



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

### Bava Metzia Daf Tes Zayin

- If after the ganav sold the stolen property, he then bought it from the owner and sold it to someone else, or he gave it to his son, or he gifted it to someone, it is obvious that he didn't buy it with intent to leave it by the first buyer. If the ganav inherited the land (rather than buy it), it is also clear that since he put no effort into getting the land, he did not get it to leave by the buyer. If the ganav was a creditor of the owner and took that land as payment for his debt, we make a determination – if he could have taken some other property but insisted on taking that one, it shows he wanted it to leave it by the buyer. However, if it was the only property available to take, we say that he really wanted money and took that property, because it was the only one available, and he did not do so to leave it by the buyer. If the land was given to him as a gift, there is a machlokes between **R' Acha and Ravina** – one says it is the same as if he inherited the land (since it came effort free), and the other says that the only reason he would have gotten it as a gift is if he spent effort and did a favor for the owner. Therefore, we say that he exerted that effort in order to get this property so that it stay by the buyer.
- **Q:** Until what point in time do we view the ganav's purchasing the property as an attempt to make himself seem trustworthy and have the property remain with the buyer? **A: R' Huna** says until he is brought to Beis Din to be sued. **Chiya bar Rav** says until a document of seizure was issued to be used by the buyer against the ganav. **R' Pappa** says until they have begun to announce the sale of the ganav's properties to be used for payment of the buyer's claim.
- **Q: Rav** had said that if the ganav buys the land from the true owner after he had already sold it to someone else, he may not then repossess it from the buyer. **Rami bar Chama** asked, how was the buyer ever koneh the property? The document of sale to him was a fraud, and as such could not act as a kinyan!? **A: Rava** said, the case is where the buyer told the ganav "I fully trust you that you will give me the property". With the pleasure in knowing that the buyer trusts him like that, the ganav is makneh the property to him when he buys it from the true owner.
  - **Q: R' Sheishes** asked, a Braisa says, if someone sells what he will inherit from his father, or what he will catch in his net, it is not a valid sale. If he sells "what I will inherit from my father today" or "what I will catch in my net today", it is a valid sale. We see from the first two cases that a future sale is invalid, so why does it work in this case? **A: Rava** said, in our case the buyer has full confidence that the ganav will get the property for him. In the cases of the Braisa, the person is not confident.
    - **Q:** What is the difference between the first cases and the second cases of the Braisa? **A: R' Yochanan** said, the second case is talking about where the seller needs money for his father's impending death (for the costs of burial), and it is a valid sale for the sake of the honor of his father. The case of "what I catch in my net today" is a valid sale so that the person can have money with which to live.
  - **R' Huna in the name of Rav** said, if one says to another, "The field that I am about to buy I am now giving to you and should be effective retroactively from now", it is a valid transfer.
    - **Rava** said, this would make sense if the seller did not specify a field. However, if he specified a field it should be invalid, because how can he know that he will ultimately acquire that particular field? However, **Rav** has said this ruling even regarding a case where he specified the field! This would seem to follow the view of **R' Meir** who says in a Braisa that if someone gives kiddushin and says that it should take effect after he or she converts or is freed from being a slave, or after his or her spouse dies, or after she gets chalitza, the kiddushin takes effect. Now, the case of a woman is like a case of identifying a particular field, and we see that **R' Meir** says the future transaction has an effect.

- **Shmuel** said, if a loan document in which the borrower obligates himself to the amount of the loan whether or not the loan is actually made (called a “hakna’ah”) is found, it should be returned to the creditor. There is no concern that maybe the loan wasn’t actually made, because he has obligated himself even if it was not made. The only other possible concern is that the loan was already repaid, but we are not concerned that it was repaid, because if it was, the document would have been torn up.
  - **R’ Nachman** said, his father was a sofer for **Shmuel’s** Beis Din, and he remembered hearing when he was 6 or 7 that the Beis Din said a hakna’ah document should be returned to the creditor.
  - **R’ Amram** said a Mishna can be used to prove that we are not concerned for repayment. The Mishna says, any document that records an act of Beis Din should be returned to the creditor. This shows that we are not concerned that the document may have been paid. **R’ Zeira** said, this is no proof. The Mishna is not referring to loan documents. It is referring to documents allowing repossession of assets, which are not subject to being paid off.
    - **Q: Rava** asked, in Nehardai they said, and **Ameimar** has said that even such documents are subject to repayment, because the underlying obligation can still be repaid, so this does show that we are not concerned for a repayment!? **A: Rava** said, the reason we are not concerned for repayment in the Mishna is because he brought it on himself by not destroying the document of repossession when he paid, or asking for a new document showing that he has paid and now has legitimate title to the land. However, when dealing with a loan document, it is possible that he paid and the creditor told him he will give him back the document the next day. That is why we do have to be concerned for repayment, and why the Mishna cannot be used as a proof for **Shmuel**.
  - **R’ Avahu in the name of R’ Yochanan** said, if one finds a loan document, even if it has a certification from Beis Din, it may not be returned to the creditor. Certainly, if it was not certified it may not be returned, because we say the underlying loan never took place. Rather, even if it was certified – meaning the signatures of the witnesses were certified, it may still not be returned, because we are concerned that it may have been repaid.
    - **Q: R’ Yirmiya** asked **R’ Avahu**, a Mishna says that any document that records an act of Beis Din should be returned to the creditor!? **A: R’ Avahu** said, the Mishna is discussing the specific case of where the debtor is a proven liar, and that is why his claim of repayment is not believed.
      - **Q: Rava** asked, just because he was once proven as a liar, does that mean he will never repay his loans? He should be believed if he says that he did!? **A: Rather, Rava** said the Mishna is not referring to loan documents. It is referring to documents allowing repossession of assets, which are not subject to being paid off, as **R’ Zeira** said above.