered "cracks of the land," and rocks so small are considered "the spine of the land."

The *Gemora* inquires: Here (when the *Mishna* rules that if there were there clefts ten *tefachim* deep, or rocks ten *tefachim* high, they are not measured with it), does the same qualification apply (that it is only if the clefts are filled with water)?

Rav Pappa answers: It applies even though they are not filled with water. This is because a person does not wish to give his money in one plot which has the appearance of two or three plots.

The *Mishna* had stated: If the rocks were less than ten *tefachim*, they are measured with it.

Rabbi Yitzchak notes: The *Mishna's halachah* only applies if the rocks, in total, are less than four *kavs* (however, if they total more than that, the buyer is not obligated to accept it).

Rav Ukva bar Chama said: And this (that if it is four *kavs*, the buyer must accept it) is only when the rocks are distributed over an area more than five *kavs* (but less than that, they are considered like one big rock and the buyer does not have to accept it). Rabbi Chiya bar Abba said in the name of Rabbi Yochanan: This (that if it is four *kavs*, the buyer must accept it) is only when the rocks are distributed over the greater part of the field (sixteen *se'ah*).

Rabbi Chiya bar Abba inquired: What is the *halachah* if the majority of the (four *kavs* of) rocks is scattered over the smaller part of the field, and the minority of the rocks are scattered over the greater part of it? The *Gemora* leaves this matter unresolved.

Rabbi Yirmiyah inquired: What if the rocks were arranged in a circle; in a row; like two horns; like steps? [It is very difficult to plow the field when there are rocks scattered throughout the field in these shapes; perhaps then, the rocks cannot be measured with the field.] The *Gemora* leaves this matter unresolved.

A *Tanna* taught: If a rock is isolated along the boundary of the field, however small that rock might be, it is not measured with the field. And if it was near the boundary (but within the field), however small that rock might be, it is not measured with the field. [Such rocks are not regarded as being "incidental" to the field.]

Rav Pappa inquired: What is the *halachah* if some soil intervenes between the rock and the boundary? The *Gemora* leaves this matter unresolved.

Rav Ashi inquired (*based on the fact that soil is an intervention*): What is the *halachah* if there was soil (*suitable for planting*) beneath the ground and rock above, or soil above and rock beneath? The *Gemora* leaves this matter unresolved. (102b – 103b)

Mishna

If one says to his fellow, “A *beis kor* of soil I am selling to you, as measured by the rope,” if he decreased a little bit (*from the amount*), he deducts (*from the price, but the sale is still valid, for with regard to land, we assume that the buyer still wants the sale*). If he added a little bit, the buyer gives it back. If he said, “A *beis kor* of soil I am selling to you, whether less or more,” even if he decreased a quarter (*of a kav per se’ah*) or added a quarter (*of a kav per se’ah*), the deal is valid. If it is more than that, he makes a calculation. What does he give him back? Money. And if the seller wishes (*land*), he gives him land. And why did they say that the buyer gives him back money? It is to enhance the power of the seller; for if he left an area of nine *kavs* in a field, half a *kav* in a garden, or according to Rabbi Akiva a *beis rova* (*a quarter kav that according to Rabbi Akiva is called a garden*), he gives back land. And not only does he return the quarter, but all the extra land. [*The Gemora will emend and explain this last ruling.*] (103b)

INSIGHTS TO THE DAF

REDEEMING HALF OF A "SEDEH ACHUZAH"

The *Gemora* quotes the *Mishna* in Erchin (25a) which teaches that if a field contains ditches deeper than ten *tefachim*, or rocks higher than ten *tefachim*, those areas are not calculated together with the field in accordance with the prescribed formula of "Zera

Chomer Se’orim." (*The Torah teaches (Vayikra 27:16) that one who consecrates his field (when the laws of Yovel are in force) may redeem his field by paying an amount calculated according to the formula of fifty silver Shekalim for every Chomer of barley seed that can be planted there.*) The *Gemora* asks that although the value of the pits and rocks are not calculated with the field, they should become *hekdesch* in their own right.

What is the *Gemora’s* question? Why should those areas become *hekdesch* if they are not considered part of the field?

The **RASHBAM** (DH Likdeshu) explains that the fact that the ditches are not part of the field should not preclude them from being part of a *sedeh achuzah* (*an ancestral field*). The *Mishna’s* statement that “they are not measured with it” (*with the rest of the field*) implies that they cannot have the *halachic* status of a *sedeh achuzah* at all, and are not able to be redeemed separately in accordance with the formula of fifty *shekalim* for every *beis kor*. The *Gemora* therefore asks why they cannot have the status of a *sedeh achuzah*.

TOSFOS (DH v’Amאי) argues that this cannot be the *Gemora’s* question. The Rashbam bases his understanding of the *Gemora’s* question on the premise that if the ditches or rocks are considered a second *sedeh achuzah*, they should be able to be redeemed separately. However, the *Gemora* in Kiddushin (21a) states that one can redeem half of a *sedeh achuzah* and use the prescribed formula for the redemption. This teaches that whether the ditches and rocks are considered part of the field or they are considered a separate field, they still should be

redeemed with the prescribed formula for a *sedeh achuzah*. Why does the *Gemora* ask a question which implies that *only* because the ditches and rocks are considered separate from the field are they able to be redeemed individually?

