



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Kesubos Daf Kuf

MISHNA

- If property is sold by Beis Din and was sold at a sixth less or more than its true value, the sale is void. **R' Shimon ben Gamliel** says the sale is valid, because if not, in what way is Beis Din better than anybody else?
- If Beis Din put out notices of the impending sale, then even if they sold a field worth 100 for 200, or a field worth 200 for 100, the sale is valid.

GEMARA

- **Q:** If a shaliach sells land, is the sale treated like that of a widow and the sale becomes void if not sold for the true value, or is it like the sale of Beis Din, in which case it does not become void unless the error is equal to a sixth of the value? **A: Rava in the name of R' Nachman** said he is treated like Beis Din since he is not selling it for his own sake (like Beis Din), and **R' Shmuel bar Bisma in the name of R' Nachman** said he is treated like a widow since he is an individual person selling the land (like the widow).
 - The Gemara paskens that the shaliach is treated like the widow.
 - **Q:** Why is it that regarding the sale the shaliach is treated like the widow who may not deviate from the instructions at all, and regarding terumah we have a Mishna that says that if a shaliach separated a bit more or a bit less than the principal's intention the separation is not void? **A:** Regarding terumah, since people of different levels of generosity give different amounts, the shaliach can claim that he thought the principal was a more generous or less generous person. However, when it comes to selling a property, if it is sold for less than its value, it is a complete mistake, which is not something that the shaliach was appointed to do.
- **R' Huna bar Chanina in the name of R' Nachman** said, the Halacha follows the **Chachomim** (the T"K) in our Mishna.
 - **Q:** Is this to say that **R' Nachman** does not hold the view that "if so, how is Beis Din any better than anyone else"? We find that **R' Nachman** says that if a court appointed guardian divides the property of an estate among the orphans, when the orphans become adults they may not dispute the way it was divided, because if we say that they may, how is Beis Din better than anyone else? **A:** Our Mishna is discussing where Beis Din made an error. In such a case **R' Nachman** says that we do not need to be concerned for them. In the case of the guardian they did not make a mistake, and we therefore must respect their decision.
 - **Q:** If no mistake was made, in what way do the orphans want to complain about the division? **A:** They want to complain about the location of the properties in the way they were divided.
 - **R' Dimi** said that **Rebbi** paskened in an actual case like the **Chachomim**, but **Prata the son of R' Elazar ben Prata HaGadol** said to him, "If so, how is Beis Din any better than anyone else!?" Based on that **Rebbi** reversed his decision in the case.
 - **R' Safra** said that **Rebbi** was going to pasken like the **Chachomim** in an actual case, but before he could do so **Prata** made his comment and **Rebbi** therefore did not pasken in the case like the **Chachomim**.
 - **Q:** Maybe we can say that **R' Dimi** and **R' Safra** argue whether one may reverse a psak that was given if it turns out that he erred in something taught in a Mishna? **A:** It may be that all would agree that a psak could

be reversed. The machlokes may just be as to what the actual case was (whether he had already paskened or was about to pasken).

- **R' Yosef** said, when a widow sells her husband's properties, the guarantee obligation to the buyer is on the orphans. Also, when Beis Din sells property of the estate, the guarantee obligation to the buyer is on the orphans.
 - **Q:** This is obvious!? **A:** We would think that when one buys a property from a sale by Beis Din, since it was announced publicly for a while there will be no one who will later claim that property, and he therefore purchases it without a guarantee. **R' Yosef** teaches that there is a guarantee, and it is the responsibility of the orphans.

R' SHIMON BEN GAMLIEL OMER...

