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DAF Notes
Insights into the Daily Daf
Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

Kesuvos Daf 78

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

Mishnah

A woman to whom property fell before she became an *arusah* (*and now she is an arusah*), Beis Shammai and Beis Hillel agree that she may sell them or she may give them away, and it is valid. (The *Mishnah* is referring to *nichsei melog - usufruct property - the property which the woman brings in with her from her father's house, and which is not recorded in the kesuvah, as well as property which comes to her by inheritance or as a gift after the marriage; this property is hers, and her husband is not responsible for it, since he may only usufruct (the right to use and enjoy the profits and advantages of something belonging to another as long as the property is not damaged or altered in any way) it; the term nikhsei melog is derived from the Aramaic word meligah, plucking, i.e., the husband plucks the property just as a chicken is plucked.*)

If the properties fell to her after she became an *arusah* (*and she is still an arusah*), Beis Shammai say: She may sell them, but Beis Hillel say: She may not sell them. They both agree that if she sold them or if she gave them away, it is valid.

Rabbi Yehudah said: The *Chachamim* said before Rabban Gamliel: Since he acquired the woman, should he not acquire the property? Rabban Gamliel said to them: We are embarrassed regarding the new (*as to why the husband may take back property (that she acquired after she became a nesuah) that the purchasers bought from his wife*), and you impose on us the old!

If the properties fell to her after she became a *nesuah*, they both agree that if she sold them or if she gave them away, the husband may seize it from the hand of the purchasers.

If the properties fell to her after she became a *nesuah*, and now she is a *nesuah*, Rabban Gamliel says: If she sold them or if she gave them away, it is valid.

Rabbi Chanina ben Akavya said: They said before Rabban Gamliel: Since he acquired the woman, should he not acquire the property? He said to them: We are embarrassed regarding the new, and you impose on us the old!

Rabbi Shimon distinguishes between property and property: property that is known to the husband, she may not sell, and if she sold them or if she gave them away, it is invalid. Properties that are not known to the husband, she may not sell, but if she sold them or if she gave them away, it is valid. (78a1 – 78a2)

Erusin to Nisuin

The *Gemora* asks: What is the essential difference between the first case in which they do not differ (*a woman to whom property fell before she became an arusah (and now she is an arusah), Beis Shammai and Beis Hillel agree that she may sell them or she may give them away, and it is valid*), and the latter case in which they do differ (*if the properties fell to her after she became an arusah (and she is still an arusah), Beis Shammai say: She may sell them, but Beis Hillel say: She may not sell them*)?

In the Beis Medrash of Rabbi Yannai, they replied: In the first case, it was into her possession that the property had come (*prior to becoming an arusah, she is the legal possessor of whatever is given to her*); in the latter case, the property came into his possession.

The *Gemora* questions this distinction: If, however, it is maintained that the property came into his possession (*since it is after erusin*), why is the transfer valid after she sells them or gives them away?

The *Gemora* answers: In the first case, the property has beyond all doubt come into her possession. However, in the latter case, the property might be said to have come either into her, or into his possession (*since at this present time, we are uncertain if a nisuin will take place*). Hence, she may not initially sell the property, but if she does sell them or give it away, the transfer is legally valid. (78a2)

Clarification of R' Yehudah's Statement

The *Mishnah* had stated: (*If the properties fell to her after she became an arusah (and she is still an arusah), Beis Shammai say: She may sell them, but Beis Hillel say: She may not sell them. They both agree that if she sold them or if she gave them away, it is valid.*) Rabbi Yehudah said: The *Chachamim* said before Rabban Gamliel: Since he acquired the woman, should he not acquire the property?

The *Gemora* inquires: Is Rabbi Yehudah referring to Beis Shammai's ruling, which allowed her to sell them initially (*and the Chachamim are arguing that since she is an arusah, she should not be permitted to sell the properties*)? Or, is he referring to Beis Hillel's ruling, who ruled that the sale is valid after the fact (*and the Chachamim are arguing that since she is an arusah, the sale should not be valid at all*)?

