

28 Adar 5777
March 26, 2017



Bava Basra Daf 63

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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

It is obvious that if a man says, “Let so-and-so share (yachalok) my property,” [he is to receive] a half. If he says, “Give so-and-so a share in my property,” what is to be done? Ravina bar Kisi said: Come and hear: it has been taught in a braisa: If a man says, “Give so-and-so a share in (the water of) my pit,” Sumchos says that he is to receive not less than a quarter. [The share may mean either a half or a mere fraction. Being in doubt, therefore, we strike the balance.] [If the man says], “Give him a share [in the pit] for a barrel (for watering animals),” he is to receive not less than an eighth. [Since, at the utmost, only half the pit is required, the gift is at the utmost only half of a half, and we strike the balance between this and a fraction.] [If he says, “Give him a share] for a pot (for preparing food),” [where only a third of the pit is required] he is to receive not less than a twelfth. [If he says, “Give him a share] for a cup (for drinking),” [where only a quarter of the pit is required] he is to receive not less than a sixteenth.

Our Rabbis taught in a braisa: If a Levi sells a field to a Yisroel with the stipulation that the ma’aser rishon from it is to be given to him, the ma’aser rishon from it must be given to him. If he stipulated that it was to be given to him and to his sons and he then died, it is to be given to his sons. If the stipulation is, ‘as long as this field is in your possession,’ and he [the

purchaser] sells it and then buys it again, the Levi has no claim on him.

The Gemora asks: How can [all] this be, seeing that a man cannot transfer to another possession of something that does not yet exist?

The Gemora answers: Since the Levi stipulated that the ma’aser rishon should be given to him, he in effect reserved to himself the area of the ma’aser.

Rish Lakish said: This shows that if a man sells an apartment to another with the stipulation that the fenced rooftop is to belong to him, the fenced rooftop belongs to him.

The Gemora asks: For what purpose is the new rule laid down by Rish Lakish (as we already know this from the Mishnah which says that if a man sells a house, he retains the rights to the fenced rooftop)?

Rav Zevid answers: [In order to tell us] that if the seller desires to let out projecting beams from the roof, he is at liberty to do so.

Rav Pappa says: [In order to tell us] that if he desires to build an upper story over the apartment, he is at liberty to do so.



The Gemora notes: Accepting Rav Zevid's view, we understand why Rish Lakish used the expression 'this shows.' But according to the view of Rav Pappa, why should he have said, 'this shows'? [Because there is no special analogy between reserving part of the field which has been sold and reserving the right to rebuild the roof which has not been included in the sale, and if Rish Lakish had meant the latter, he should have stated it independently and not derived it from the former.] The Gemora concludes: This is really a difficulty.

Rav Dimi of Nehardea said: If a man sells an apartment to another, even though he inserts in the deed of sale the words, '[I sell you] the depth and the height,' he must further insert the words, 'Acquire for yourself possession from the depth of the earth to the height of heaven,' because the space below and above is not transferred automatically. Therefore the words 'depth and height' avail to transfer the space below and above, while the words 'from the depth of the earth to the height of heaven' avail to transfer a well, a cistern and cavities.

The Gemora asks: Shall we say [that the following Mishnah] supports Rav Dimi: The seller does not transfer the well and the cistern even though he inserts the words 'depth and height'? Now if you should assume that the space below and above is transferred automatically, then the insertion of the words 'depth and height' should avail to transfer well, cistern and cavities [should they not]?

The Gemora answers: [We suppose the Mishnah to refer to the case] where these words were not inserted.

The Gemora asks: But the Mishnah distinctly says, 'although he inserts the words [depth and height]?'

The Gemora answers: We must explain the Mishnah thus: Even if these words are not actually inserted they are regarded as being inserted for the purpose of transferring the space below and above; and as regards a well and a cistern, if the words 'depth and height' are inserted, these are transferred, but otherwise not. (63a – 63b)

DAILY MASHAL

The Glass Eye

The inmates of a certain Nazi extermination camp cringed before one of the officers, known for his tyrannical brutality. One of his Aryan blue eyes was glass but almost impossible to distinguish from his natural eye. New prisoners were whispered warnings to keep their distance from him and, apropos, informed that no one had yet discovered which of his eyes was glass. Once, the officer wanted to have some fun and, summoning a Jew, told him, "I bet you're hungry. Look at my eyes. If you can tell which is glass, I'll give you a nice meal. If you fail, I'll shoot you between your eyes."

The trembling inmate looked closely at the Nazi's eyes and finally pointed to one of them, saying "That one is glass." Surprised, the officer asked, "How do you know? My closest friends can't tell the difference!" The Jew hesitated for a while till the Nazi promised not to harm him. "I looked into your eyes", replied the prisoner, "and saw that one of them seemed more human. I then understood that that one was made of glass" (Otzar Chayim, IV, 133).