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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

### **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)

### **Extra Land**

The *Gemora* inquires: What would be the *halachah* if the seller says, “I am selling you a *beis kor*,” but he does not say that this is an exact or approximate measurement?

The *Gemora* attempts to resolve this from our *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*). If he added a little bit, the buyer gives it back. We can infer from here that if he just said, “I am selling you a *beis kor*,” that would be as if he said, “whether less or more” (*and they would forgive*

*each other if there would be a difference of up to a quarter kav*).

The *Gemora* cites the next ruling of the *Mishna* to prove otherwise: 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. We can infer from here that if he just said, “I am selling you a *beis kor*,” that would be as if he said, “as measured by the rope” (*and they would not accept any difference in amount at all*).

It must be, the *Gemora* concludes, that we cannot learn any inference from the *Mishna* regarding this case.

The *Gemora* attempts to resolve this inquiry from a *braisa*. The *braisa* states: If a seller states, “I am selling you a *beis kor* of earth,” or, “I am selling you approximately a *beis kor* of earth,” or, “I am selling you a little less or a little more (*than a beis kor*),” even if he decreased a quarter (*of a kav per se’ah*) or added a quarter (*of a kav per se’ah*), the sale is valid. This clearly shows that saying “*beis kor*” by itself is the same as saying “a little more or a little less!”

The *Gemora* answers: [*The braisa is actually one case of “a little more or a little less,” not three cases.*] The *braisa* is explaining itself. What is a case of *beis kor* that is only “like” a *beis kor*? It is when he says, “a little more or a little less.”

Rav Ashi asks: If so, why did it keep on saying “I am selling you?” [*It should have merely stated, “Beis kor of earth, like a beis kor, a little more or a little less etc.”*]

Rather, the *Gemora* concludes: It must be that this *braisa* is indeed stating that the case of “I am selling you a *beis kor* of earth,” is equivalent to the case of “I am selling you a little less or a little more (*than a beis kor*).”

The *Mishna* had stated: What does he return to him? He returns money etc.

The *Gemora* asks: Do we only say this to enhance the power of the seller but not the power of the buyer? [*Wouldn't we also allow the buyer to pay for any extra earth given to him instead of having to give it back to the seller?*] Doesn't the *braisa* say: If he subtracted seven and a half *kav* per *kor* (*equivalent to a quarter kav per se'ah, as a kor is thirty se'ah*) or he added seven and a half *kav* per *se'ah*, the sale is valid. If more or less than this amount was given, we force the seller to sell and the buyer to buy. [*This shows that we do allow the buyer to force the seller to let him keep the extra earth (as long as he is willing to pay for it).*]

The *Gemora* answers: [*We do not make the seller sell the extra amount he gave the buyer.*] The case of the *braisa* is when earth was originally expensive and now it is cheap. While the seller is allowed to either take back the land or get the money from the buyer, if he chooses to sell the land to the buyer, we force him to sell at the current cheap price. We tell him: If you are giving extra land, give me (*him*) like the current cheap price. [*This is what the braisa meant when it said, "We force the seller to sell."*]

The *Gemora* asks: Doesn't the *braisa* say that when he pays him, he should pay him according to what the price was when he paid?

The *Gemora* answers: This *braisa* is referring to a case when it was cheap and is now expensive. [*He pays the cheap price.*]

The *Mishna* had stated: 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.

Rav Huna says: Our *Mishna's* law regarding nine *kav* is even if it was in a large valley. [*In other words, as long as there are nine extra kav, even if the sale was for ten beis kor, the nine kav are returned. Even though there is a lot less than a quarter-kav extra per beis kor, the seller did not mean to add an area that is considered to have the importance of a field for free. The land is therefore returned.*]

Rav Nachman says: He forgives seven and a half *kav* extra per *kor*. And if there is more than a quarter-*kav* per *se'ah*, and there are nine extra *kav*, the buyer can give back the land. [*If there is not nine extra kav, the buyer buys it; if there is more than nine kavs, he returns the extra to the seller; if there is not more than a quarter-kav per se'ah, the buyer keeps the extra, even if it is more than nine kavs.*]

[*Rav Huna and Rav Nachman disagree about the intent of the Mishna. Rav Huna explains that the Mishna means that if the land contains nine extra kav including the one extra quarter of a kav per se'ah that a buyer normally is allowed to keep, all of the extra land goes back to the seller. Rav Huna understands that the seller would never intentionally add so much land, which itself is considered a proper field. Therefore, in a case in which an area of two kor (60 se'ah) of land was sold and one quarter kav was left per se'ah, all of the extra land returns to the seller. Rav Nachman disagrees and explains that every kor may contain up to seven and a half extra kavin. If there is more than nine kav, the land returns to the seller.*]

Rava asked a question on Rav Nachman from our *Mishna*. The *Mishna* states: If he left an area of nine *kavs* in a field, he gives back land. This implies that this *halachah* applies even if he sold him two *kor*! [*The Rashbam explains that if it wanted to specifically say this law when one beis kor was*



sold, it should have stated “in the beis kor,” not “in the field.”  
Now in a case of two kor, nine kavs is substantially less than a quarter-kav per se’ah, and nevertheless, the Mishna rules that he returns the extra land.]

The Gemora answers: No. The case is where he sold him a beis kor. [The Mishna was previously talking about a beis kor in the beginning of the Mishna, and it therefore did not have to say a beis kor, as this was the case stated above.]

The Gemora asks from the next ruling of the Mishna: And in a garden, an area of half a kav. Isn’t the case where he sold him two se’ah! [Even though we allow an extra quarter-kav per se’ah, when it builds up into a half-kav, he must give it back, even though it is not more than one quarter kav per se’ah!]