The *Gemora* resolves this inquiry from the following *Baraisa*: Rabbi Yehudah said: The *Chachamim* said before Rabban Gamliel: Since this one is his wife and this one is his wife (*the nesuah and arusah*), just as this one's (*the nesuah*) sale is void, so too, this one's (*the arusah*) sale should be void as well? Rabban Gamliel said to them: We are embarrassed regarding the new (*as to why the husband may take back property (that she acquired after she became a nesuah) that the purchasers bought from his wife*), and you impose on us the old!

We see from this *Baraisa* that Rabbi Yehudah was referring to Beis Hillel's ruling that the sale is valid after the fact. That is the point that the *Chachamim* are contending. (78a2 – 78b1)

Rabbi Chanania ben Akavya

The *Gemora* cites the conclusion of the *Baraisa* cited above: Rabbi Chanania ben Akavya said: Rabban Gamliel did not respond like this (*We are embarrassed regarding the new (as to why the husband may take back property (that she acquired after she became a nesuah) that the purchasers bought from his wife), and you impose on us the old!*); rather, the following was his response: It is logical that a *nesuah*'s sale will be void because her husband is entitled to her findings, earnings and the right to annul her vows. However, regarding an *arusah*, whose husband is not entitled to these rights, would you say that her sale should be void?

The *Chachamim* replied: My master! That is understandable if she sold the properties prior to becoming a *nesuah*; however, what is the *halacha* if she first became a *nesuah* and then she sold the properties?

He said to them: In this case, she is allowed to sell them or give them away and her sale would indeed be valid.

They said to him: Since he acquired the woman, should he not acquire the property? Rabban Gamliel said to them: We are embarrassed regarding the new (*as to why the husband may take back property (that she acquired after she became a nesuah) that the purchasers bought from his wife*), and you impose on us the old (*regarding the properties that became hers before she became a nesuah*)!

The *Gemora* asks: But in the *Mishnah*, the following was said: If the properties fell to her after she became a *nesuah*, and now she is a *nesuah*, Rabban Gamliel says: If she sold them or if she gave them away, it is valid (*and in the Baraisa that we just cited, Rabban Gamliel said that she is allowed to*

sell them or give them away and her sale would indeed be valid)?

Rav Zevid answers: The *Mishnah* should be emended to read that she is allowed to sell them or give them away and her sale would indeed be valid (*which would be consistent with the Baraisa*).

Rav Pappa answers: The *Mishnah* is following the opinion of Rabbi Yehudah in accordance with Rabban Gamliel (*that even as an arusah, a woman is not permitted initially to sell or to give away, much less, may she do so after nisuin*) and the *Baraisa* is following the opinion of Rabbi Chanania ben Akavya in accordance with Rabban Gamliel (*that even a nesuah may sell or give away property that came into her possession before she became a nesuah*).

The *Gemora* asks: If so, it will emerge that Rabbi Chanania ben Akavya follows the opinion of Beis Shammai?

The *Gemora* answers: This is what he was saying: Beis Shammai and Beis Hillel do not argue regarding this matter. (78b1 – 78b2)

Rav and Shmuel

Rav and Shmuel both say: Whether the property fell to her before she became an *arusah* or whether they fell to her after she became an *arusah*, if she subsequently became a *nesuah* and sold the properties, the husband may extract the properties from the purchasers.

The *Gemora* asks: Who are they going according to? This ruling is seemingly not following Rabbi Yehudah's opinion, nor is it following Rabbi Chanania ben Akavya's opinion?

The *Gemora* answers: They are following the viewpoint of "Our teachers," for we have learned in the conclusion of the above-cited *Baraisa*: Whether the property fell to her before she became an *arusah* or whether they fell to her after she became an *arusah*, if she subsequently became a *nesuah* and sold the properties, the husband may extract the properties from the purchasers. (78b2)

Husband Selling Nesuah's Property

The *Mishnah* had stated: If the properties fell to her after she became a *nesuah*, they both agree that if she sold them or if she gave them away, the husband may seize it from the hand of the purchasers.

