



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

Bava Basra Daf Zayin

- There were 2 brothers who inherited a house. One lived on the upper floor and one lived on the lower floor. The house began sinking, to the point that the brother on the lower level would have to bend down when entering his house. He told the upstairs brother "Let's knock down this house and rebuild it". The upstairs brother said, "my house is fine, I have no interest to knock it down". The downstairs brother said "I will pay for all the construction". The upstairs brother said, "I do not have anywhere to live during the process". The other brother said, "I will rent a place for you". The upper brother said "I still don't want to go through the bother of having to move". The brother said, "But, I cannot live in my house as is!" The upstairs brother said, "just bend down when you enter and exit!" The case was brought to **R' Chama**, who said that the upstairs brother can legally prevent the rebuilding of the house.
 - The Gemara says, this is true only if the ceiling height for the downstairs house remains at least 10 tefachim high. If it is lower, he can tell the upstairs brother, "Your house has now come into my space, and therefore we must demolish it and rebuild it". Also, this is only true if they didn't make an agreement to rebuild if it begins sinking.
 - **Q:** If they made an agreement, how much does it have to sink in order for him to be able to force the upstairs brother to rebuild? **A:** The **Rabanan in front of Rava in the name of Mar Zutra the son of R' Nachman in the name of R' Nachman** said, it is like we learned in a Mishna that the height of a room should be equal to half its length plus half its width (as it was in the Heichal). **Rava** said to them, I told you not to say empty things in the name of **R' Nachman!** Rather, **R' Nachman** said that he cannot force the brother to rebuild as long as the house can be lived in like normal people live in a house. **R' Huna the son of R' Yehoshua** explained that this requires enough room for someone to bring in bundles of reeds from Mechuza and turn around in all directions in the house.
- There was a person who was building a wall behind the windows of his neighbor's house (i.e. his wall would block the windows). The neighbor said "you are making my house dark!" The builder said, "I will close up the windows I am blocking and make you new windows higher up, above my wall". The neighbor said, making new windows damages the existing wall of the house. The builder therefore offered to take down the neighbor's wall to the point that the new windows would be placed and rebuild it with the new windows (which would not be knocking in new windows and would therefore not damage the wall). The neighbor said, having a new wall on top of an old wall will not work well structurally. The builder offered to knock down the neighbor's entire wall and build it new from the ground up. The neighbor said, a house with 3 old walls and one new wall cannot remain structurally sound. The builder offered to knock down the entire house and rebuild it for him, with the windows high up. The neighbor said, I have nowhere to live if you do that. The builder offered to rent a place for him. The neighbor said, even so, I don't want to go through the bother of having to move. This was brought to **R' Chama**, who said that the neighbor has the right to prevent the builder from building the wall that would block the light.
 - **Q:** This seems to be essentially the same case as the first one!? **A:** The chiddush of this second case is that the neighbor can prevent the building even if he didn't live in that house, and instead used it to store straw or wood.
- There were two brothers who divided their inheritance in a way that one ended up with a mansion and the other with the garden outside of the mansion. The brother with the garden built a wall that blocked the mansion's light. The other brother said, "you are making my house dark!" The brother replied, "I have built on my own property". The was brought to **R' Chama**, who said that the owner of the garden has the right to build the wall.