TOSFOS therefore explains that the *Gemora's* question is that even if the ditches and rocks are not considered part of the field, the *hekdesh* should take effect on the entire area because the owner consecrated his entire field. This implies that the ditches and rocks are considered a "field," albeit a separate field.

The **RASHBA** defends the Rashbam's opinion. When the *Gemora* in Kiddushin says that one can redeem half of a *sedeh achuzah*, it does not mean that he may pay part of the redemption money and thereby instantly re-acquire the corresponding part of his field. Rather, it means that he may pay part of the value of the field in order to *stop the transfer* of that part of the field to the *Kohanim* when the *Yovel* year arrives. He does *not* receive that part of the field back until *Yovel*. Accordingly, whether the ditches and rocks are considered part of the field or a separate field has a practical consequence. If the entire land is considered one field, then if the former owner redeems part of the field before *Yovel* he may choose some of the ditches and rocks as well (*if he so desires*). If, however, the ditches and rocks are considered a separate field and the former owner pays towards the redemption of the primary field (*without the ditches and rocks*), he may not choose to redeem the ditches and rocks. This is the difference between whether the field is considered one unit or two units with regard to the redemption of a *sedeh achuzah*.

"ONA'AH L'KARKA'OS"

IN THE CASE OF THE SALE OF A "BEIS KOR OF SOIL"

The *Mishna* teaches that when one says that he is selling a *beis kor* of soil and the measurement comes up short, the seller must compensate the buyer for the amount of land which he did not provide. If the land is found to be more than a *beis kor*, the buyer must give back that amount of land (or money) to the seller. In any event, the sale remains valid.

The **RASHBAM** (DH Piches) asks that the *Mishna* seems to contradict the ruling of Rava. Rava (90a) rules that whenever one specifies a precise measurement in a sale, the sale is rendered invalid when that measurement is off even by a small amount. Why does the *Mishna* consider the sale valid?

The **RASHBAM** answers that Rava's ruling applies only to *metaltelin* (*movable objects*); not to land. People always seek to buy land, and thus they prefer to be compensated when they are overcharged than to have the purchase invalidated. Moreover, when the seller sells a *beis kor* of land, it is possible that he does not know the exact measurement of his land and he may be giving an estimated size. Accordingly, he is willing to add or subtract in order to consummate the deal.

The **RAN** questions the Rashbam's description of the difference between land and *metaltelin*. The *Gemora* in Bava Metzia (56b) discusses the status of wheat seeds planted in the ground. It asks whether such seeds are considered land or *metaltelin*. In the course of its discussion, the *Gemora* mentions Rava's ruling. If Rava's ruling applies only to *metaltelin*, the *Gemora* there should not mention it in the context of its question, since the *Gemora* does not know whether

the seeds have the status of *metaltelin* or not. The Ran agrees, however, with the Rashbam's explanation that when a person sells a *beis kor* of land, he intends to ensure that the buyer receives a *beis kor* of land even if the specific land he is selling does not measure exactly a *beis kor*.

TOSFOS (104a, DH Pachos) also has difficulty with the Rashbam's explanation of Rava's ruling. He quotes the **RI** who explains that Rava's ruling applies only to a person who measured a piece of land dishonestly, and the other party later took him to task for doing so. Such a sale is disqualified. However, if the seller is approximating the measure, he certainly has intent to supply a *beis kor* of land. Whether he will add or subtract land depends on the future measurement of the property.

The **SHITAH MEKUBETZES** quotes an opinion which says that when the *Mishna* states that the seller must compensate for missing land, and the buyer must compensate for extra land, it does not mean that compensation must be made against the will of the parties involved. If one of them chooses to opt out of the sale, he is entitled to do so. The reason why the *Mishna* says only that the amount must be made up and it does not mention the fact that the sale can be canceled is that it is contrasting this case with the second case of the *Mishna*, in which an understood approximation was given. In that case, an exact measurement is not necessary, since only an approximate size was stipulated when the property was sold ("*hen cheser hen yeser*" -- "*whether it is a little less or a little more*"). This is why the first case states only that the measurement is important, and not that

the sale may be canceled if the measurement is not accurate.

The **RASHBA** in Kiddushin (42b) maintains that Rava does not say that the sale is "*batel*" -- "invalid," but rather "*chozer*" -- "goes back." The Rashba concludes that Rava means that cases of sales involving inaccurate measurements, weights, and numbers are *never* invalidated, but rather the difference from the proper amount specified must be made up, whether in units or in price. According to the Rashba, there is no real difference between a sale of *metaltelin* and a sale of land. In both cases, the sale is valid and the amount must be made up by supplying the difference in amount or by supplying the difference in price.

INSIGHTS INTO THE DAILY DAF

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DAILY MASHAL

Pride with the Last Breath

The holy gaon Rebbe Zev of Strikov zt"l once tended to an old Kotzker chasid in his last moments and, leaning over, asked him gently, "Do you, even now, still have a yetzer hara?"

"Oh yes", replied the shrewd chasid with his last strength, "My yetzer is trying to get me to say Shema' Yisrael with such ostentatious concentration and religiosity that everyone will praise me after my demise and say that my soul departed in purity and dedication just as I pronounced echad!" (Otzar Chayim, Parashas Noach)