



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

Bava Basra Daf Mem Beis

- Three consecutive buyers of a field (the initial purchaser sold to a second person, etc.), who together have been there for 3 years, combine to establish a chazakah against the original owner.
 - **Rav** said, this is only if all the purchases were done with documents (as opposed to oral sales).
 - **Q:** Does this mean that **Rav** holds that only a sale in a document becomes public knowledge, but one done orally with witnesses does not? This can't be, because **Rav** says that one who sells his field orally with witnesses with achrayus can be collected from even from his encumbered property!? **A:** In the case of the seller with achrayus, the later buyers of his other properties have brought the loss upon themselves, by not researching to see what other fields the seller may have sold with achrayus.
 - **Q:** Did **Rav** really say that one can collect from encumbered property based on an oral purchase? A Mishna says that one who lends with a document may collect from encumbered property, but one who lends based on witnesses may only collect from unencumbered property!? We can't say that **Rav** is considered to be a Tanna and can argue on a Mishna, because we find that **Rav and Shmuel** both say that an oral loan may not be collected from heirs or purchasers of the borrower!? **A:** The case of lending can't be compared to the case of a purchase. A loan is done in private so that people not perceive the borrower as desperate for cash and offer less than value for his property. A purchase is done in public so that the seller can get top dollar for his property.
 - A Braisa says, if a father used a property for one year and died, and his son then used it for the next 2 years, or if the father used it for 2 and the son used it for one, or even if the father used it for one, the son used it for the second, and a buyer then used it for the third, it establishes a chazakah. This Braisa supports the halacha stated above.
 - **Q:** Does this mean to say that a purchase becomes publicly known? A Braisa says, if someone used the property of a man for two years, and following this man's death they continued to use it for a year in front of the son, or they used it for one year in front of the father and two in front of the son, or they used it for a year in front of the father, for another year in front of the son, and for a third year in front of the purchaser of the field from the son, it establishes a chazakah. Now, if the purchase of property becomes publicly known, the son's selling of the property is the biggest form of protest that there can be, so why would a chazakah be established!? **A: R' Pappa** said, the Braisa is discussing where the son sold all of his properties in bulk, without specifying the properties included. Since nothing is specified, it cannot be viewed as a protest.

MISHNA

- Craftsmen, partners, sharecroppers, and apotropin cannot establish a chazakah. A man cannot establish a chazakah in his wife's property, and a wife cannot establish a chazakah in her husband's property. A father cannot establish a chazakah in his son's property, and a son cannot establish a chazakah in his father's property.
 - This is all said regarding a chazakah used to prove ownership. However, if one gives a gift, or brothers who divide an estate, or one who takes possession of the property of a ger who has died, if he locks the fence, builds a fence, or breaches the fence any small amount, this would create a kinyan chazakah.

GEMARA

- **Shmuel's** father and **Levi** taught the Mishna as saying “a partner cannot establish a chazakah”, without saying anything about a craftsman, because we would learn from the case of partners that a craftsman can surely not create a chazakah. **Shmuel** taught the Mishna as saying “a craftsman cannot establish a chazakah”, without mentioning the case of partners, which would suggest that a partner could establish a chazakah.
 - **Shmuel** follows his view elsewhere where he says that partners can establish a chazakah on each other, can say testimony on behalf of each other, and can become a shomer sachar for the other.
 - **Q: R' Abba** asked **R' Yehuda**, did **Shmuel** say that a partner can establish a chazakah? We find that **Shmuel** says that a partner who occupies the land of his partner is considered to be there with permission. Presumably, this was said to mean that the partner cannot establish a chazakah!? **A:** In one place **Shmuel** refers to where the partner occupied the *entire* field, and in the other case he refers to where the partner only occupied part of the field. [There are two ways of understanding this answer. Some say that when he occupies the entire field is when he could establish a chazakah, and some say that when he occupies part of the field is when he can establish a chazakah.] **A2: Ravina** said, that both statements refer to where the partner occupied the entire field. One case is where the field is large enough to force division of the field – in that case a chazakah can be established. The other case is where the field is not large enough to force a division.
 - **Q:** When **Shmuel** said “a partner who occupies the land of his partner is considered to be there with permission”, what did he mean to teach? If he meant to teach that partners can't create a chazakah, then why didn't he say so explicitly? **A: R' Nachman in the name of Rabbah bar Avuha** said, he meant to teach that he gets a share of the fully grown produce that he cared for in the field, and that he gets the full share even if he planted something that is not the best use for that field.