

28 Sivan 5777  
June 22, 2017



Bava Basra Daf 151

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

Daf Notes is currently being dedicated to the neshamot of

**Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h**  
**Tzvi Gershon ben Yoel (Harvey Felsen) o”h**

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

**Possessions**

The *Gemora* continues its discussion as to what is included in “possessions.”

The *Gemora* states: Animals are called possessions. This is proven from the following *Mishna*: If a person consecrated his possessions, and among them were cattle suitable as offerings for the Altar, the *halachah* is as follows: Males are to be sold for *olos* (*burnt offerings*), and females are to be sold for *shelamim*.

The *Gemora* continues: Birds are called possessions. This is proven from the following *Mishna*: If a person consecrated his possessions, and among them were things suitable for offerings for the Altar, such as wines, oils and birds etc.

The *Gemora* continues: *Tefillin* are called possessions. This is proven from the following *Mishna*: If someone consecrates his possessions, his *tefillin* are evaluated (*and he redeems the tefillin from hekdesch with money*).

The *Gemora* inquires: What would be regarding a *Sefer Torah*? Do we say that since it is forbidden to be sold, it is not included in “possessions,” or perhaps, since it may be sold for the study of Torah or to marry a woman, it is regarded as his possession? The *Gemora* leaves this question unresolved. (151a)

**Shechiv Mei’ra**

[A Mnemonic: *Zutra*, the mother of Amram, from two, sisters, Rav Tovi and Rav Dimi and Rav Yosef]

The mother of Rav Zutra bar Toviya wrote her property to Rav Zutra bar Toviya, because she intended to marry Rav Zevid (*and she didn’t want him to get her property*). She married, but then got divorced. She came in front of Rav Bibi bar Abaye (*for she wanted her property back*). He said: She gave away her property because she wished to marry and behold, she married (*and therefore her son would not be required to return it*).

Rav Huna the son of Rabbi Yehoshua said to him: You are descendants of short-lived people (*Abaye, being a descendant of Eli had a curse placed upon his family*), therefore, you speak frail words. Even according to the one who said that a gift given by a woman who wished to keep it away from her future husband is acquired by the recipient forever; this is only applicable in a case where the woman did not specify her reason. Here, however, she said specifically that she is giving away her property because she wished to marry, and she married, but then got divorced (*and everyone would agree that the property should be returned*).

The mother of Rami bar Chama wrote her property in the evening to Rami bar Chama, but in the morning, she wrote it to Rav Ukva bar Chama (*her other son*). Rami bar Chama came in front of Rav Sheishes, who ruled in his favor. Rav Ukva bar Chama went to Rav Nachman, who ruled in his favor. Rav Sheishes went to Rav Nachman and said to him: Why did you rule in Rav Ukva bar Chama’s favor? Is it

because she retracted? But surely she died (*and we must follow her instructions*)!? Rav Nachman replied: Shmuel has said: Wherever a person may retract if he recovered, he may also renege from his gift (*even if he died*). Rav Sheishes asked him that Shmuel only said this in the case where he retracted for himself; did he say like this in the case where he wished to give it to another person? Rav Nachman replied: Samuel explicitly stated: He may renege on his gift whether it is for himself or for another.

The mother of Rav Amram the pious had a sack of documents (*loans owed to her*). As she was dying, she said, "Let these be given to Amram, my son (*for him to collect the debts*). His brothers came before Rav Nachman and said to him: But he did not pull the sack of documents (*so how could he acquire it*)? He replied to them: The instructions of a deathly ill person are regarded as if they were written and given over.

The sister of Rav Tovi bar Rav Masnah wrote her property to Rav Tovi bar Rav Masnah in the morning. In the evening, Rav Achadvoi bar Rav Masnah came and cried before her (*for he wanted the possessions as well*), saying: Now people will say that he is a scholar and I am not. So she wrote her property to him. He came before Rav Nachman. Rav Nachman said unto him: Shmuel has said: Wherever a person may retract if he recovered, he may also renege from his gift (*even if he died; and therefore, the property belongs to Rav Ukva*).