- **Q: Ravina** asked **R' Ashi**, why is this different than a Braisa that says that when brothers divide an estate so that one ends up with a vineyard and the other with a field of grain, we assume that the owner of the vineyard may use the 4 amos of the grain field that is adjacent to the vineyard for purposes of the work he needs to do on the vineyard. This is because we assume that the division was done to allow each to enjoy the full benefits of what they end up with. Our case should be based on this assumption also, and he should therefore not be allowed to block the mansion's light!? **A: R' Ashi** said, the Braisa is discussing where the one who got the vineyard also had to pay cash to the other brother (because he took the more expensive part) and therefore he is entitled to full use.
 - **Q:** This case is surely talking about where the one who took the mansion paid money as well!? **A: R' Ashi** said, he only gave money equal to the value of the materials that made up the mansion, but he didn't give money to grant him the right to light.
- **Q:** Why can't the owner of the mansion say, "I was given a mansion as my portion, but I am now left with a dark house (which is not a mansion)!" **A: R' Simi bar Ashi** said, as long as it was referred to as a mansion, even if it is not a mansion, he has gotten the portion that he was to get. We see this concept in a Braisa, which says that when someone buys something, even if the item is not technically what it was referred to as, it is a good sale if the item was known by that name.
 - **Q:** In the Braisa, it is a question of a seller and buyer, and the seller can say that he sold him what they had discussed. However, in our case, the brother can say that divided the estate and took the mansion only to be able to live in it as his father did (with the light)!? **A: Mar Yenuka and Mar Kashisha the sons of R' Chisda** said to **R' Ashi**, **R' Chama** holds like **Shmuel**, who was quoted by **R' Nachman** to say that when brothers divide an estate, they do not automatically get the right to use the assets in the way their father did (i.e. if he would walk through his entire property, it does not mean that each brother can do so if the property is now owned by more than one of them).
- There was a promissory note in the possession of young orphans, and when they tried to collect with it, the debtor produced a receipt stating that he paid. **R' Chama** said, we cannot collect the debt because there is a receipt, but we will also not rip up the promissory note, because maybe when the orphans get older they will be able to show that the receipt is not valid.
- **Q: R' Acha the son of Rava** asked **Ravina**, how do we pasken in these 4 cases? **A: Ravina** said, in all these cases we pasken like **R' Chama** except for this last case, because we do not assume that the witnesses are false. **Mar Zutra the son of R' Mari** said that we even pasken like **R' Chama** in that case, because the fact that the receipt was never produced until after the father died makes us believe that the receipt may have been forged.

MISHNA

- We force the residents of a chatzer to pay for the building of a gatehouse and a door for the chatzer. **R' Shimon ben Gamliel** says, not all chatzeiros need a gatehouse.
- We force the residents of a city to pay for a wall, for double-doors, and for a crossbar. **R' Shimon ben Gamliel** says, not all cities need a wall.
 - How long does one have to be living in a city to be considered a resident of that city for these purposes? Twelve months. If he bought a house in the city he is considered to be a resident immediately.

GEMARA

- **Q:** The Mishna makes it sound like having a gatehouse is a good thing, however, we find that Eliyahu once stopped visiting a certain chossid when the chossid built a gatehouse, which shows it is not a good thing!? **A:** When it is inside the door of the chatzer it is a bad thing, because it prevents the voices of the paupers from being heard. When it is on the outside, it is not a bad thing. **A2:** We can say both are talking about where it was built on the outside. In the case of the chossid it had a door, which prevent them from going in. The Mishna is talking about where there is no door. **A3:** We can also say that they both had doors, but the gatehouse of the chossid didn't have a doorknob, but the Mishna is talking about where it does. **A4:** We can say that in

both cases they had doorknobs, but the chossid's had a doorknob only on the inside, whereas the Mishna is talking about where the doorknob is on the outside.

KOFIN OSO LIVNOS BEIS SHAAR V'DELES L'CHATZER

- A Braisa says, **R' Shimon ben Gamliel** says, only the chatzeiros in the mavuy that are near the reshut harabim need a gatehouse. The ones deeper in do not. The **Rabanan** feel that at times the public pushes deep into the mavuy, and therefore all chatzeiros need a gatehouse.

KOFIN OSO LIVNOS LA'IHR...

- A Braisa says, **R' Shimon ben Gamliel** says, only the cities near the border need a wall. The **Rabanan** feel that even other cities can at times fall risk to attacking troops, and therefore all cities need a wall.
- **Q: R' Elazar** asked **R' Yochanan**, do they collect for the wall based on wealth (most attackers come for the money) or based on people (attackers come to kill)? **A: R' Yochanan** said, we collect based on wealth.
 - **Others** say, that **R' Elazar** asked whether we only take wealth into account or if we also take proximity to the edge of the city into account as well. **R' Yochanan** said that we do take proximity into account.
- **R' Yehuda Nesia** required the **Rabanan** to pay for the wall of their city as well. **Reish Lakish** said, **Rabanan** don't need the protection of a wall, and therefore don't have to pay for it.