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Kinyan Agav

The *Gemora* attempts to answer the inquiry (*must the movable property be piled on the real property in order for the kinyan agav (by making a kinyan on the land, he automatically acquires the movable property) to be effective*) from the following statement. Rava bar Yitzchak said in the name of Rav: There are two laws regarding a document. If someone states, “Acquire this field for So-and-so and write for him a document,” he can retract the writing of the document but not the giving of the field. If he says, “(Acquire this field for So-and-so) on condition that you write him a document,” he may retract both the giving of the field and the writing of the document. Rav Chiya bar Avin said in the name of Rav Huna: There are three laws regarding documents. Two of them have just been mentioned. A third is if the seller wrote the sale document before the actual transaction. This is legal, as we have learned that we allow such a document to be written up for a seller even if the buyer is not present. In such a case, once the buyer takes hold of the land, he automatically acquires the document wherever it is located. This last statement shows that possession of a movable object can be acquired through a land acquisition, even if the object is not piled in the property!

The *Gemora* rejects the proof: A document is different, as it is like the reins of the land (*since the document is the way that one acquires the land*).

The *Gemora* asks: The document itself is the subject of discussion of the *Mishnah* that states that possessions

that do not bear responsibility (*i.e. movable objects*) can be acquired as part of an acquisition of possessions that do bear responsibility (*i.e. land*), through money, documents, and holding! [How can you say that a document is not a good example?]

The *Gemora* concludes: This (*form Rav Chiya*) proves that possession of a movable object can be acquired through a land acquisition, even if the object is not piled in the property. (27a1 – 27a2)

The *Gemora* inquires: Does a person who wants someone to not only acquire his land, but also acquire some movable objects, have to explicitly say that he should acquire the property and the objects “on it (*meaning through the power of the property acquisition*),” or not?”

The *Gemora* attempts to answer this from the previous statement, that did not mention “on it,” but rather only said “with it” (*one hundred sheep*).

The *Gemora* asks: And according to your reasoning, it doesn’t say “acquire,” either! It therefore must mean that “acquire,” is necessary, and so too “on it,” is necessary.

The *Gemora* rules that the movable objects do not have to actually be on the property that is being acquired, but the seller must say that the buyer should “acquire” and “on it.” (27a2 – 27a3)



The *Gemora* inquires: Can this mode of acquisition be effective if the field is being sold, but he wants to give the buyer movable objects as a gift?

The *Gemora* proves the answer from the *Baraisa* (quoted earlier). The *Baraisa* states: The tithe that I am going to measure is given to Yehoshua, and its place (*where it lies currently*) is rented to him. This clearly shows that one can rent or sell, and give the movable objects as a gift.

The *Gemora* inquires: Can this mode of acquisition be effective if the field is being sold to one person, but he wants the movable objects to be acquired by a third party?

The *Gemora* proves the answer from the *Baraisa* (quoted earlier). The *Baraisa* states: The tithe that I am going to measure is given to Akiva ben Yosef in order that he should acquire it for the poor, and its place (*where it lies currently*) is rented to him.

The *Gemora* rejects this proof by saying: What does it mean that it is rented to him? It means that it is rented out (*to the poor*) for the purpose of the tithe. Alternatively, it could be that Rabbi Akiva is different (*than the case about which we are inquiring above*), as his hand is like the hand of the poor (*being that he was in charge of distributing charity to the needy*).

Rava says: We learned that this mode of acquisition works only if the movable objects had been paid for. If not, the person only acquires the value of movable objects that he had already paid.

The following *Baraisa* supports Rava. The *Baraisa* states: Money is stronger than documents, and documents are stronger than money. Money is stronger than documents as it can be used to redeem *hekdesh* and *ma'aser sheini*, which a document cannot do. A document is stronger, as it (*a Get*) frees a woman from her husband. They are both

stricter than *chazakah*, and *chazakah* is stronger than both of them. They are stronger than *chazakah*, as they both can be used to acquire a Jewish servant, which *chazakah* cannot do. *Chazakah* is stronger than they are, as if someone is sold ten properties in ten different countries, he acquires all of them once he makes a *chazakah* on one of them. This cannot be done by money and documents. This can only be done (*through chazakah*) when he has already paid for all of the properties. If he has not, he can only acquire what he has paid for (*the Gemora is comparing fields in different locales to movable objects*).

