



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

### Nedarim Daf Mem Vuv

#### PEREK HASHUTFIN -- PEREK CHAMISHI

#### MISHNA CONTINUES

- If only one partner was assur to benefit from the other partner based on a neder (e.g. Shimon was assur to benefit from Reuven), Shimon may not enter the jointly owned chatzer. **R' Eliezer ben Yaakov** says, Shimon can tell Reuven, I am going into my share of the chatzer and not yours (just as in the previous case when they were both assur).
  - We require Shimon to sell his share in the courtyard (we are concerned that when he sees Reuven using the chatzer for all purposes and he himself is very restricted, this causes jealousy and may cause him to violate the neder and use the field).
- If an outsider (one who is not a partner – e.g. Levi) is assur to benefit from one of the partners based on a neder, he may not enter the chatzer jointly owned by the partners. **R' Eliezer ben Yaakov** says he may enter the chatzer by saying that he is entering under the rights of the partner that he is not assur to benefit from.
- If Shimon is assur to benefit from Reuven, and Reuven owns the bathhouse or olive press in the city, but he leases it out to Levi, the Halacha is, if Reuven retains a holding in the property (a "tefisas yad"), Shimon may not use it. If he does not, Shimon may use it.
- If Shimon makes a neder to Reuven making it assur for Shimon to enter Reuven's house, or making it assur for him to buy Reuven's field, and Reuven then dies or sells the property, Shimon may then enter the house or buy the field. If Shimon's neder made it assur for him to enter "this house" or to buy "this field", then even if Reuven dies or sells the property, Shimon is still assur to enter the house or buy the field.

#### GEMARA

- **Q:** The Mishna's case is where each partner took a neder upon themselves to prohibit themselves from benefitting from the other partner. That is the case where there is a machlokes between the **Rabanan** and **R' Eliezer ben Yaakov**. What would be if each partner made a neder to prohibit the *other* partner from benefitting from them? Would the **Rabanan** agree with **R' Eliezer ben Yaakov** in this case, since this was not a willing neder that they accepted upon themselves to make themselves assur, or would they argue in this case as well? **A:** The Mishna's next case is where one partner was "mudar" from having benefit (which means the other partner imposed the restriction on him) and still the **Rabanan** argue.
  - The Gemara says, this second case is no proof, because the wording of that case should be changed to "nadur" (which means the partner accepted a neder on himself, prohibiting himself to benefit from the other partner). It makes sense that the word should be changed like this, because the Mishna says that in this case we force the prohibited partner to sell his share of the property. Now, if he is prohibited based on someone else's neder, we would not force him to sell his property based on that!
- **Rabbah in the name of Zeiri** said, the machlokes in the Mishna is only when the chatzer is large enough to divide among the partners (leaving each with 4 amos in front of his door, and another 4 amos of usage area). However, if the chatzer is not large enough for that, even the **Rabanan** would agree that the prohibited partner may enter the chatzer.

- **Q: R' Yosef** asked, a shul is considered to be a property that is not large enough to be divided (it cannot be divided), and yet a Mishna says that when two people of a city are prohibited from each other, they cannot use the shul, since each of them own a share in the shul!? **A: R' Yosef** therefore says, that **Zeiri** said, the machlokes in our Mishna is where the chatzer is *not* large enough to be divided. However, if it is large enough to be divided, even **R' Eliezer ben Yaakov** would agree that the partners are prohibited to enter the chatzer.

- **R' Huna and R' Elazar** both paskened like **R' Eliezer ben Yaakov**.

HAMUDAR HANA'AH MEICHAVEIRO V'YEISH LO SHAM MERCHATZ...

- **R' Nachman** said, a "tefisas yad" means that the owner is paid at least half, a third, or a quarter of the profits from the operation of the property. **Abaye** said, if he receives any form of profits from the operation he is considered as having a "tefisas yad". If he receives a fixed rental income he is considered not to have a tefisas yad.