



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

### Gittin Daf Nun Beis

#### MISHNA

- If orphans rely on a person to manage their affairs, or if their father had appointed an apitrapis for them, this person is chayuv to give maaser from the orphan's produce.
- An apitrapis that was set up by the father must swear to the orphans that he has not kept any of their money for himself. An apitrapis that was appointed by Beis Din need not swear. **Abba Shaul** says the reverse is true.

#### GEMARA

- **Q:** A Braisa learns from a pasuk that an apitrapis does not give maaser for the orphans!? **A:** Our Mishna is talking about produce that is needed to feed the orphans. The Braisa is discussing produce that will be put into storage.
  - In fact, there is a Braisa that clearly makes this distinction. The Braisa says an apitrapis gives maaser for produce needed to feed the orphans, but not for produce that will be stored. The apitrapis may sell their animals, slaves, houses, fields or vineyards if the money is needed to feed the orphans, but not if the money is not needed. The apitrapis may sell their produce, wine, oil, or flour if the money is needed to feed them, but not if the money is not needed. The apitrapis can buy for them a lulav, aravah, succah, tzitzis, or anything with a time limit [which the Gemara says comes to include a shofar]. The apitrapis may buy for them a Sefer Torah, tefillin, mezuzah, or anything else that has a limit [the Gemara says this comes to include a megilla]. The apitrapis may not give tzedaka from their money, or use it to redeem captives, or to do anything that has no limit [the Gemara says this comes to include the mitzvah of nichum aveilim]. The apitrapis may not litigate matters of the orphans' property, whether to lose or to win [the Gemara explains that this means that if he does so anyway and wins, the judgement would stand]. The apitrapis may not sell their distant properties to redeem closer ones, or sell bad ones and buy better ones [the Gemara explains, because we are concerned that the new fields will become ruined]. The apitrapis may not sell fields to buy slaves, but may sell slaves to buy fields. **R' Shimon ben Gamliel** says he may also not sell slaves to buy fields [the Gemara explains, because we are concerned that there may be claims against the field which will have it taken from them]. The apitrapis may not let slaves go free, but he may sell them and the buyers can let them free. **Rebbi** says they may allow a slave to buy his freedom as well. After all transactions are done, the apitrapis must make a cheshbon with the orphans to show that all was done properly. **R' Shimon ben Gamliel** says this need not be done. We do not appoint a woman, a slave, or a minor as an apitrapis. However, if one of these people were appointed as an apitrapis by the father, it is effective.
  - There was an apitrapis in **R' Meir's** neighborhood who sold land to buy slaves, and **R' Meir** put a stop to it. **R' Meir** then had a dream where Hashem told him that he wanted the orphan's money to be lost, so he should not stop the apitrapis. **R' Meir** said we don't listen to dreams, and since it is wrong for the apitrapis to do what he was doing, he must be stopped.
    - There were two people who would always fight on Erev Shabbos. **R' Meir** went to them and worked on them for three such periods to make peace between them. When he accomplished his goal, he heard the Satan say "**R' Meir** has forced me to leave this house".

