



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

Bava Basra Daf Ayin Aleph

MISHNA

- When one sells a field, even if he says the sale includes everything in the field, the sale does not include the bor, the winepress, or the dovecote in the field, whether these items are still being used or are no longer used.
 - **R' Akiva** says, the seller would have to purchase a right-of-way from the buyer to get to these items that are not part of the sale. The **Chachomim** say that he does not have to purchase a right-of-way. **R' Akiva** would agree, that if the seller said "I am selling you my field *except for* these items", he would not have to purchase a right-of-way.
 - If the seller sold these items to a buyer, but kept the field for himself, **R' Akiva** says, the buyer does not have to purchase a right-of-way to get to these items, and the **Chachomim** say that he does.
- When is it that a transaction does not include all the items in the asset? That is only when the asset is sold, but if the asset is being given as a gift, the gift includes all the items (even the ones we have been saying are not included in the sale).
- When brothers divide an estate, when they are koneh a field, they are koneh *everything* in that field.
- When one makes a kinyan on the field of a ger who has died without heirs, when he is koneh the field he is koneh *everything* in that field.
- When one gives a field to hekdes, he is makdish *everything* in that field. **R' Shimon** says, from the items that are normally excluded from a sale, the only items that are included for hekdes are the grafted carob tree and the pruned sycamore tree.

GEMARA

- **Q:** What is the difference between a sale and a gift? **A: Yehuda ben Nekusa** explained in front of **Rebbi**, that the case of the gift is that the giver specified that the items are included and the case of the sale was that the items were not specified.
 - **Q:** The Mishna speaks of where nothing was specified in either case!?! **A:** Rather, **Yehuda ben Nekusa** meant, that the giver should have specified that he is leaving out these items if he meant to leave them out, because a giver gives generously. The seller did not have to specify if he meant to leave them out, because a seller does not give generously.
- There was a person who instructed that a gift of "a house that holds 100 barrels" be given from his property. They searched his property and only found a house that could hold 120 barrels, but none that could hold only 100. **Mar Zutra** said, we should not give any of the houses, since none fit the description of the giver. **R' Ashi** said, the Mishna has taught that a giver of a gift does so generously. Therefore, we assume that he meant to give the house that holds 120 barrels.

HAMAKDISH ES HASADEH HIKDISH...

- **R' Huna** said, even though the **Rabanan** in a Mishna said that if one buys two trees he does not get any land along with the trees, if one were to sell his field and leave two trees over for himself, he would keep the land under and around the trees.
 - This is true even according to **R' Akiva** who says that one sells generously, because he only holds that way regarding a bor, which does not damage the land around it. However, regarding a tree, which does negatively impact the field around it, if the seller of the field were not to also retain some land, the buyer of the field would be able to demand that the trees be removed after they die, and that the seller not be allowed to plant new ones in their place. The seller surely did not mean to allow that to happen, and therefore we are certain that he meant to keep the surrounding land for himself along with the trees.

- **Q:** The Mishna said that **R' Shimon** says, from the items that are normally excluded from a sale, the only items that are included for hekdesch are the grafted carob tree and the pruned sycamore tree. A Braisa elaborates that **R' Shimon** explained, these items are included, because they nourish from the hekdesch field. Now, if **R' Huna** is correct, that when the seller excludes two trees he also retains the land for himself, in the case of **R' Shimon** the trees are nourishing from the owner's property, not from hekdesch!? **A:** **R' Shimon** follows the view of **R' Akiva**, whereas **R' Huna** must have only said his halacha in accordance with the **Rabanan**.
- **Q:** If **R' Huna** was saying only according to the **Rabanan** it would be obvious and there would be no need to say it at all!? **A:** We would have thought that he only retains the land for as long as the trees are alive. **R' Huna** is teaching that even after the trees die the seller retains the land, and he may therefore even plant new trees on that land.