The Gemora answers: No. The case is where he sold him one se’ah. [Therefore, he must clearly give back land if it was half a kav, since it is more than a quarter-kav per se’ah.]

The Gemora asks from the next ruling of the Mishna: According to Rebbi Akiva, an area of a quarter kav. Isn’t the case where he sold him an area of a se’ah! [According to Rav Nachman, the quarter-kav should belong to the buyer; not returned to the seller!]

The Gemora answers: No. The case is where he sold him an area of a half se’ah.

Rav Ashi inquires: If he sold him a grain field and the buyer turned it into a garden, or he sold him a garden and he turned it into a field (and then the question arose about the buyer having received extra land), what is the law? [Do we consider the amount he must give back by what it is now? This would mean that if it is now an important or unimportant amount because he changed its status, we decide based on the current status. Or do we simply decide based on what it was at the time of the sale?] The Gemora leaves this question unresolved.

The braisa states: If the extra amount was near the seller’s field, even if it is a little amount, we say that land (not money) should be returned.

Rav Ashi inquired: If there was a pit in between the two fields, is this called a separation (and it is not deemed next to his field)? If there was a stream, is this called a separation? If there was a public path, is this called a separation? If there was a hedge of palm trees, is this called a separation? The Gemora leaves these questions unresolved.

The Mishna had stated: And not only does he return the quarter, but all the extra land.

The Gemora asks: What is the direction of the Mishna’s statement? The opposite should be true! [The quarter kav is more likely, not less likely, to remain with him than the extra amount!]

Ravin bar Rav Nachman said the Mishna says: Not only does he return the extra amount, but he also gives back the quarter kavs as well. (103b – 104b)

## INSIGHTS TO THE DAF

### WHEN THE SELLER GETS BACK LAND

The Mishna (103b) teaches that when the size of a field is estimated at a beis kor (thirty se’ah) at the time it is sold, both the buyer and the seller must agree to accept a loss or a gain of one quarter of a kav per se’ah. This means that if there is up to one quarter of a kav of extra land per se’ah, the buyer may keep that land. If the extra land is more than one quarter of a kav per se’ah, “the seller has the upper hand in a case where he gave nine extra kav in a field.” Rav Huna and Rav Nachman disagree about the intent of the Mishna. Rav Huna explains that the Mishna means that if the land contains nine extra kav including the one extra quarter of a kav per se’ah that a buyer normally is allowed

to keep, all of the extra land goes back to the seller. Rav Huna understands that the seller would never intentionally add so much land, which itself is considered a proper field. Therefore, in a case in which an area of two *kor* (60 *se'ah*) of land was sold and one quarter *kav* was left per *se'ah*, all of the extra land returns to the seller.

Rav Nachman disagrees and explains that every *kor* may contain up to seven and a half extra *kavin*. If there is more than nine *kav*, the land returns to the seller.

What does Rav Nachman mean to say?

The **RASHBAM** (DH v'ly) explains that Rav Nachman means that if there is even a small bit more than a quarter of a *kav* per *se'ah*, and altogether there is more than nine extra *kav*, all of the extra land goes back to the seller. Accordingly, whether the extra land returns to the seller depends on the size of the land being sold. If two *kor* are sold and there is one quarter of a *kav* extra per *se'ah*, all of the extra land goes to the buyer *unless* the extra land is slightly more than one quarter of a *kav* per *se'ah*. If one *kor* is sold and there is one quarter of a *kav* extra per *se'ah*, the buyer keeps the land. If, however, in this second case there is one *kav* and a half more of extra land, all of the land goes back to the seller. If there is more than seven and a half *kav* but less than nine *kav* extra, the buyer must compensate the seller for all of the extra amount (*including the seven and a half kav; see Rashbam to 103b, DH Yeser Mikan*). This is also the opinion of the **RA'AVAD**.

The Rashbam cites another opinion which explains that when Rav Nachman says, "If there is more than nine *kav* it goes back," he means *more* than nine *kav* over the normal amount of one quarter *kav* per *se'ah*, regardless of how many *kor* are being sold.

The Rashbam cites a third opinion which explains that if there is more than nine *kav* per *kor*, all of the land goes back to the seller.

## HALACHOS OF THE DAF

### *Selling a Specific Beis Kor*

If the seller said, "I'm selling to you this *beis kor*", then it's as if he said "I'm selling to you a *beis kor* even if it's more or less than an exact *beis kor*." Therefore, if there is found to be missing up to a 24<sup>th</sup> of a *se'ah* (*a se'ah is 6 kav and a kav is split into quarters*) which is a quarter-*kav*, or there was found to be extra, up to a quarter-*kav*, then the sale stands, and neither the buyer or the seller needs to give additional money.

If there is found to be missing or extra land, more than a quarter-*kav*, then all quarter-*kavs* that were missing, the seller pays back to the buyer, and all the quarter-*kavs* that were extra, the buyer returns to the seller.

It is interesting to note, that if only one quarter-*kav* was extra (*or missing*), then the sale stands, but if for example there were two extra, then both get returned. The reason explains the *S"ma*, is that once they start returning, everything that is not exactly a *beis kor* gets returned as well. Since the seller certainly does not intend to let the buyer receive that much extra land, he therefore takes back all of the extra land. The *S"ma* cites other examples where the *halachah* follows this logic.

## DAILY MASHAL

### *Self-admonition*

Rebbe said, "Is it not enough that penitents are accepted but they are even called "Rabbi"? The author *Mishmeres Isamar* said: "Rebbe said..." Every rabbi must tell himself that there is no one who doesn't sin and that therefore he is a penitent. And not only is he accepted but people call him "Rabbi." He will thus remember to try harder and treat those around him well" (*Mishmeres Isamar, parashas Beshalach*).