- There was an apitrapis in **R' Yehoshua ben Levi's** neighborhood who sold land to buy oxen, and **R' Yehoshua ben Levi** did not stop him. This must be because he held like **R' Yose**, that an ox is equally as important as a field.
- There were orphans who relied on an elderly woman to manage their affairs. This woman sold their cow. The relatives of the orphans went to **R' Nachman**, saying that this woman had no right to do so. **R' Nachman** told them, the Mishna says that if the orphans rely on someone to manage their affairs, the person has the rights of an apitrapis. The relatives said, the cow has increased in value since the sale, so the orphans should get the increase in value. **R' Nachman** said, it increased under the purchaser's ownership, so he gets the gain. The relatives said, but he has not yet paid for it!? **R' Nachman** said, if so, the sale is not yet final, because **R' Chanilai bar Idi in the name of Shmuel** said that buying from orphans is like buying from hekdesch, in that the sale is only finalized when money is given.
  - A similar story happened where **Rabana Ukva** the orphan sold wine that then went up in price. **R' Nachman** said, if money wasn't yet given, the sale is not final and the higher price must now be paid.
- If orphans sell produce and the purchaser did meshicha but did not yet give money, if the price increases, the purchaser must now pay the higher price, based on **R' Chanilai bar Idi**. If the price decreases, the purchaser must bear the decrease since he has already made meshicha.
- If produce is bought for the orphans and they only did meshicha but did not yet pay, if the price then goes up, the orphans get the benefit of that increase. If the price goes down, although we would think to say that they should not bear the decrease, **R' Shisha the son of R' Idi** said, that saying so will discourage people from selling to orphans until they are able to give the money. Therefore, the orphans must bear that loss.
- If orphans gave money for produce but did not yet do meshicha, if the price then decreases the sale is not considered to be final, because no meshicha was done. If the price increased, although we would think to say that they should not bear the increase, **R' Shisha the son of R' Idi** said, that saying so will cause the seller to be unconcerned about saving this produce if there was a fire. Therefore, the sale is not considered to be final until the meshicha is done.
- If money was given to orphans to buy produce from them, if the price then goes up, the orphans benefit from this increase, because the sale is not final until meshicha is done. If the price goes down, although we would think to say that they should not bear the decrease, **R' Shisha the son of R' Idi** said, that saying so will cause people to be unwilling to give money to them until they can hand over the produce, and if they are in need of money that will put them in a bad situation. Therefore, the buyers may cancel the sale in this case.
- **R' Ashi** said, I and **R' Kahana** approved the sale of an orphan's land to pay for his head-tax, even though it was not done at a public sale, because a public sale is not needed if the sale is being done to pay the head-tax, for food for the wife or the children, or to pay from the burial of the parent or the orphans.
- Amram Tzaba'ah was an apitrapis. The relatives of the orphans complained to **R' Nachman** that Amram is using the orphans' money to buy himself clothing! **R' Nachman** said, he is doing this so that he appears more respectable and it is therefore in the best interests of the orphans for him to be well dressed. The relatives said, but we see him eating fancy foods and he is not wealthy enough to afford such food (so he must be taking from the orphans)! **R' Nachman** said, maybe he found a metzi'ah and is using that to afford the food. They then said, but he is damaging the property of the orphans! **R' Nachman** said, bring witnesses that he is damaging the property and I will remove him from the position, because **Rav** says that such an apitrapis should be removed, and we pasken like that as well.

#### APITRAPIS SHEMINAHU AVI YESOMIM YISHAVA

- We are not concerned that making the apitrapis swear will discourage people from accepting the position, because if he agreed to accept the position when asked by the father, it must be

that he had received some benefit from the father. The prospect of having to swear will not stop him from accepting.

#### MINUHU BEIS DIN LO YISHAVA

- This apitrapis is doing a favor for Beis Din. If he is faced with having to swear, he will not do this favor for Beis Din.

#### ABBA SHAUL OMER CHILUF HADEVARIM

- **Abba Shaul** holds that a man appointed by Beis Din benefits in that people now think he is a very trustworthy man. Therefore, the prospect of having to swear will not prevent him from accepting the position. When an apitrapis is appointed by the father, there is no such associated benefit, and therefore, if we make him swear he will not accept the position.
- **R' Chanan bar Ami in the name of Shmuel** paskens like **Abba Shaul**.
- A Braisa says, **R' Eliezer ben Yaakov** says both types of apitrapis must swear, and we pasken like that.
- **R' Tachlifa of EY** taught a Braisa in front of **R' Avahu**, that an apitrapis appointed by the father must swear, because he is paid for his services. He explained, this means that he must have received some benefit, and therefore it is as if he was paid. Therefore, making him swear will not deter him from accepting the position.