



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

Bava Metzia Daf Yud Daled

- **Shmuel** said, the reason the **Rabanan** hold that even if a document was written without achrayus, it may still be used to collect from encumbered properties is because they hold that the absence of achrayus is assumed to be a mistake on the part of the sofer (he forgot to put it in), but it was surely meant to be put in.
 - **Q: Rava bar Idi** asked **R' Idi bar Avin**, we find that **Shmuel** says, in order for a sofer to insert a lien in a document of sale of a property (i.e. in case the field gets taken away from the buyer because of a debt of the seller, the buyer will have a lien on other properties of the seller to make up for his loss), he must specifically be told by the seller to put it into the document. Must we say that whoever said the first statement of **Shmuel** could not have also said this one? **A:** With regard to a loan, no one would lend money without achrayus, and therefore if it is missing, it must have been an error on the part of the sofer. However, with regard to a purchase, people do purchase things with risk for a discounted price, and therefore it may be that no acharyus was meant to be included in this sale.
 - In fact, we find that **Shmuel** himself gave this exact distinction as an explanation, when he was adjudicating an actual case of a purchase of land that was written without achrayus.
 - **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 against 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.
- If someone sold a field to a buyer, and it turns out that it was not the seller's field to sell (i.e. it was a stolen field), and the true owner then came and repossessed the field, **Rav** says the buyer has the right to reimbursement for the money that he spent on the purchase *and* for the amount of his improvements to the field. **Shmuel** says he has a right to the money of the purchase, but not for the improvements to the field.
 - **Q:** They asked **R' Huna**, what if the seller had stated at the time of the sale that he would reimburse for any improvements to the land if the land was ever taken away, would **Shmuel** say the buyer could get that money in that case? Is the reason of **Shmuel** based on that the seller did not specify he would pay for improvements, but if he did the buyer would collect it, or is it that since the land was never the seller's, the money given as the "purchase" was truly a loan, and taking back more than that amount would appear as ribis, and therefore even in this case he cannot take more than the principle amount? **A:** At first **R' Huna** said yes, then he said no, and he remained unsure. The

Gemara says that **R' Nachman in the name of Shmuel** said, that he would not be entitled to payment for the improvement in this case, because it would appear like he is taking ribis on a loan.

- **Q: Rava** asked **R' Nachman**, a Mishna says that we do not collect for the produce that was consumed, or for the improvement to the land, or for the food of a man's wife and daughters from encumbered properties, for the benefit of the world. Now, this suggests that although it may not be collected from encumbered properties, it is collected from unencumbered properties, and one of the items listed is the improvement done to the land. Presumably the case is where the land was purchased from a seller that had stolen the land and the land was then repossessed!? **A:** The case is where the land was repossessed by a creditor of the seller.
 - **Q:** It can't be discussing a creditor, because **Shmuel** has said that a creditor would not collect the ripe produce, and the Mishna says that it is collected!? Clearly that case is talking about a seller who had stolen the land. If so, the later cases must be discussing that as well!? **A:** We can say that the earlier case is referring to stolen land and the later case is talking about land repossessed by a creditor.
- **Q:** A Braisa says, what is the case of being paid for improvement to the land? If someone steals land and it is repossessed, he collects the amount for the field even from encumbered properties, but collects the amount for the improvements to the field only from unencumbered properties. Now, this can't be understood as written, because a gazlan is not compensated when the property is taken away from him! Rather, we must say that the case is that the gazlan sold the field, and when the field is repossessed from the buyer, he is entitled to compensation for the purchase price *and* for the improvements to the field!? **A: R' Nachman** answered, you had to change the understanding and wording of the Braisa. I will say that it should be changed to state that it is referring to a creditor of the seller, and not stolen land.
- **Q:** A Braisa says, what is the case of being paid for consumption of produce? If someone steals land and it is repossessed, he collects the amount for the field even from encumbered properties, but collects the amount for the produce only from unencumbered properties. Now, this can't be understood as written, because a gazlan is not compensated when the property is taken away from him! Rather, we must say that the case is that the gazlan sold the field, and when the field is repossessed from the buyer, he is entitled to compensation for the purchase price *and* for the improvements and produce of the field!? We see we do not say that these additional payments look like ribis!? **A: Rava** said, the case here is where a person stole a field full of produce, consumed all the produce, and then damaged the field by digging ditches all around the field. When the true owner of the field comes to repossess the (depreciated) field, he collects the principle amount even from the encumbered properties of the gazlan, but collects the amounts for the stolen produce only from the gazlan's unencumbered properties. **A2: Rabbah bar R' Huna** said, the case is where a person caused another person's field to be taken away by the government, in which case the person who caused this to happen is chayuv to pay the owner for the field. It is that case that the Braisa is saying that for the principle amount of the field he may even collect from encumbered properties, but for the amount of produce that was taken with the field, he can only collect from unencumbered properties. [**Rava** did not say like this, because the words of the Braisa suggest that the field was not taken by a government type of confiscation. **Rabbah bar R' Huna** did not say like **Rava**, because he says that the words of the Braisa suggest that the field was not damaged along the way]. **A3: R' Ashi** said, the Braisa is discussing where the field was stolen and the ganav then consumed all the produce and then sold the field. The owner then came and repossessed the field. The Braisa is saying, when the buyer wants to get his money back for the field, he may even collect that amount from encumbered

properties. The Braisa then means to say that when the true owner of the field wants to collect for the produce that was stolen and consumed, he may only collect from unencumbered properties.