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Bava Basra Daf 69

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**

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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

The *Gemora* asks: What are stones that are “for the field’s needs”?

The *Gemora* answers: Here (*in Bavel*), they translated it as stones that are used to hold down the stalks that were harvested.

Ulla says: They are stones that were arranged and designated to be used for the building of a fence.

The *Gemora* asks: Didn’t Rabbi Chiya teach that they were stones that were heaped in a field in order to eventually form a fence (*even though they were not arranged in a pile*)?

The *Gemora* answers: Rabbi Chiya’s *braisa* should be emended to mean that the stones were already arranged.

The *Gemora* discusses a previous statement: Here they translated it as stones that are used to hold down the stalks that were harvested. According to Rabbi Meir, the stones are included if they were prepared for this use even if they are not in the field itself. According to the Sages, they are only sold if they are in the field.

[*The Rashbam explains that the argument between the Sages and Rabbi Meir later (78b) impacts our Mishna greatly. Rabbi Meir held that when a person sells a vineyard, he sells everything associated with the vineyard as well. The Sages maintain that he only sells the permanent functions of the vineyard, not everything that helped the vineyard function. Accordingly, Rabbi Meir will*

*understand that many more things are sold with the fields, and will therefore define things more inclusively than the Sages. This is why the Gemora asks here and regarding other items what their definitions are according to Rabbi Meir and the Sages.]*

According to Ulla who says that they are stones that were arranged and designated to be used for the building of a fence, Rabbi Meir will hold the stones are included if they were prepared for this use even if they are not arranged in a pile, and the Sages will hold that they are included only if they were arranged in a pile. (69a)

The *Mishna* had stated: And the reeds of the vineyard that are for its needs (*are included in the sale*).

The *Gemora* asks: What is the function of these reeds in the vineyard?

The (*study*) house of Rabbi Yannai said: They are reeds that are split in a way that they hold up the vines. According to Rabbi Meir, if they were prepared for this function, they are sold with the vineyard, even if they were not yet installed. According to the Sages, only those that are already holding up the vines are included in the sale.

The *Mishna* had stated: And the produce that is connected to the ground (*are included in the sale*).

The *Gemora* adds: This is even if it was ready to be harvested.



The *Mishna* had stated: And the bunch of reeds that covers an area smaller than a quarter-*kav*.

The *Gemora* adds: This is even if they are strong (*i.e. thick, as the Gemora will later explain*).

The *Mishna* had stated: And the guardhouse that is not made with plaster (*is included in the sale*).

The *Gemora* explains: The *Mishna* means that it is included in the sale even if it is not connected to the ground.

The *Mishna* had stated: And the carob tree that is not grafted, and the young sycamore tree (*are included in the sale*).

The *Gemora* explains: This is even though they are strong (*i.e. thick, as will be explained soon*).

The *Mishna* had stated: However, he does not sell the stones that are not needed for the field.

The *Gemora* explains: According to Rabbi Meir, these stones (*that are used to hold down the stalks that were harvested*) are not sold as long as they were not yet prepared for use. According to the Sages, (*they are not sold even if*) he prepared them but did not place them in the field.

According to Ulla who says that they are stones that were arranged and designated to be used for the building of a fence, Rabbi Meir will hold the stones are included if they were prepared for this use even if they are not arranged in a pile, and the Sages will hold that they are included only if they were arranged in a pile.

The *Mishna* had stated: And not the stalks already harvested.

The *Gemora* adds: This is even if they still derive benefit from being on the ground.

The *Mishna* had stated: And the reeds of the vineyard that are not for its needs (*are not included in the sale*).

The *Gemora* explains that they are not sold even if they are thin reeds.

Rabbi Chiya bar Abba says in the name of Rabbi Yochanan: This does not just apply to a bunch of reeds. Even a small row of good smelling spices that has its own identity is not sold together with the field.

Rav Pappa says: This is only if it is called "So-and-so's roses (*i.e. spice/fragrant garden*)."  
[*In other words, it must be his known spices in order for it to have its own importance and not be automatically sold with the field.*]

The *Mishna* had stated: And the guardhouse that is not made with plaster (*is not included in the sale*).

The *Gemora* adds: This is even if it was connected to the ground.

Rabbi Elozar inquired: Are the bricks added to the doorframe of a house (*that are used as doorstops*) included with the sale of a house? If they are connected with plaster, they are obviously included. The question is regarding a case where they are connected with pegs. What is the law?