- **Q:** Until what point will an error of Beis Din remain valid according to **R' Shimon ben Gamliel**? **A:** **R' Huna bar Yehuda in the name of R' Sheishes** said, it will remain valid unless the error is for more than half of the true value. A Braisa says this as well.
- **Ameimar in the name of R' Yosef** said, if Beis Din sold a property without first announcing the intent to sell, it is as if they erred regarding a clear Halacha in a Mishna and the sale would therefore be retracted.
 - **Q:** Why is it "as if" they erred regarding a Mishna? They have *actually* erred regarding a Mishna!? **A:** The Mishna could be understood as referring to a shaliach who sells without announcing the sale for a period of time. We would not know that it refers to Beis Din as well.
 - **Q:** **R' Ashi** asked **Ameimar**, our Mishna says that if the sale of Beis Din was off by a sixth of the true value the sale is void. This suggests that if the sale price was equal to the value it would be a valid sale. Presumably this refers to where there was no announcement, and still we see that the sale is valid!? **A:** The Mishna is discussing where they did announce the impending sale.
 - **Q:** Since the last case of the Mishna discusses where they made the announcements (which is why the sale is valid even though they sold it for less than the value), it must be that this previous case discusses where the announcement was not made, and still we see that the sale is valid!? **A:** The Mishna's earlier case is discussing where the announcement was not made, because the Mishna is dealing with items that are sold without needing the announcement, whereas **Ameimar** was discussing things that need an announcement. **A2:** The Mishna is dealing with a time when announcements are not made before selling, as we learned that announcements are not made before selling for a head tax, for support, and for burial expenses. **A3:** Our Mishna is discussing a place where they did not have the custom to announce before selling, as we find was the custom in Neharda'ah.
- **R' Yehuda in the name of Shmuel** said, when we must sell the moveable items of orphans, we do so immediately. **R' Chisda in the name of Avimi** said, we wait to sell them in the market.
 - The Gemara says they do not argue. If the market day is near, we wait for the market. If it is far away, we sell it immediately, because we don't want the items to depreciate.
 - We find that **R' Kahana** delayed selling beer of an orphan until Yom Tov. He said, although it may begin to spoil, it will bring in quicker money by Yom Tov time.
 - **Ravina** had wine of orphans. He wanted to ship it along with his wine to a distant city to sell. He asked **R' Ashi** whether he was allowed to do that or had to be concerned that the ship carrying the wine may sink. **R' Ashi** told him, you don't have to treat the orphan's wine with more care than you treat your own.

MISHNA

- A wife who is a minor and does mi'un, a wife who is a D'Rabanan ervah to her husband, and a wife who is an ayilonis, are not entitled to a kesubah payment, their husbands have no rights to the produce of the wife's melog property, the women are not entitled to support, and are not entitled to keep their worn out clothing.

- If the husband married the woman knowing that she was an ayilonis, she is entitled to a kesubah payment.
- In the case of an almanah married to a Kohen Gadol, a divorcee or chalutzah married to a regular Kohen, a mamzeres or nesinah married to a Yisrael, or a Yisraelis who is married to a mamzer or nasin, the wife is entitled to a kesubah payment.

GEMARA

- **Rav** taught the first case of the Mishna as referring to a girl who was married off by her brothers as a minor and was then divorced while still a minor. That is considered a D'Rabanan marriage and she is not entitled to a kesubah. He would certainly hold this way where the girl did mi'un. **Shmuel** taught the Mishna as referring to a girl who did mi'un, however a minor married off by her brothers who then got divorced while still a minor would be entitled to a kesubah payment.
 - **Shmuel** follows his shita elsewhere where he lists a number of differences between the minor who does mi'un and the one who gets divorced. He says that a minor who does mi'un does not get a kesubha payment, does not become passul to marry the husband's brothers, does not become passul to marry a Kohen, and need not wait 3 months before getting remarried. A minor who gets divorced is entitled to a kesubah payment, becomes assur to the husband's brothers, becomes passul to marry a Kohen, and must wait 3 months before remarrying.
 - **Q:** Why does **Shmuel** have to list these differences when a Mishna already lists the differences of being passul to the brothers and being passul to a Kohen!? **A:** He listed them because of the additional difference of needing to wait 3 months before remarrying, which is not listed in the Mishna.
 - **Q:** A Braisa brings a machlokes as follows. **R' Eliezer** says the marriage of a minor is meaningless, so her husband does not get her finds or her earnings, he may not annul her vows, does not inherit her, and if he is a Kohen he may not become tamei to her if she dies. The general rule is, that she is not considered a wife at all, except that she needs to do mi'un to break the relationship. **R' Yehoshua** says the marriage is meaningful, so he gets her finds and her earnings, he may annul her vows, he inherits her, and he may become tamei to her. The general rule is that she is considered a full-fledged wife (D'Rabanan), except that she can terminate the relationship with mi'un. Maybe we can say that **Rav** holds like **R' Eliezer** and **Shmuel** holds like **R' Yehoshua**? **A:** All would agree that **R' Eliezer** would hold that she would not get a kesubah payment. However, there could be a machlokes regarding **R' Yehoshua**. **Shmuel** could clearly hold like **R' Yehoshua** who can be said to hold that she gets a kesubah payment. **Rav** could say that he also follows **R' Yehoshua**, and he would say that **R' Yehoshua** only says that the benefits from the wife to the husband exist in this marriage, but he would hold that the benefits from him to her (e.g. the kesubah payment) do not exist in this marriage.