The sister of Rav Dimi bar Yosef had a small orchard. Whenever she felt sick (*and she thought she might die*), she would transfer it to him (*according to the laws of shechiv mei'ra*), but as soon as she felt better, she retracted. One time she felt sick and sent to him to come and take possession of the orchard. He replied that he does not want to. She again sent to him, "Come and take possession in any way you desire." He came and he told her to leave for herself a small portion of the orchard (*in order that she cannot retract from it should she recover*) and he acquired

it. Once again she recovered and retracted from the gift. She came before Rav Nachman. Rav Nachman sent for Rav Dimi bar Yosef. He refused to come. He thought to himself, "Surely, some of the orchard was left to her and I acquired it from her (*in a manner that she cannot retract*)." Rav Nachman sent to him: If you do not come, I will hit you with a thorn that causes no blood to flow (*in other words, he will excommunicate him*). Rav Nachman asked the witnesses how the incident had occurred, and they told him that when she called for her brother, she said, "Woe is to me that I am dying (*and I will not see him, for he is refusing to come*)." Rav Nachman ruled: If so, the instruction to give over her estate was due to her expectation of death, and such instructions cannot be retracted.

It was stated: Regarding a *shechiv mei'ra* who gave away part of his estate, the Sages said before Rava in the name of Mar Zutra the son of Rav Nachman that it is like the gift of a healthy man and it is like the gift of a man on his deathbed. "It is like the gift of a healthy man," in that if he recovered, he cannot retract; and "it is like the gift of a man on his deathbed," in that no formal acquisition is required.

Rabbah said to them: Have I not told you not to hang empty pitchers on Rav Nachman (*for in a large apartment, that height would be more than adequate*)? Rav Nachman really said: It is like the gift of a healthy man and it requires a formal acquisition.

Rava asked Rav Nachman from our *Mishna*: If someone who is deathly ill wrote that all of his possessions should go to others, and he left a small amount for himself, the present is valid (*even if he gets better*). Are we not referring to a case where he did not make a formal act of acquisition (*and nevertheless, he may not retract, even though he was only giving away a portion of his estate*)!?

The *Gemora* answers: The *Mishna* is referring to a case where he did make a formal acquisition.

The *Gemora* asks: If so, let us consider the latter ruling of the *Mishna*: If he did not leave anything over for himself, it is invalid. And if we are referring to a case where he made an act of acquisition, why is the gift not valid?

Rav Nachman told Rava: Shmuel had said that a *shechiv mei'ra*, who writes all of his property to another, even though the recipient made an act of acquisition, he may renege on the gift, for it is known that the instruction was only given because he thought that he would die.

Rav Mesharshiya asked Rava from a *Mishna* below: The mother of the sons of Rochel once fell ill and she said, "Let my brooch be given to my daughter," and it was worth twelve *maneh*, and when she died, the *Chachamim* fulfilled her words? [Evidently, the gift of a *shechiv mei'ra* is effective even if it is only a portion of his estate and even without a *kinyan*!?!]

The *Gemora* answers: There it was a case where he clearly gave it based upon the expectation of death (*for he said so explicitly*).

Ravina asked Rava from the following *Mishna*: If one says, "Give this *get* to my wife," or he says, "Give this emancipation document to my slave," and he died, the documents should not be given after his death. If, however, he said, "Give a *maneh* to So-and-so," and he died, the money should be given even after his death. Now, it stands to reason that the latter case (*of the maneh*) is similar to the case of *get*. Just as by *get*, they did not acquire for the woman (*for divorce is detrimental to her, and it cannot be acquired for her without her explicit instructions*), so too here, there was no formal acquisition!?

The *Gemora* answers: Here too, it was a case where he clearly gave it based upon the expectation of death (*for he said so explicitly*).

Rav Huna the son of Rabbi Yehoshua said: When the *shechiv mei'ra* instructs a person because he thinks that he will die, it requires a formal act of acquisition, and the *Mishnayos* mentioned above are referring to a case where he wrote away all his properties, for then, it is regarded as the gift of a *shechiv mei'ra*.

