



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

Bava Kamma Daf Ches

- **Q: R' Abba** just answered that we determine the quality of the land based on the land that the mazik has, not based on a global standard. The Gemara asks, a Braisa says, if a person was a mazik, a debtor, and also owed a woman her kesubah, and all he has is superior land, or all he has is average land, or all he has is inferior land, the halacha is that all collect from the one type of land that he has. If he has all 3 types, the nizik gets from the superior, the creditor gets from the average, and the woman gets from inferior. If he only had superior and average, the nizik collects from the superior and the other 2 collect from the average. If he only has average and inferior, the nizik and the creditor collect from the average land, and the woman collects from the inferior. If he only has superior and inferior land, the nizik collects from the superior land and the other two collect from the inferior land. Now, the Braisa gave the case of the person who has only average and inferior land. If we make the determination based on his own land, that average land is his superior land, and the creditor should have to collect from the inferior land!? **A:** The case is that this person had superior land at the time he took the loan, and therefore the average land became encumbered to him at that time, and he then sold his superior land. In fact, another Braisa says that if he has average and inferior land, the creditor collects from the inferior land. This contradicts the earlier Braisa!? Rather, we can say that the first Braisa is discussing where he had superior land which he later sold, and the second Braisa is discussing where he never had superior land, and that is why the creditor doesn't collect from that "average" land, because it is truly the superior land of the debtor. From this we see that we determine quality based on the land of the mazik, not based on a global standard.
 - The Gemara says, this is no proof, because it may be that in both cases he had no better land, and way to explain the Braisos is that the second Braisa is discussing where his average land was equal to superior land based on a global standard, and the first Braisa is discussing where his average land is not equal to superior land based on a global standard.
 - We can also explain that both Braisos are discussing where his average land is equal in quality to the average land on a global standard. The second Braisa holds that we look only at the land of the debtor, and since he has no superior land, this average land becomes his superior land and the creditor cannot collect from it. The first Braisa holds that we use a global standard, and that is why the creditor collects from the average land (which in truth, is the superior land of the debtor).
 - **Ravina** said, we can say that the Braisos argue in the statement of **Ulla**, who said that D'Oraisa a creditor only collects from inferior land, and the **Rabanan** allow them to collect from average land so that they not hold back from lending money. Based on this, we can say that both Braisos hold that we judge the lands based on a global standard. The first Braisa holds of **Ulla's** statement, and therefore we allow him to collect from the average land. The second Braisa does not agree with **Ulla**, and therefore the creditor must collect from the inferior land.
- A Braisa says, if a person owed money as a mazik, as a debtor, and to a woman for her kesubah, and he had fields of superior, average, and inferior quality, and he sold all his fields to one person, or to 3 different people on one day, the buyers all step into the place of the seller, and the nizik collects from the superior land, the creditor from the average land, and the woman from the inferior land. However, if the fields were sold over 3 days, the nizik, creditor, and woman must all collect from the last field to be sold. If there is not sufficient land to satisfy all these obligations, they continue to collect from the second to last land to be sold. If still more is needed, they then collect from the land sold before that.

- **Q:** What is the case of where he sold all the fields to one person? If he sold it all at once, then this would be obvious, because the Braisa says even when they were sold to 3 separate people on the same day, where it is possible to say that one sale happened before the other, still they all step into the place of the seller, then surely this would be the case where they were all sold to one person on the same day!? The case must be where he sold all the fields to one person on different days. If so, why can he not make all the different obligations collect from the last field that was purchased, just as when it is sold to 3 different people and they can all make the obligations collect from the last field that was sold? **A: R' Sheishes** said, the case is that the superior land was purchased last, so the buyer does not want all the people collecting from the last land to be purchased.
 - **Q:** If so, all the obligations should be able to insist on collecting from the superior land!? **A:** The buyer can tell all the people, if you will all take from land appropriate to your obligation, I will allow it. If you all insist on taking from the superior land, I will return the inferior land to the original owner, and all of you will have to collect from the inferior land.
 - **Q:** If that is what is happening, why doesn't he also threaten the nizik and tell him that if he agrees to take average land he will allow him to do so, and if he does not agree, he will return the inferior land to the seller, and the nizik will have to collect from there? The reason he can't do this must be that the debtor has died and returning the land to his children will not accomplish anything, because they are not responsible for paying the debts of their father. If so, he can't use this strategy, and we are back to the question of why all the debtors can't insist on collecting from the superior land if it was the last land to be purchased!? **A:** The reason is, he can tell the creditors that the reason why the **Rabanan** said that creditors have to collect from unencumbered properties is to protect the purchasers. I don't want that protection (because it would mean that they can all collect from the superior land), and therefore everyone can only collect from the land appropriate for them.
- It is obvious, if the debtor (who owed money as a mazik, for a loan, and to a woman for her kesubah) had superior, average, and inferior land, and then sold all 3 lands to a purchaser, with the superior land being the last land to be sold, and the purchaser then sold the average and inferior lands to a second purchaser, leaving himself with only the superior land, all the obligations can come and collect from the superior land, because he can no longer say "I don't want the protection given to me by the **Rabanan**", because he only holds the superior land. However, if he only sells the superior land to a second purchaser, do the obligations have a right to go to the second purchaser and collect from the superior land (since he does not have any of the other lands to push them off to) or not? **Abaye** thought to say that all the debtors can go and collect from the superior land. **Rava** said to him, when the first purchaser sold the superior land to the second purchaser, he sold him all the rights that he had with this land. One of the rights he had was to tell the debtors that they must collect from the average and inferior lands, and can't collect from the superior lands, even though the superior land was the last to be purchased. Therefore, the second purchaser can also tell the debtors that they cannot collect from the superior land, and must go to the other lands.
- **Rava** said, if Reuven sold all of his fields to Shimon in one document, and Shimon then sold one of the fields to Levi, if a creditor of Reuven comes to take a field for his debt, he may take a field from whomever he wants. However, this is only true if Levi bought average grade land (which is what a creditor normally collects from), but if Levi bought superior grade or inferior grade, he can tell the creditor that I purposely didn't buy average grade land, because I did not want to become subject to a creditor. Moreover, even if Levi bought average grade land, if he left some average grade land with Shimon, Levi can tell the creditor that I purposely did not buy all the average grade land so that if a creditor comes he can go to Shimon to collect.

- **Abaye** said, if Reuven sold a field to Shimon with a guarantee and a creditor of Reuven then comes and tries to take that field, Reuven is allowed to go and try to prevent the creditor from doing so. The creditor cannot tell Reuven that he has no standing to do so, because Reuven says, if you take this from Shimon he will come to me for reimbursement.
 - **Others** say that Reuven may do so even if he did not sell with a guarantee, because he can say that he doesn't want Shimon having any complaints on him.
- **Abaye** said, if Reuven sold a field to Shimon without a guarantee, and someone then came forth stating that the field was his and not Reuven's, the Halacha is that if Shimon did not yet make a kinyan chazaka on the field he can still back out and not pay for it. Once he did make the kinyan he can no longer back out, because he has bought a field without a guarantee, accepting the risks that come along with that.
 - The kinyan is made as soon as he walks the boundary of the field.
 - **Others** say that even if it was purchased with a guarantee he still cannot back out once he made the kinyan, because Reuven can tell him, show me the document that the field was taken from you and then I will pay you.