



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

### Bava Basra Daf Samach Hey

- We have learned, that **R' Huna in the name of Rav** said the halacha follows the **Rabanan** (that a seller does not sell generously), and **R' Yirmiya bar Abba in the name of Shmuel** said that the halacha follows **R' Akiva** (that a seller does sell generously).
  - **R' Yirmiya bar Abba** asked **R' Huna**, "I said to **Rav** that the halacha follows **R' Akiva**, and he never corrected me!?" **R' Huna** said, that is because you attributed the shitos in the reverse.
  - **Ravina** said to **R' Ashi**, maybe we can say that **Rav and Shmuel** follow their views from another machlokes. We find that **R' Nachman in the name of Shmuel** said, when brothers divide an estate, they have no right of way through each other's property, have no right to put ladders in each other's property, have no right to place windows overlooking the other's property, or to run an irrigation canal through the other's property. **Rav** says that they do have these rights. Given that brothers who divide an estate are considered to be purchasing the property from each other, **Rav and Shmuel** seem to argue in the same argument here.
    - The Gemara says, it was necessary for them to have the machlokes in both cases. If we would only have the case of the brothers, we would say that only there **Rav** holds that way, because the brother is "buying" the property to be used in the same way that the father used the property (and he had the right of way, etc.), but in a true purchase transaction, maybe **Rav** would agree with **Shmuel**. If we would only have the case of a true purchase, we would say that it is only in that case that **Shmuel** holds that the seller loses his right of way, but in the case of the brothers he retains his right of way, just as the father had a right of way. That is why both cases are needed.
  - **R' Nachman** asked **R' Huna**, does the halacha follow us (i.e. the view of **Shmuel**) or you (i.e. the view of **Rav**)? **R' Huna** said, the halacha follows you, because you are closer to the Reish Galusa, and therefore know which view is followed in practice.
- **Q:** If a person owns two apartments, one which is within the other (and the residents of the inside one must pass through the outside apartment), and he then sells each of them to different people, or gives them each as a present to two different people, neither has a right of way through the other. Certainly, if the inside one was sold and the outside one was given as a gift (a gift is given more generously than a sale), the inside one would have no right of way through the outside one. What if the inside one was given as a gift and the outside one was sold? **A:** Initially they thought to say that they do not get a right of way. However, this is not so. A Mishna says that all the items that we say are excluded from a sale, are excluded from a *sale*. But, if it is given as a gift, he gives them generously and includes all that they need. Therefore, the recipient of the inside apartment will even have a right of way through the outside apartment.

### MISHNA

- The seller of a house sells the doors along with the house, but not the keys. He includes the mortar that is attached to the ground, but not the one that is moveable. He includes the permanent circle around the mill, but not the moveable "keles", tanur, or kirayim. If the seller said that he is selling "the house and everything that is inside of it", everything is included in the sale.

## GEMARA

- **Q:** It would seem that the Mishna does not follow **R' Meir**, because he says in a Braisa that when one sells a vineyard, all the items needed for the vineyard are included in the sale!? **A:** The Mishna can even follow **R' Meir**. The Braisa is referring to items that are permanently left in the vineyard. That is why they are included along with the sale.
  - **Q:** Our Mishna discusses a door and a key, which presumably are in the same situation of being permanently there, and yet the Mishna says that only the door is included and not the key!? **A:** We must say as we proposed originally, that the Mishna does not follow **R' Meir**.
- A Braisa says, one who sells a house also sells the door, the bolt attached to the wall, and the lock attached to the door, but does not include the key. It includes the mortar that was carved out of something attached to the ground, but not the mortar that was carved out of something and later attached to the ground. He includes the permanent circle around the mill, but not the moveable "keles", tanur, kirayim, or the millstones. **R' Eliezer** says, anything attached to the ground is considered as if it is part of the ground. If the seller said that he is selling "the house and everything that is inside of it", everything is included in the sale. In either case (even if he says it includes everything) it does not include the bor, dus, or yetzi'ah.
  - **Q:** A Braisa says, if a piece of wood is hollowed into a pipe and then stuck into the ground, water that flows through it will make a mikvah passul, but if a piece of wood is first attached to the ground and then made into a pipe, water that flows through it will not make a mikvah passul as if the water flowed through a keili, because it is considered as part of the ground. The Braisa seems to follow neither the **Rabanan** nor **R' Eliezer**!?
    - **Q:** Which view of **R' Eliezer** are we referring to? If we are referring to his view in the earlier Braisa regarding the sale of the house, it may be that he holds that those items are included in the sale not because they are considered to be part of the ground, but rather because a seller sells generously, whereas the **Rabanan** hold that a seller does not sell generously!? It also can't be the view of **R' Eliezer** in a Mishna regarding a beehive in which **R' Eliezer** says that a beehive that was attached to the ground has the status of land, one may even write a pruzbul based on it, it is not mekabel tumah, and one who removed honey from it on Shabbos is chayuv a chatas, whereas the **Chachomim** say, that it is not like land, a pruzbul may not be written based on it, it is mekabel tumah in its place, and one who takes honey from it on Shabbos is patur (this would show that **R' Eliezer** holds that something later attached to the ground is considered to be like the ground itself, which is at odds with the Braisa regarding mikvah), because his logic there follows that of **R' Elazar**, who learns from a pasuk that one who takes honey from hive on Shabbos is chayuv (and therefore it would not teach that **R' Eliezer** holds that it is like it is part of the ground)!?