The *Gemora* rules: When the *shechiv mei'ra* gives away a portion of his estate, it requires a formal act of acquisition, and even if he will subsequently die. But in a case where he instructs a person because he thinks that he will die, it does not require a formal act of acquisition; but that is only if he dies. If he recovers, he may renege from the gift even if the recipient made an act of acquisition. (151a – 151b)

## HALACHOS FROM THE DAF

### *Sefer Torah*

The *Gemora* inquires: What would be regarding a *Sefer Torah*? Do we say that since it is forbidden to be sold, it is not included in "possessions," or perhaps, since it may be sold for the study of Torah or to marry a woman, it is regarded as his possession? The *Gemora* leaves this question unresolved.

The Shulchan Aruch (Yoreh De'ah 270:1) writes that it is a *mitzvah* for every single man to write a *Sefer Torah*, even if he had inherited one. One may not sell a *Sefer Torah* even if he has many *Sifrei Torah*, and even in order to buy a newer and nicer one. However, one may sell a *Sefer Torah* in order to learn Torah or to get married, if he has nothing else to sell. The Re"ma adds that one may also sell a *Sefer Torah* in order to redeem captives.

The Shulchan Aruch in other places adds a few other cases where one may sell a *Sefer Torah*. Orach Chaim 153:6 states that it would be permitted in order to have money to support the students, and if money is needed to marry off

orphans. The Chelkas Michokek (Even Ha'ezer 1:1) writes that this only applies to a *yasom* (an orphan boy) and not to a *yesomah* (an orphan girl). However, the Magen Avraham (Orach Chaim ibid) rules that it applies to a *yesomah* as well. Bais Shmuel and many others including Mishnah Berurah rule as the Magen Avraham.

As for the answer to the *Gemora's* inquiry, the Shulchan Aruch (Choshen Mishpat 248:11) rules that the *halachah* is in doubt whether it is included or not (because the *Gemora* did not answer the question), and we will only know once Eliyahu Hanavi comes, and he will resolve this question for us. Therefore, if the recipient has already taken the *Sefer Torah*, the *shechiv mei'ra* cannot take it back.

This concept is elucidated by the Drishah, with a fascinating *halachic* distinction. In cases where the *Gemora* has a *teiku* and the *halachah* is not clear due to the logic that can go both ways, and we will only know once Eliyahu Hanavi comes, then, we say that if the other party grabbed it, we cannot take it away from him, since the *halachah* may very well be in his favor. However, in cases where the *Gemora* isn't clear what the *halachah* is due to a question of what an average person had in mind, then we won't know the answer when Eliyahu Hanavi comes, since some people think like this and some like that. Therefore in our case where the question is due to the logic that can equally be heard both ways, and we will know how to rule when Eliyahu Hanavi comes, the *halachah* is that if the recipient grabbed it, we cannot take it away from him.

## DAILY MASHAL

### *Tefillin as a Garb*

The *Gemora* states: *Tefillin* are called possessions. This is proven from the following *Mishna*: If someone consecrates his possessions, his *tefillin* are evaluated (and he redeems the *tefillin* from *hekdesch* with money).

The *Gemora* inquires: What would be regarding a *Sefer Torah*? Do we say that since it is forbidden to be sold, it is not included in "possessions," or perhaps, since it may be sold for the study of Torah or to marry a woman, it is regarded as his possession? The *Gemora* leaves this question unresolved.

The Rashbam explains: Perhaps there is a distinction between a *Sefer Torah* and *tefillin*. Since one wears *tefillin* on his body, perhaps it is considered as part of his garb, and that is why it is regarded as a "possession."

The Maharsham in his responsa (1:148) was asked regarding someone who took a vow to donate money to clothe the naked; is he allowed to purchase a pair of *tefillin* for a pauper?

A proof is brought from a Tikunei Zohar, which states that when the Torah states (regarding Adam in the Garden of Eden): And Hashem made for Adam and for his wife shirts of skin, and He dressed them; this is referring to *tefillin*. This, the *Gemora* in Sotah (14a) explains to mean that you should go in His ways. Just as He clothes the naked, so too, you should clothe the naked. Accordingly, we can say that buying *tefillin* for a poor person is regarded as clothing him.

The Maharsham cites our Rashbam as a proof to this as well.