



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

### Bava Basra Daf Chuf Ches

#### PEREK CHEZKAS HABATIM -- PEREK SHLISHI

##### MISHNA

- With regard to making a chazaka on a house, on the various forms of boros, on dovecotes, on bathhouses, on olive presses, on irrigated fields, on slaves, and on any other property that gives benefit (is used) continually all year, to make a chazaka on them one must use them or occupy them every day for 3 years.
  - With regard to a field that subsists on rainwater (this only provides benefit seasonally, not constantly), the chazaka is its use for 3 years, but need not be on a daily basis. **R' Yishmael** says the chazaka can be established with using it for the last three months of the first year, the first 3 months of the 3<sup>rd</sup> year, and the full year in between, which is a total of 18 months. **R' Akiva** says he need only use it for one month in the first year, one month in the last year, and the 12 months of the year in between, for a total of 14 months.
    - **R' Yishmael** says, this is only true for a grain field. However, for a field of trees, if he gathers his grape produce, and picks his olives, and gathers in his dried figs, that would be counted as a chazaka of 3 years.

##### GEMARA

- **R' Yochanan** said, I heard from the Sanhedrin that traveled to Usha, that they said, how do we know that a chazaka is established with 3 years? We learn if from the case of a muad ox. Just as an ox, once it gores 3 times, it is no longer a tam, and becomes a muad, so too with regard to chazaka, once someone has used a property for 3 years, it leaves the reshus of the seller and is established in the reshus of the buyer.
  - **Q:** If so, we should say that just as a muad ox does not pay as a muad until he gores for a 4<sup>th</sup> time, so too by chazaka we should say that it does not become established in the buyer's reshus until after the 4<sup>th</sup> year!? **A:** That is not a valid comparison. The ox becomes a muad after the 3<sup>rd</sup> time. It only doesn't pay until after the 4<sup>th</sup> time, because without the 4<sup>th</sup> goring there is nothing to pay for. However, regarding chazaka, as soon as the property is used for 3 years it is established in the reshus of the buyer.
  - **Q:** If chazaka is learned from the muad ox, we should say that as long as the property was used for 3 years it should be established in his possession, even if he doesn't also make a claim that he bought the field!? Yet, a Mishna says that without making that claim, the 3 years of using the field is worthless!? **A:** The whole concept of chazaka is to strengthen a claim of ownership. If he makes no such claim, we will not make the claim for him.
  - **Q:** **R' Avira** asked, if chazaka is learned from the muad ox, we should say that if the original owner protested the possession of his field, but made the protest not in the presence of the squatter, it should not be a valid protest, just like by a muad, where the warnings must be given in the presence of the owner of the ox!? **A:** Regarding the ox the pasuk says "v'hu'ad bivalav", which teaches that the owner must be present for the warning. Regarding chazaka the purpose of a protest would be to warn the buyer to be careful to retain his purchase documents. As long as a protest is made, given that people speak to each other, he will eventually hear of the protest, and will therefore be informed to keep his documents.
  - **Q:** According to **R' Meir** who says that if an ox becomes a muad when he gores on 3 successive days, he surely becomes a muad if he gores 3 times on the same day, then

regarding chazaka we should say that if he ate the same fruit, but from 3 different crops, as is possible with figs (where they ripen at different times), it should be a chazaka as well!? **A:** This won't work, because just like by the ox, at the time of one goring the next goring does not exist, the same must be regarding the fruit, that when one crop is eaten, the next one must not yet be in existence.

- **Q:** If he used the property to harvest 3 crops in 3 days, like the "tzlaf" (which grows in 3 days, and therefore when the first crop is harvested, the second is very small and virtually nonexistent), it should count as a chazaka!? **A:** The crop is there when the first one is harvested, it is just very small and needs to grow. Therefore, it is not considered to act as a second step for chazaka.
- **Q:** What if he used the property to plant "aspasta" (which grows to full maturity in 30 days, and was typically cut 3 times during this 30 days growth)? If he harvests 3 times during the 30 days it should be considered as a chazaka!? **A:** If he cuts it within the 30 days, it is not considered to be a true harvest, but rather is viewed as a quick cutting, which does not establish chazaka.
- **Q:** If he planted aspasta for 3 consecutive 30 day periods, that should establish a chazaka!? **A:** When the Mishna refers to "the Sandhedrin who traveled to Usha", it is referring to **R' Yishmael**, who says in our Mishna that gathering 3 crops will create a chazaka (and would therefore agree that the aspasta could create a chazaka after 3 consecutive 30 day periods).