The *Gemora* leaves this question unresolved.

Rabbi Zeira inquired: Are the bricks added to the doorframe of windows (*moldings connected with pegs*) included with the sale of a house? Do we say that being that they are only for aesthetic purposes (*not to strengthen it*) it is not included? [*This is even if we assume*

that we would say the bricks of the doorframe are included even if attached with pegs. The law here may be different, because while those are for strengthening, the window bricks are for decorative purposes.] Or do we say that because they are connected, they are included? What is the law?

The Gemora leaves this question unresolved.

Rabbi Yirmiyah inquired: What about the bricklike (*they were actually made of wood*) additions to the feet of the beds? If they are connected to the bed there is no question, as they are considered part of the bed. The question is if they are not connected to the bed. [*They were places on which to rest the feet of the bed, so that the feet of the bed should not rot away after extensive contact with the ground.*] What is the law?

The Gemora leaves this question unresolved.

The Mishna says: And not the grafted carob tree and the sycamore tree that has been cut back.

The Gemora asks: How do we know this (*that they are not included in the sale even when the seller stated that he was selling everything in the field*)?

Rav Yehudah says in the name of Rav: The verse states, “*And the field of Efron that was in Machpeilah went up etc.*” This teaches that the trees that require mentioning the surrounding boundaries (*in order to ascertain its owner*) are included in the sale. However, these trees, where it is not needed to mention its surrounding boundaries, are not included in the sale. [*The Rashbam explains that the verse continues, “And all of the trees that are in all of its borders around (the field).” The Gemora derives from here that insignificant trees that are merely part of the “border of the field” are included in the sale of the field. However, strong trees that are well known as being important in their own right, and are not merely*

*part of the “border of the field” are not included in the sale.*]

Rav Mesharshiya says: This is the Torah source that when someone buys a field, he buys the borderline (*the boundary strips – even the trees that are growing there*) as well.

Rav Yehudah said: A person who sells land to his friend must write to him, “Acquire mature trees, young trees, *hutzin* and *tzitzin* (*types of palm trees*).” Even though omitting this phrase will not mean that the buyer does not acquire these trees, it is an appropriate language with which to “beautify” the document (*i.e. make it clear and airtight*).

If a person selling the land writes, “the land and the palms,” we analyze the property. If he has other palms (*not in the field*), he must give the buyer two of those palms. If he doesn’t have any other palms, the seller must buy two palms for the purchaser. If he has them but they are on lien to someone else, he should redeem two palms for the purchaser.

If the seller says, “Land with palms,” we see if the land has palms. If it does, it is a good sale. If not, it is a mistaken purchase.

If the seller says, “A land for palms,” even if there are no palms, the sale is valid, as he meant a land that is good for growing palms.

If the seller says, “the land besides for this palm,” we analyze the palm. If it is a good palm tree, he wanted to leave this tree out of the sale and include all the other trees. If it is not a good tree, we say that he meant to exclude this tree and certainly all the other superior trees.

If the seller said, “besides for *ilani* (*trees*)” if he has only (*fruit*) trees (*but no palms or vines*), we say that they (*the*



fruit trees) are excluded. If he only has palm trees (which were not usually included in the regular word "trees" due to their importance), we say that they are excluded. If he only has vines, we say that the vines are excluded. If he has trees and vines, we say that the trees are excluded. If he has trees and palm trees, we say that the trees are excluded. If he has vines and palm trees, we say that only the vines are excluded. (69a – 69b)

### INSIGHTS TO THE DAF

#### ***What Furnishings are Included in the Sale of Property?***

Approaching retirement, Reuven sold his shop and, in the purchaser's presence, began to clear out his personal effects. The new owner was astounded, though, when Reuven ordered the movers to dismantle a partition forming a wall in the middle of the shop and bring it for storage in his home. The partition, he claimed, served no current purpose but was installed long ago only to reduce the shop's area and thus avoid paying a high municipal tax. The new owner retorted that the partition was just like any other wall, surely included in the sale. Rav Moshe Feinstein justified Reuven (*Igros Moshe*, I, 53) as *Shulchan Aruch* (C.M. 214:11) rules, in accordance with our *sugya*, that decorative window frames are excluded from the sale of a home, shop, etc., because they are not one of the items that give a house its name. Likewise the partition, which had been installed for extraneous reasons, was superfluous for the shop and excluded from the sale.

