



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

### Bava Basra Daf Mem Ches

- **R' Huna** said, if they hanged a person and tortured him until he sold something to them, the sale is a valid sale. The reason is, every sale is based on financial duress of the seller, so physical duress should not be treated any different.
  - **Q:** Maybe when he forces himself (because of financial constraints) it is different than when he is forced by someone else? **A:** Rather, the reason of **R' Huna** is as was taught in a Braisa. The Braisa says, that when someone consents to bring a korbon after being forced to do so, it is considered to be valid consent. The same would be with a sale.
    - **Q:** Maybe that case is different because a person is happy to achieve a kaparah, and that is why his forced consent is considered to be a true consent? **A:** The Braisa also says that forced consent is considered to be consent for the giving of a get.
      - **Q:** Maybe that case is different because a person truly wants to listen to what the Chachomim tell him to do, but that reasoning doesn't apply to a forced sale!? **A:** Rather, we say that because of the torture, he fully consents to the sale.
      - **Q: R' Yehuda** asked, a Mishna says, if a husband was forced by a Beis Din into giving a get, it is valid. If he was forced by a non-Jewish court, it is passul. However, the non-Jewish court can beat him and tell him "Do as the Jewish courts told you to do!", and it would then be valid. Now, according to the above reasoning, why don't we say that the forced consent is a valid consent even in the non-Jewish court? **A:** We have learned that **R' Mesharshiya** said, D'Oraisa when a goy forces a Yid to give the get it is effective. The **Rabanan** said it is passul so that women not be encouraged to go to goyim to force their husbands to give a get.
      - **Q: R' Hamnuna** asked, a Mishna says, if a Yid bought land from the sikrikon (one who forces with threats), and he then made a kinyan with the Jewish owner of the land as well, the purchase is void and he must return the land to the Jewish owner. Now, according to the above reasoning, why don't we say that the forced consent is a valid consent? **A:** We have learned that **Rav** said, we only say that he didn't truly transfer ownership of the land if he told the purchaser to make a kinyan of chazaka (and there is no evidence of him being paid for the land). However, if he went and wrote a document of sale (which suggests that he was paid, and it was a forced sale rather than a forced gift), that shows that he truly meant to transfer ownership. You see that a forced sale is valid.
        - **Q:** According to **Shmuel**, who says that even when a document was written the sale is invalid, why is it invalid just because it was forced? **A:** **Shmuel** would agree that where the person was paid, the sale is valid.
        - **Q:** We have learned that **R' Bibi in the name of R' Nachman** said, even when the owner was paid, the sale is still invalid. This shows that a forced sale is invalid!? **A:** **R' Bibi** is the statement of an Amora, and **R' Huna** can argue on that.
  - **Rava** said, the halacha is that if they hanged a person and tortured him until he sold something to them, the sale is a valid sale. However, this is only where the "buyer" demanded an unspecified field and the owner chose one to give to him. But, if they

demanded a specific field, the sale would not be valid. Further, even if they demanded a specific field, it is only voided if the owner didn't count the money, but if he did, the sale is valid. Finally, even if he didn't count the money, the sale is only voided if the owner had no way of escaping these people. If he did, the sale would be valid.

- The Gemara paskens that in all cases the forced sale is a valid sale, even if the demanded field was specified. We see this regarding kiddushin, where a woman is like a specified field, and yet **Ameimar** said, that if a man hanged a woman and tortured her until she agreed to marry him, it is a valid kiddushin.
  - **Mar bar R' Ashi** said that the kiddushin would not be a valid kiddushin, because he acted improperly by doing that to her, so the **Rabanan** acted improperly with him and canceled his kiddushin (which would otherwise be valid).
    - **Q: Ravina** asked **R' Ashi**, the **Rabanan** can do so when the kiddushin was done with money. What do they do when the kiddushin was done with bi'ah? **A: R' Ashi** said, the **Rabanan** render the bi'ah to be an act of zenus.
- Tavi hanged Pappi on a tree until he agreed to sell him his field. **Rabbah bar bar Chana** signed on the moda'ah (the document that said the sale was being done under duress) and he signed on the sale document. **R' Huna** said each signature is proper and valid.
  - **Q: How can they both be valid? If the moda'ah is valid then the sale document is not valid and visa-versa!? A: R' Huna** meant, that if not for the moda'ah, the sale document would be valid. This follows **R' Huna's** view, that a forced sale is valid.
  - **Q: We have learned that R' Nachman** said, if witnesses said that the loan document that they signed was written as a shtar amana, or that the sale document they signed was signed by the seller under duress, they are not believed. Based on this, how could **R' Huna** say that the moda'ah invalidates the document of sale!? **A: R' Nachman** was referring to an oral statement about a written document. An oral statement could not invalidate a written document. However, **R' Huna** is referring to a written document against a written document, in which case the moda'ah does invalidate the document of sale.
    - We have learned, **R' Nachman** said, if witnesses said that the loan document that they signed was written as a shtar amana, or that the sale document they signed was signed by the seller under duress, they are not believed. **Mar bar R' Ashi** said, in the first case they are not believed, but regarding the sale document they are, because the sale document is allowed to be written, whereas a shtar amana may not.