



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

Kesubos Daf Tzaddik Hey

MISHNA

- If a man was married to two wives and he sold his fields, and the first wife wrote to the purchaser – I don't have any claim against you in regard to the field, when the husband dies, the second wife would be able to take the field from the purchaser in payment of her kesubah. The first wife (who had an earlier kesubah) may then take it from the second wife, in collection of her kesubah. The purchaser may then take it back from the first wife, because she waived any rights against him. This circular flow will continue until a settlement is reached between them. The same would be with a creditor, and with a wife who is a creditor of her husband.

GEMARA

- **Q:** A Braisa says that if a partner in a field says, I no longer have a claim on the property, there is no legal significance to his statement. If so, why does our Mishna say that there is some consequence to her statement? **A:** The Mishna is discussing where the purchaser made a kinyan with the wife, and it is therefore effective.
 - **Q:** Even if she makes a kinyan it should be ineffective in waiving her rights, because a Mishna says that a woman can always claim to have done so just to make her husband happy, and did not truly mean what she said and did!? **A: R' Zeira in the name of R' Chisda** said, our Mishna which seems not to allow the woman to make this claim follows **R' Meir** who holds this view in a Braisa, and the other Mishna which allows it follows **R' Yehuda** who holds this view in a Braisa. **A2: R' Pappa** said, our Mishna is discussing where she waived the rights after getting divorced, in which case all will agree that her waiver is effective. **A3: R' Ashi** said, both Mishnayos may follow **R' Meir**. The other Mishna that was quoted dealt with where the wife first didn't agree to a sale of the property by her husband, but then agreed to a second attempted sale. In that case even **R' Meir** would agree that she cannot claim she agreed to the sale to make her husband happy, because then she would not have said no to the first sale. Our Mishna too, is discussing where she first disagreed with a sale and then agreed to the second sale. Therefore, she cannot later claim that her waiver was done to make her husband happy.
- A Mishna says, a creditor may not collect from encumbered properties if the debtor still possesses other properties, even if the debtor only possesses low grade property.
 - **Q:** If the unsold properties became ruined after the other properties were sold, may the creditor then collect from the sold properties? **A:** The Braisa that was quoted earlier said if the wife didn't agree to her husband's sale of a field, but then agreed to the sale of a second field, **R' Meir** says that she loses her kesubah. Now, if we say that when the unsold properties become ruined the creditor can collect from the sold properties, then why would she lose her kesubah in this case? Even if she loses the kesubah from the second field (because she agreed to the sale) she should still collect from the first field!
 - **R' Nachman bar Yitzchak** said, it may be that the Braisa means that she loses her kesubah from the second property, and not that she loses it totally.
 - **Rava** said, there are 2 problems with this understanding of the Braisa: 1) the Braisa seems to say that she loses her kesubah totally, not just from the second property; 2) a Braisa says that when a debtor sold his properties to 2 different people, and the creditor waives his rights to collect from the second buyer, he cannot then collect from the first buyer, because the buyer can tell him that he purposely left over

properties with the debtor for collection. Therefore, the woman should not be able to collect from the first buyer either!?

- **Rava** said, there is no proof from these cases to the case of where the unsold property got ruined, because he had no hand in the cause of the property getting ruined, and that can be the difference.
 - **R' Yeimar** said to **R' Ashi**, we find it to be an everyday occurrence that Beis Din allows a creditor to collect from sold properties when the unsold properties become ruined.
 - The Gemara paskens that if the unsold properties become ruined a creditor may collect from the sold properties.
- **Abaye** said, if a person tells an unmarried woman, “My property should go to you, and after you die it should go to someone else”, and the woman then gets married and later dies, the husband is considered to be a purchaser of the property and as such the property does not pass on to the other person after her death.
 - This follows the view of **R' Shimon ben Gamliel** in a Braisa, who says that in a case like this, if the first recipient were to sell the property, the second recipient would receive nothing.
 - **Q:** We find that **Abaye** felt that it is wrong to advise someone to act in the way of this shita of **R' Shimon ben Gamliel**!? **A:** **Abaye** was not advising this woman to get married, he was saying that if she did get married, this would be the resulting Halacha.
- **Abaye** said, if a person tells a woman, “My property should go to you, and after you die it should go to someone else”, and the woman then sells the property, the husband may take the field from the purchaser, the “someone else” may take it from the husband, the buyer may take it from the “someone else”, and we leave the property in the hands of the buyer.
 - **Q:** Why is this different than the case of our Mishna where we say that there is a circular logic and the parties must therefore settle among themselves? **A:** In the Mishna all 3 parties stand to suffer a loss if they don't get the property. In this case, only the buyer stands to suffer a loss, and so we leave it with him.
 - **Q:** **Rafram** asked **R' Ashi**, in the last statement of **Abaye** he said that the husband is considered to be a purchaser and the “someone else” therefore will not get the property. How can he say here that the husband loses it to the someone else? **A:** **R' Ashi** said, in **Abaye's** first statement the person gave the property to the woman when she was single. In this statement, the person gave the property when she was already married, so the person is essentially telling her that he wants it to go to the “someone else” and *not* to her husband. Therefore, it does not pass to her husband.

V'CHEIN BAAL CHOV

- A Braisa says, the same circular situation would occur where there is one creditor and 2 purchasers of fields from the debtor (where the creditor waived the right to collect from the second buyer, then collects from the buyer, who then takes the field of the second buyer under his guarantee, and the creditor then collects that field from him, and the second buyer then takes back that field from the creditor, etc.), and the same would be where a wife is a creditor (for her kesubah) and there are 2 purchasers of properties (with the same story as above).

HADRAN ALACH PEREK MI SHEHAYA NASUY!!!