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Bava Basra Daf 57

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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

Inseparable Brothers

A contract was signed by two witnesses, one of whom died. The surviving witness validated his signature, and his brother and another witness validated the deceased witness' signature.

Ravina thought that this was equivalent to the *Mishna* that allowed three brothers to each join with another witness to testify on each of the three years of *chazakah*. Just as the *Mishna* allowed each brother to testify on one portion of the testimony which is unrelated to each other, Ravina thought that this brother can testify to the portion of the testimony that is unrelated to his brother's signature.

Rav Ashi objected, and explained that brothers are considered one unit. Therefore, in the *Mishna's* case, if one person had testified with three others on each of the three years, that would be valid testimony. However, in this case, if we consider the brothers as one unit, three fourths of the full testimony is being given by one unit, while the Torah mandates that each unit of testimony testify to half the information. This case is similar to a signing witness who validates his signature, and joins with another new witness to validate the signature of his fellow signer. In that case, we do not accept this validation, since the signing witness is testifying on three fourths of the information. (56b – 57a)

Chazakah Uses

The *Mishna* details what type of use creates a *chazakah*,

and what type does not. If one simply stored items on someone's land (e.g., placed their animals, oven, mill, chickens, or manure on the land), this does not create a *chazakah*, since the owner does not mind. If he used it more permanently, this creates a *chazakah*. Therefore, if he built a wall for his animals, oven, or mill, brought his chickens into the house, or created a ditch or mound for his manure, this creates a *chazakah*, since a landowner will not allow people to do this on his land.

The *Gemora* questions the rationale for the distinction in the *Mishna* between different types of use.

Ulla suggests that to acquire a *chazakah*, one must do an action to the land, which would work as an acquisition of ownerless land (e.g., of a convert who dies childless).

Rav Sheishes objects, and points out that some forms of *chazakah* are ineffective to acquire ownerless land (e.g., eating the produce), while some forms of acquisition of ownerless land are ineffective for a *chazakah* (e.g., plowing the land).

Rabbah bar Avuha rather says that the *Mishna* is referring to a case of two partners, who do not mind each other keeping their items in the shared courtyard.

The *Gemora* challenges this from a *Mishna* in Nedarim that states that if partners swore not to benefit from each other, they may not enter their shared courtyard, indicating that they mind each other being in the courtyard, let alone storing their items there.



A Torah Scholar

The *Gemora* presents three alternatives to resolve this contradiction:

1. Rabbah bar Avuha says that the *Mishna* here is referring to the backyard area, where the partners do not mind each other storing items, but they do mind each other building structures.
2. Rav Pappa says that the *Mishna* here is indeed referring to their shared courtyard. Some partners do mind, and some do not. Therefore, until the partner proves that his fellow partner does mind, the partner can claim that he felt no need to protest, and the partner does not acquire a *chazakah*. However, in the realm of prohibitions of oaths, we must rule strictly, to account for the possibility that these partners do mind.
3. Ravina says that all partners do not mind, but the *Mishna* in Nedarim is in accordance with Rabbi Eliezer, who says that any benefit – even benefit given for free to all – is prohibited by an oath to not benefit. (57a – 57b)

Laundry

Rabbi Yochanan says in the name of Rabbi Bana'ah that partners can prevent each other from any use of the shared courtyard, except for laundry, since otherwise, a woman will have to reveal her legs when doing the laundry at the river.

Rav Chiya bar Abba explains that the verse that extols one who is *otzaim ainav mair'os b'ra* – closes his eyes from seeing bad – this is referring to one who does not gaze at women who are doing the laundry at the riverbank.

The *Gemora* clarifies that if he has another path that avoids the riverbank, he is considered wicked if he goes by the river. Rav Chiya is only referring to one who has no other option, but still should look aside, to avoid seeing anything immodest. (57b)

Rabbi Yochanan asked Rabbi Bana'ah a number of questions about the behavior of a Torah scholar:

1. What is the nature of a Torah scholar's undergarment? Rabbi Bana'ah answered that it is one that covers his whole body.
2. What is the nature of his outergarment? Rabbi Bana'ah answered that it only shows a *tefach* of undergarment.
3. What is the nature of his table? Rabbi Bana'ah answered that it is two thirds covered, and one third uncovered for the pots and pans, while the ring of the table is outside, to not upset the diners.

The *Gemora* cites a *braisa* that recommends the ring to be inside. The *Gemora* offers a number of resolutions to this contradiction:

1. If a child is at the table, the ring should be outside, so the child will not play with it and move the table.
2. Even if there is no child, if there is a waiter, the ring should be inside, so the waiter will not bump into it.
3. Even if there is a waiter, the ring can be outside to avoid bothering the diners, unless it is night, and the waiter will not be able to watch out for the ring

Rabbi Bana'ah added that the table of an *am ha'aretz* is like a bonfire, with the pots surrounding the center, where the food and tablecloth are.

4. Rabbi Bana'ah finally taught that under the bed of a Torah scholar, he only stores his unused shoes (*sandals in the summer, shoes in the winter*), but not food, due to the evil spirit under the bed. The bed of an *am ha'aretz* is like a general pantry, where utensils and food are stored. (57b – 58a)

INSIGHTS TO THE DAF



Leniency in Money

Rav Pappa says that since some partners mind their partner using their courtyard, and some don't, we rule leniently in monetary cases, but strictly in the area of oaths.

The Rashbam says that although borrowing without permission is robbery, we rule leniently, and allow the partner to place his items in the courtyard.

The Kovetz Shiurim (B"b 258) discusses why the prohibition of robbery is not like other prohibitions, for which we must rule strictly.

The Reshash says that the rationale is not due to ruling leniently on the issue of unsanctioned use, but simply due to the fact that the partner who is claiming that he did not sell the courtyard's use is considered in possession. Therefore, he can claim that he is a type of partner that would not mind his partner's placing his items there, and the other partner has no *chazakah*.

Torah Scholar's Clothing

The *Gemora* discusses the nature of a Torah scholar's clothing, and describes the undergarment as covering the whole body.

The Rashbam explains that the parameter being discussed is the length of the garment. The Rambam (Dei'os 5:9) says that the parameter being discussed is the opacity of the clothing.

DAILY MASHAL

Shoes under the Bed

The *Gemora* says that a Torah scholar stores his shoes only

under his bed. The *Gemora* says that in the summer, he stores his sandals, and he stores his soft-leather shoes in the winter.

The Rashbam says that people wear shoes in the summer and sandals in the winter. The Torah scholar thus stores his off-season shoes under his bed.

The Reshash suggests that people wear shoes in the winter, since they provide more protection, while they wear sandals in the summer, for more ventilation. Therefore, the Torah scholar would be storing his shoes overnight under his bed, since he sleeps barefoot.

The Reshash points out that Rashi (Sukkah 21b l'hachi) understands that a Torah scholar stores his current shoes under his bed, since he sleeps barefoot. However, Rashi's text in the *Gemora* was the opposite of our text. Thus, Rashi agrees with the Rashbam that people wear shoes in the summer and sandals in the winter, but says that the Torah scholar therefore stores his shoes under his bed in the summer and his sandals in the winter. (See *Rashi Sukka* for a different rationale for only storing shoes under the bed).