This also is proof to Shmuel's statement. Shmuel states: If someone is sold ten properties in ten different countries, he acquires all of them once he makes a *chazakah* on one of them.

Rav Acha the son of Rav Ikka says: This is clearly correct, as if someone sold to him ten animals and gave him one rope connecting all of them to acquire with, wouldn't the acquisition be valid? They said to him: However, there, he has the bundle (*that connects all the animals*) in his hand, here, he does not!

Some say that Rav Acha the son of Rav Ikka said: It should be obvious that he does not acquire, as if someone sold to him ten animals and gave him one rope connecting all of them to acquire with, would the acquisition be valid?

The *Gemora* asks: Are the cases comparable? There, they are ten different bodies that he must acquire. Here, the entire earth is connected in one body (*planet*). (27a3 – 27b1)

Gilgul Shevuah

The Mishnah had stated: Movable property can cause one to take an oath regarding real property. [*Generally, one is only obligated to take an oath regarding movable*

property. However, if one was obligated to take an oath regarding movable property, he can be required to swear regarding the real property as well. This is known as a *gilgul shevuah*.]

Ulla asks: What is the source for a *gilgul shevuah* in the Torah? The verse states (regarding a *sotah*): “And the woman will say, amen, amen.” The *Mishnah* states: What is she saying these “*amens*” to? She is saying *amen* regarding the curses that will befall her, and on the oath. *Amen* that she was not unfaithful with the person she was secluded with, and not with anyone else either. *Amen* that she was not unfaithful when she was betrothed, married, a *yevamah*, and after she already performed *yibum*.

The *Gemora* asks: What is the case referred to that she was unfaithful when she was betrothed? If it means that he did *kinuy* (warned her not to be secluded with a certain man) when she was betrothed and is also making her drink the *sotah* water when she is still betrothed, it cannot be, as the *Mishnah* states that a betrothed woman and a *yevamah* do not drink the *sotah* waters, nor do they receive a *kesuvah*. Why? The verse says that the water is only administered, “underneath your (domain of your) husband.” This does not apply to a betrothed woman, who is not yet married! It must be that the case is where the *kinuy* and *setirah* (her seclusion) was done when she was betrothed, but her husband is taking her to drink the waters after she is married. In that case, would the water check her? Doesn’t the verse state, “And the man is clean from sin,” implying that the water only checks her if he is clean from sin (and being that he married her after she became a *sotah*, this means he sinned as well when he had relations with her)? Rather, the case is where she swears that she was not unfaithful when betrothed on account of the principal of *gilgul shevuah*. [The case is that of a regular *sotah* who had *kinuy*, *setirah*, and drank when married. Due to *gilgul shevuah*, he can add that she

swears she was faithful to him when she was betrothed.] (27b)

DAILY MASHAL

Akiva ben Yosef

It happened once that Rabban Gamliel and some elders were traveling on a ship. Rabban Gamliel said to them: The tithe (*ma’aser rishon*) which I shall measure off when I come home is given to Yehoshua (*ben Chananyah*, who was a *Levi*) and the place where it lies is leased to him. [Rabbi Yehoshua gave him a *perutah* for the rental and acquired the *ma’aser* together with the land with *kinyan agav*.] And the other tithe (*ma’aser ani*) which I shall measure off is given to Akiva ben Yosef that he may acquire possession of it for the poor, and the place where it lies is leased to him.

The commentators ask: Why by Rabbi Akiva, does the *Gemora* mention his father’s name, Yosef, and By Rabbi Yehoshua, it does not?

Reb Tzadok HaKohen (Peri Tzadik; Ki Seitzei) answers that this is to hint to us that the root of Rabbi Akiva was from Yosef HaTzadik. Just as Yosef was the provider of the food in Egypt, so too, Rabbi Akiva was the treasurer and the one responsible to sustain the poor people.