



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

### Bava Metzia Daf Mem Zayin

- **Rabbah in the name of R' Huna** said, if a person says to the owner of an item, "sell me your item for the coins I have in my hand" (without saying how many coins are in his hand), and the seller accepts the coins, the buyer is koneh the item, and the seller has a right to claim "ona'ah" (if the money is 1/6 less than the true value of the item). Even though the buyer did not do meshicha on the item he is koneh, because the seller is not particular about how many coins there are, and it therefore becomes a kinyan of chalipin. However, since the buyer did say "sell me your item", this gives the seller the right to claim ona'ah if the value is off. **R' Abba in the name of R' Huna** said, in this case the buyer is koneh the item, but the seller has no claim for ona'ah.
  - **Q:** We clearly see from **R' Huna** that if a seller is not particular about the amount he is getting paid, a kinyan takes place, like chalipin. What about if a true kinyan chalipin is being made, but the seller is particular about the value of the item used for the chalipin – do we say that it is still chalipin, or that it is now deemed a sale for money and is not chalipin? **A: R' Ada bar Ahava** said, a Braisa says, if a person is standing with his cow and tells a second person "I need a donkey", and the second person says "I have a donkey for you, how much do you want for your cow?", and the person gave an amount and the second person then gave an amount for his donkey as well, and the owner of the donkey then did meshicha on the cow, but before the owner of the cow could do meshicha on the donkey, the donkey died, the owner of the donkey is not koneh the cow. We can see from here that when using chalipin, but the seller is particular about the value of the item being used, the chalipin done does not form a kinyan!
    - **Rava** said, this is no proof. In every case of chalipin, unless the people are absolute fools, they care about the value that is being given to them, and yet they are koneh. The case in the Braisa was where the agreed exchange was the donkey for a cow *and* a sheep, but he only did meshicha on the cow and not on the sheep. That is why the meshicha is lacking, and he is not koneh.
  - **Q:** It would seem from **R' Huna's** statement that he holds that a coin can be used to create a kinyan chalipin? **A:** It may be that **R' Huna** holds like **R' Yochanan** who holds that D'Oraisa money can acquire moveable property. The **Rabanan** require meshicha as a gezeirah. However, in an unusual case (as in the one above, where he didn't bother to know how many coins there were) they were not goizer.
    - **Mar Huna the son of R' Nachman** said to **R' Ashi**, we learned that **R' Huna** explicitly said that a coin cannot be used to make chalipin.
- With regard to how a kinyan chalipin is done, **Rav** says we use the keili of the one being koneh the item, because this person wants the other person to be koneh this keili so that he should be koneh the item in exchange, and **Levi** says we use the keili of the one giving the item, as will be explained.
  - **Q: R' Huna of Diskarta** asked **Rava**, according to **Levi** it would seem that the one being koneh the land (as an example), would be getting the handkerchief and would be koneh the land through ("agav") being koneh the handkerchief. If so, this is an example of real property being acquired agav moveable property, and we have learned in a Mishna that only the reverse is true!? **A: Rava** said, **Levi** would answer, the recipient is not koneh the land *agav* the handkerchief. Rather, with the hana'ah that the giver gets from the fact that the other person is accepting the handkerchief from him, he is makneh the land to him.
  - This machlokes is actually a machlokes among Tanna'im in a Braisa, where the **T"K** says that in the pasuk that teaches regarding chalipin, it was Boaz (who was being koneh the

land) that took off his shoe and gave it to the closer relative. This is like **Rav** said. **R'**

