



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

Kiddushin Daf Chuf Vuv

MISHNA

- Real property can be acquired with money, a shtar, or chazakah. Moveable property can only be acquired with meshicha.
- Moveable property can be acquired along with real property (known as "kinyan agav") when it is acquired with money, shtar, or chazakah. Moveable property can create an obligation to swear on real property along with its own obligation to swear.

GEMARA

- **Q:** How do we know that real property can be acquired with money? **A:** **Chizkiya** said, the pasuk says "sados bakesef yiknu".
 - **Q:** That pasuk then says "v'kasuv basefer v'chasom", so maybe money only works when there is a shtar along with it? **A:** Since the word "yiknu" is written only after the mention of money, the pasuk teaches that the kinyan is made with money, and the shtar is only there to evidence the sale.
 - **Rav** said, money only works in a place where there is no custom to write a shtar on the sale. If the custom is to write a shtar, the sale is not final until the shtar is written and given over. However, if the buyer specifically states that he wants to be able to choose whether the sale becomes final with the money or with the shtar, then he may do so, even if it doesn't fit with the custom.
 - **R' Idi bar Avin** would do this. When he would buy land he would say, if I choose to have the money finalize the sale, so be it (doing so would prevent the seller from backing out once the money was given to him), and if I choose to have the shtar finalize the sale, so be it (doing so would allow **R' Idi** to back out until the shtar was actually handed over).
- **Q:** How do we know that real property can be acquired with a shtar? It can't be based on the pasuk of "v'kasuv basefer v'chasom", because we have stated that the pasuk refers to a document of proof, not of acquisition!? **A:** The pasuk says "va'ekach es sefer hamiknah".
 - **Shmuel** said, real property can be acquired with a shtar only when the property is being transferred as a gift. However, if it is a sale, money must be given to make the acquisition effective.
 - **Q:** **R' Hamnuna** asked, a Braisa says that a shtar can be used for acquisition of sale, and makes no mention of money!? **A:** He answered, the Braisa is talking about a case where the person is selling the field because of the poor quality. In that case the seller wants the sale to take effect, even without having received the money. **A2:** **R' Ashi** said, the Braisa is discussing a case of a gift. The reason he made it sound like it was a sale was so that the recipient would be in a better position and could collect for the field if it was ever taken away from him.
- **Q:** How do we know that real property can be acquired with chazakah? **A:** **Chizkiya** said, the pasuk says "ushvu b'areichem asher tifastem". In the yeshiva of **R' Yishmael** they said we learn this from the pasuk of "virishtem osah vishavtem bah".

V'SHE'EIN LAHEM ACHRAYUS EIN NIKNIN ELAH BIMISHICHA

- This is based on the pasuk of "v'chi simkiru mimkar la'amisecha oh kanoh miyad amisecha". This teaches that it is acquired by being passed from "hand to hand" (meshicha).
 - **Q:** According to **R' Yochanan**, who says that D'Orasia moveable property is acquired with money, how will he explain the Mishna? **A:** The Tanna of the Mishna only lists the

kinyan that was enacted by the **Rabanan** for moveable properties – the kinyan of meshicha.

NECHASIM SHE'EIN LAHEM ACHRAYUS

- **Q:** How do we know there is the concept of “kinyan agav”? **A: Chizkiya** said, the pasuk says “vayiten lahem avihem matanos...ihm arei mitzuros b'Yehuda”.
- **Q:** Does the moveable property being acquired with the kinyan agav have to be piled onto the real property that is being acquired, or not? **A: R' Yosef** said, a Mishna says that **R' Akiva** says, any minute piece of land can be used for a kinyan agav. Now, if the moveable property must be piled onto the land, what can be acquired along with a minute piece of land? **A: R' Shmuel bar Bisna** said, the Mishna may be discussing the case of putting a needle into that land, to be koneh the needle along with the land.
 - **Q: R' Yosef** asked, do you think the Tanna would teach a whole case to deal with the acquisition of one needle!? **A: R' Ashi** said, it is possible for the needle to have a precious diamond on it that is worth a lot of money.
 - **Q:** Maybe we can answer the question from the following Braisa, in which **R' Elazar** said that a person once wanted to give a lot of moveable property away, so he bought a “beis sela” of land (presumably a piece of land the size of the sela coin), and gave away hundreds of animals and barrels using a kinyan agav. Now, if the items must be piled on the land, how could all these items have fit onto this tiny piece of land!? **A:** The land was actually a large piece of land that could hold all these items. The reason it is referred to as a “beis sela” is because it was rocky land.
 - **Q:** Maybe we can answer the question from the story of a person who was looking to give away a number of items, so he bought a small parcel of land and said “I hereby give this square tefach to so-and-so and with kinyan agav I give 100 animals and 100 barrels”. Now, that amount of items cannot fit onto a piece of land that small! It must be that they need not be piled up in that piece of land!? **A:** The case was where he wanted to give money equal to the value of the 100 animals and barrels. In fact, this makes sense, because if he wanted to give actual items, why was he told that the only way he could give away these items was with kinyan agav? Why couldn't he use the kinyan of chalipin? It must be that he was transferring money.
 - **Q:** If he was transferring money, why couldn't he use kinyan meshicha for the money? Why was he told that his only option was kinyan agav? It must be that the recipient was not present to make the meshicha. We can give the same answer and say that the recipient was not there to do chalipin. If so, there is no proof to say that the case is discussing the transfer of money rather than the actual items.
 - **Q:** Why couldn't he have someone else do the meshicha for the recipient? **A:** He was afraid that the person would then take the items for himself. That is what was meant that this was his “only option”, because based on the way he felt, the only option was kinyan agav.
 - **Q:** Maybe we can answer the question from the story in a Mishna, where **R' Gamliel** was on a ship and realized that he forgot to take maaser off of his produce back home. He immediately designated a portion for maaser rishon and said “it is hereby given to **Yehoshua**, and the place underneath it is rented to him (so that he can be koneh it)”. He then did a similar exercise with maaser ani and **R' Akiva** (who was the “gabbai tzedakah”). Now, since he rented them the land under which the maaser was sitting, we see that the items must be piled on the land to make a kinyan agav!? **A:** It may be that he only did that so that **R' Yehoshua and R' Akiva** not feel rushed to remove the produce from his land.
 - **Q:** Maybe we can answer the question from a halacha stated by **R' Chiya bar Avin in the name of R' Huna**, who said that if a seller writes a shtar of sale for a piece of land without the buyer present (which is something that may be done), as soon as the buyer makes a chazakah in the field, he is automatically koneh the shtar wherever it may be. We see that the shtar does not have to be in the field in order to be koneh it with kinyan agav!? **A:** It may be that the case of a shtar for the field is different, because the shtar is

the means by which someone holds onto the land, and he is therefore koneh it without having to come onto the concept of kinyan agav.

- **Q:** We have clearly learned that the halacha of **R' Chiya** is an example of the concept of kinyan agav!? **A:** This is a clear proof that we do not need the items to be piled onto the land for kinyan agav to be effective, **SHEMA MINAH.**