



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

Bava Basra Daf Mem Aleph

MISHNA

- If a chazakah is not accompanied by a claim, it is not an effective chazakah.
 - How so? If the owner said to the occupant, "What are you doing in my field?" and he replied, "No one ever said anything to me", that is not a chazakah. However, if he replied, "You sold it to me!", or "You gave it to me as a gift", or "Your father sold it to me", or "Your father gave it to me as a gift", it would create a chazakah.
 - Someone who gets a property through inheritance does not need a supporting claim.

GEMARA

- **Q:** It seems obvious that a claim must be made!? **A:** We would think that this person really purchased the field and lost his deed. He thinks that if he claims that he bought the field Beis Din will ask him for his deed, and he therefore just doesn't make that claim. We would therefore think that Beis Din should help him by asking whether he maybe purchased the field. The Mishna teaches that we do not do so.
- There was a flood in **R' Anan's** field that swept away the boundary fence. When he put it back, he mistakenly put it into his neighbor's property. They went to **R' Nachman**, who told him to return the fence to where it truly belonged. **R' Anan** said that he had already made a chazakah. **R' Nachman** said, you must be saying this according to **R' Yehuda and R' Yishmael**, who say that a chazakah can be established immediately if it is done in the presence of the owner, but we do not pasken like them. **R' Anan** said, the neighbor helped me install the fence, and by doing so he was mochel! **R' Nachman** said, he was mistakenly mochel, because even you put it there by mistake, so he too was mistaken.
- There was a flood in **R' Kahana's** field that swept away the boundary fence. When he put it back, he mistakenly put it into his neighbor's property. They went to **R' Yehuda**. The neighbor brought two witnesses – one said that the fence was 2 rows into his land and the other said that it was 3 rows into his land. **R' Yehuda** told **R' Kahana** that he must move the fence two out of the three rows. **R' Kahana** asked, who are you issuing this ruling in accordance with? **R' Yehuda** said, in accordance with **R' Shimon ben Elazar**, who says in a Braisa that **B"H** hold that for example, when one witness of a pair says 100 and the second says 200, it is considered to be a valid pair of witnesses for the 100, because included in 200 is 100. **R' Kahana** said, I will bring you a letter from EY showing that we do not pasken like **R' Shimon ben Elazar**!? **R' Yehuda** said, when you bring the letter I will reconsider.
- There was a person who lived in the upper level in a house in Kashta for 4 years. The owner came and asked him what he was doing there. The person replied, "I bought it from so-and-so, who bought it from you". They went to **R' Chiya**, who told the occupant, "If you have witnesses to testify that this person you bought it from lived in the house for even one day, I will say the house goes to your possession, but if you do not, I will not". **Rav** said that he asked **R' Chiya**, people buy and sell houses without ever living in them!? **Rav** said, I saw that **R' Chiya** would hold, that if the occupant would have said, "I saw my seller buy it from the owner" that he would be believed with a miguy that he could have said that he bought it directly from the owner.
 - **Rava** said, **R' Chiya's** ruling seems logical based on our Mishna, which said that an heir does not need to make a claim. This suggests that no claim needs to be made, but he does have to bring some proof that it was his father's. The same was done here, by requiring the buyer to bring some proof that his seller owned the property (by showing that he lived there).

- The Gemara says, this is no proof. The Mishna may mean that no claim or proof is needed. We can also say that an heir is different than a purchaser, because a purchaser would not pay money for something unless he was sure that the seller owned the property. Therefore, maybe we would not even make him bring any proof.
- **Q:** What if the seller was seen in the property, but not seen actually using it? **A: Abaye** said, this is the equivalent of proving that he used it, and **Rava** said, this no proof, because people sometimes go measure land with an intent to buy, but don't end up buying it.