**Yehuda** says, the relative took off his shoe and gave it to Boaz, which is like **Levi** said.

- A Braisa says that a keili can be used for chalipin even if it is not worth a perutah. **R' Nachman** said, only a keili can be used, not produce. **R' Sheishes** said even produce may be used.
  - **R' Nachman's** view is based on the pasuk that uses the example of a shoe, and teaches that only a keili can be used. **R' Sheishes** says, the pasuk says “likayeim kol davar”, which comes to allow anything to be used. **R' Nachman** says, that pasuk is teaching that anything could be koneh *through* chalipin. **R' Sheishes** says, the word “shoe” teaches the item used must be whole – not, for example, a half pomegranate or half walnut.
  - **R' Sheishes the son of R' Idi** said, in today's contracts that describe chalipin having been done it says it was done with “a keili that is fit to be koneh with it” – the words “a keili” exclude the view of **R' Sheishes**, “that is fit” excludes the view of **Shmuel** who says that even a keili made of animal waste can be used, “to be koneh” excludes the view of **Levi** who said that the one giving the item is also the one who gives the keili. **R' Pappa** says, “with it” comes to exclude a coin, and **R' Zvid** or **R' Ashi** said it comes to exclude using something that is assur b'hana'ah. **Others** say that **R' Zvid** learns his drasha from “that is fit”, because we don't need a pasuk to exclude a keili made of animal waste.

#### ASIMON KONEH ES HAMATBEYAH...

- **Rav** said, an asimon is a token used for entrance to a bathhouse.
  - **Q:** A Braisa says, one may not transfer kedushas maaser onto an asimon or onto a token used for a bathhouse. We see they are two different things!? We can't say that the Braisa is defining what an asimon is, because in another Braisa **R' Dosa** allows using an asimon for maaser redemption but does not allow a token used for a bathhouse. We clearly see that they are different things!? **A:** **R' Yochanan** therefore said, that an asimon is an unminted coin. He follows his view elsewhere, where he says that **R' Dosa** (from the Braisa) and **R' Yishmael** (who says that an unminted coin can be used) are saying the same thing.

#### KEITZAD MASHACH HEIMENU PEIROS V'LO NASAN LO MA'OS...

- **R' Yochanan** said, D'Oraisa money can acquire moveable property. The **Rabanan** require meshicha as a gezeirah, because if the sale was final upon payment although still in the seller's possession, the seller would have no incentive to protect the item from fire or loss.
  - **Q:** The one who started the fire would have to pay, so why is a gezeirah needed? **A:** For a case where a fire started with an oneis.
- **Reish Lakish** said, that the kinyan of meshicha is D'Oraisa, based on the pasuk of “oh kanah miyad amisecha”. **R' Yochanan** said, the words “miyad” teaches that a sale of land is not subject to the halachos of ona'ah. **Reish Lakish** said, the extra words of “oh kanah” teach the kinyan of meshicha. **R' Yochanan** said, these words teach that the laws of ona'ah apply to an undercharge just as they apply to an overcharge. **Reish Lakish** said, we can learn out both drashos from these words.
  - **Q:** In our Mishna **R' Shimon** said that if the money was given to the seller, but no kinyan was made on the item that is being sold, only the seller can back out. Now, according to **R' Yochanan**, it makes sense that the **Rabanan** only had to allow the seller to retract, because that induces the seller to protect the item (because he may decide to retract). The buyer can remain on the D'Oraisa and therefore may not retract once the money was given. However, according to **Reish Lakish** that D'Oraisa no kinyan was made with the payment of the money, why can't the buyer retract? **A:** **Reish Lakish** would say that his halacha was only said according to the **Rabanan**, not according to **R' Shimon**.
  - **Q:** According to **Reish Lakish**, we can understand the point of machlokes between the **Rabanan** and **R' Shimon** (whether meshicha is a kinyan D'Oraisa or payment is the kinyan D'Oraisa). However, according to **R' Yochanan**, what is the difference between them? **A:** They argue in the statement of **R' Chisda**, who said that just as the seller may back out of the deal until meshicha is done, the buyer may do so as well. The **Rabanan** hold like **R' Chisda**, and **R' Shimon** does not.
  - **Q:** The Mishna said, although one may renege on a deal after paying if he had not yet made a kinyan on the item, Hashem will punish a person who does so, just as He punished the Dor Hamabul and the Dor Haflaga. Now, if you say that D'Oraisa a kinyan took place with the payment of the money, it makes sense why this person is subject to

a curse. However, if D'Oraisa no kinyan has taken place, why is he subject to a curse? **A:** He is subject to a curse because he has gone back on his word.

- **Q:** A Braisa says that one is not subject to this curse for agreeing with words alone!? **A:** If he agreed orally *and* he already paid, that is when he is subject to the curse. The Braisa is discussing where he orally agreed to a sale but did not yet pay. In that case he is not subject to the curse.