The *Gemora* asks: Isn't the *Mishnah* teaching us the same *halacha* that we have learned as an enactment of Usha (*which was decreed years after the Mishnah*)? For Rabbi Yosi the son of Rabbi Chanina said: In Usha they decreed that a wife who sells her *melog* property while her husband is alive and she dies, the husband may take the land from the purchasers (*since he is regarded as a purchaser from the time of his marriage; his purchase of the property predates their purchase*).

The *Gemora* answers: Our *Mishnah* is dealing with the *halacha* of the field during her lifetime and it is referring to the produce from the land (*meaning that the sale is valid, but the husband may enjoy the produce that grows from the land*). The decree of Usha was dealing with the status of the land itself and it is referring to the case where the wife died (*and then, the husband may seize the land from the purchasers*). (78b2)

Unknown Properties

The *Mishnah* had stated: Rabbi Shimon distinguishes between property and property: property that is known to the husband, she may not sell, and if she sold them or if she gave them away, it is invalid. Properties that are not known to the husband, she may not sell, but if she sold them or if she gave them away, it is valid.

The *Gemora* asks: What is regarded as known and what is regarded as unknown?

Rabbi Yosi the son of Rabbi Chanina said: Known properties refer to land and unknown properties refer to movables.

Rabbi Yochanan said: Both of those are regarded as known properties. Unknown properties refer to a case where the woman lives here and properties fell to her as an inheritance in a land overseas.

The *Gemora* cites a *Baraisa* supporting Rabbi Yochanan's opinion: What is regarded as unknown properties? It is where the woman lives here and properties fell to her as an inheritance in a land overseas. (78b2 – 78b3)

INSIGHTS TO THE DAF

Blessing by a Bas Mitzvah

The Rema (O"C 225:2) writes that one whose son is becoming *bar mitzvah* should recite the following blessing: Blessed are You, Hashem, our God, King of the universe, that You freed me from the punishment due this boy. He concludes that it is preferable to recite this blessing without mentioning Hashem's name.

The question is asked: Why is this blessing not recited when one's daughter becomes *bas mitzvah*?

The Peri Megadim states that it would depend on what the reason is for this blessing.

The Magen Avraham (ibid; 5) explains this blessing as follows: Up until this juncture, the father was punished when his son sinned because he obviously did not train him well enough. Once the child becomes an adult, he is responsible for his own actions.

The Levush, however, interprets this blessing in the exact opposite manner. Up until now, the child gets punished for the sins of his father, as the *Gemora Shabbos* (32b) states: For the sin of unfulfilled vows, a person's children die when they are young. The meaning of the blessing is that his son will now not incur any punishments on account of the parents.

According to the Levush, there is no reason to make any distinction between a son and a daughter. However, according to the Magen Avraham, we can say that the blessing is only applicable to a son, where there is an obligation of *chinuch*. However, a father does not have a *mitzvah* of *chinuch* for a daughter and therefore there is no reason to recite the blessing when she becomes *bas mitzvah*.

The Kaf Hachayim writes that we can apply a different logic according to the Magen Avraham. It is customary for a father to sustain his daughter until she is married and therefore, she is naturally under his jurisdiction until then. He is capable of rebuking her until she marries and will be under the jurisdiction of her husband. He therefore does not recite the blessing when she becomes *bas mitzvah* since he is still rebuking her.

DAILY MASHAL

He explains according to the Levush as well. The Levush said that the reason for the blessing is because up until then, the son gets punished for the sins of his parents. It is possible to say that a daughter, who is already under the *mazal* of her husband, as it is said: It is announced in heaven, "The daughter of So-and-So will be married to So-and-So," his *mazal* will benefit her that she will not be punished on account of her father's sins.

Reb Yitzchak Zilberstein questions this explanation from our *Gemora*. The *Gemora* states: In the Beis Medrash of Rabbi Yannai, they replied: In the first case, it was into her possession that the property had come (*prior to becoming an arusah, she is the legal possessor of whatever is given to her*); in the latter case, the property came into his possession. I, however, do not understand his question. It seems that he understands the words "*z'chuso* and *z'chusa*" to mean "whose *mazal* caused the property to fall to her." The simple explanation in our *Gemora* is in whose jurisdiction was the woman when the properties fell to her.