#### ***What is Sold with a House?***

Commenting on our *sugya*, the Rishonim indicate that anything not affixed to a dwelling is excluded from its sale, unless otherwise specified, and anything affixed thereto and needed for normative habitation, e.g. doors or windows, are included.

#### ***Keys Now and Then***

Keys are virtually the only items now defined differently than in Talmudic times. The *Mishnah* (65a) states that keys were excluded from the sale of property. They were not attached to a house or the like and came in just a few models, fitting the simpler locks of the era. Slightly altered, a key could fit other locks and therefore could not be defined as unique to any house. A modern key fits only a certain lock and must be included in the sale. HaGaon Rav Yaakov Bloy (*Pischei Choshen*, VII, 14, S.K. 64) adds that as purchasers of property now take care to prevent strangers from having keys, former owners must relinquish all keys to a new resident.

#### ***Lighting Fixtures***

Lighting fixtures sold with a home, office or the like must be in working condition, being essential for habitation. However, a seller may remove chandeliers present at the sale and replace them with cheaper fixtures, as they are merely decorative.

Wall safes may likewise be removed, being non-essential.

#### ***Air-conditioners***

These fixtures present a serious problem. About 30 years ago, all halachic authorities would agree that air-conditioners were luxuries not assumed to be included with homes. Thirty years from now, all will apparently define them as essential items for normal habitation. Today, then, we are in a dubious interim that requires asking a *Rav* for a decision according to local conditions.

#### ***Inventorying the Property***

In conclusion, we cite Rav Y. Bloy (*ibid*), that sellers and buyers would act wisely to list the articles included in the sale in writing. Rambam, albeit, asserts that local custom

determines practice (*Hilchos Mechirah*, 26) and halachic rulings are meant to solve problems where there is no obvious custom. Still, there may always be some item open to debate.

## DAILY MASHAL

### Giving the Name of a Rasha

Shimon ben Avtulomos explains a certain term in our mishnah and Rashbam ambiguously remarks about his name, “So explained Rabeinu Chananel”. Toras Chayim explains that Rashbam had apparently seen another text where the father’s name was Avshalom, as similarly recorded by Ramah and Ritva. Avshalom was an evildoer and, according to Rabbi Meir in Sanhedrin (103b), has no portion in the World to Come. We may not name a person after a rasha, as stated in Mishlei (10:7): “...the name of the evil should rot” – and Rashbam therefore preferred Rabeinu Chananel’s version (see also Rav Chayim Falaji’s ‘Einei Kol Chai). A mishnah in Kesubos (104b) mentions a dayan called Chanan ben Avshalom and Tosfos (ibid, s.v. Shenei) remarks that that is Rabeinu Tam’s version of the text and not Avshalom. Regarding the origin of the prohibition, Rashi comments on R. El’azar’s explanation of the verse in Mishlei (Yoma 38b, s.v. Delo) that one must not name ones child after a sinner. The meaning of the verse according to Rashi in Mishlei (ibid), is that as no one wants to mention an evildoer’s name, it will rot, i.e. eventually be forgotten. Pischei Teshuvah (Y.D.116 S.K. 6) adds that the evil mazal (including character traits) of a rasha could affect a child with the same name.

Names from Bereishis for the newborn: A man by the name of Eliezer asked Rabbi Moshe ben Yosef Trani (Mabit) if his father had not transgressed some prohibition by giving him such a name. Eliezer was, after all, a Canaanite slave and the Canaanites were cursed. (Note though, that Eliezer eventually was blessed [Bereishis 24:31; Midrash Rabah ad loc 60:7]) Mabit

replied that Moshe Rabeinu also had a son called Eliezer and he was surely named after him. The prohibition on naming a child after a sinner applies only if the latter alone was so called but not if others, not known as sinners, bore that name.

Still, how could Moshe call his son Eliezer, the name of a Canaanite bearing a curse? In his Yosef Ometz (Responsa, 11), the Chida explains that, according to Midrash Rabah (ibid 37, s.v. UleShem), people used to give children names commemorating events at the time of their birth. It did not matter, then, if some sinner had once been so named but now, when children are named after others, the Talmudic rule must be obeyed.

Mabit adds (ibid) that one should prefer giving children names of ancestors from Avraham Avinu onwards. However, the Chida (ibid) asserts that his opinion was not accepted and many have been given names mentioned before Avraham, such as Noach.