



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

Bava Basra Daf Kuf Mem Ches

- **Q:** What is the halacha if a person gave a palm tree to one person and the fruit of that tree to another person? Do we say that he only gave the first person the tree less the place on the tree where the fruits go, and that part of the tree he is now giving to the second person (so it is a valid gift to the second person), or do we say that he gave the first person the entire tree, and therefore the gift to the second person is not valid? If we say that he meant to give the entire tree to the first person, what about a case where he gave the tree to a person and kept the fruits for himself? **A: Rava in the name of R' Nachman** said, in the case of where he kept the fruit for himself he definitely did not give the place on the tree where the fruit comes out, to the first person, because when a person leaves over something for himself, he certainly means to do so in a way that guarantees to maximize his potential benefit.
 - **R' Abba** said to **R' Ashi**, we taught the above discussion in regard to the statement of **Reish Lakish**. **Reish Lakish** said, if someone sells a house with the stipulation that he is to keep the fenced in rooftop, the fenced in rooftop remains in his (the seller's) possession for rights beyond those that he would keep in the rooftop automatically (a person never includes the rooftop in the sale of a house), because otherwise the statement has no effect. **R' Abba** said, we asked on this, what if a person gives his house to one person and the fenced in rooftop to another person? Do we say that he meant to leave out the rights of the rooftop from the first person and give them to the second person? If we say that he did not mean to leave out that right, what if the person gave the house and added "except for the rooftop"? In this case did he mean to leave over the rooftop and accompanying rights for himself? **Rava in the name of R' Nachman** answered, that even if we say that when he gives it to another person it does not mean it was left out of the gift to the first person, when he says "except for the fenced in rooftop" and leaves it over for himself it is certainly left out of the first gift. This retention for himself allows him the right to place beams that stick out from the roof into the chatzer, as was explained by **R' Zvid** elsewhere.
- **R' Yosef bar Menyumei in the name of R' Nachman** said, if a dying person signs away all his possessions, we must make a determination: if, from the very beginning he intended to give away all his possessions, then if he dies we follow his instructions and if he gets better he retains all his possessions. However, if it seems that he initially intended to give away some of his possessions and he later changed his mind and gave away the remaining possessions as well, then if he dies we follow his instructions, but if he gets better he can only take back the last of the gifts that he gave (the earlier gifts were given with leaving over something for himself).
 - **Q:** Maybe he meant to give everything away, and the reason why he stopped mid process was to think where he wants to give the next gift (and it was not because he initially did not intend to give all his possessions and now decided that he should)!? **A:** Typically a dying person first thinks it all through and then begins to instruct. Therefore, if he instructed and then stopped, we assume that it is due to a change of heart.
- **R' Acha bar Menyumei in the name of R' Nachman** said, if a dying person signs away all his possessions and then recovers from his illness, we do not give his possessions back to him, because we are concerned that he may have possessions in another country that he left over for himself.
 - **Q:** If so, what is the case of our Mishna when it says that if the dying person did not leave over anything for himself and then recovers, he retains all his possessions? **A: R' Chama** said, the case would be where he said "all my possessions should go to ploni". That language shows that he leaves nothing for himself. **Mar bar R' Ashi** said, the case

would be where we have a chazakah that he has no other possessions (other than the ones that he gave away).

- **Q:** If a dying person gave his possessions to one person and made a partial retraction to give some to someone else, would that be considered a full retraction of all the possessions or not?
A: A Braisa says, if a dying person gave all his possessions to one person and then made a partial retraction by giving some of them to a second person, the second person is koneh and the first person is not. Presumably this is talking about where the person died, and this shows that the partial retraction acts like a full retraction.
 - The Gemara says this is no proof. The Braisa may be discussing where the dying person recovered, and that is why the first person is not koneh anything. This makes sense based on the next part of the Braisa as well. The Braisa says that if he had given part of his property to the first person and all of the remaining property to a second person, the first person is koneh and the second is not. Now, this makes sense if he recovered, because that would be why the second person is not koneh. However, if he died, why would the second person not be koneh?
 - **R' Yeimar** said to **R' Ashi**, even if the Braisa is discussing where he recovered, the Braisa still acts as a proof. If we say that a partial retraction acts as a full retraction, that would be why in the first case the second person is koneh (because the first gift is batel and the second gift is a gift where the dying person left over possessions for himself). However, if the partial retraction is not a full retraction, then it should be viewed as if he gave away all his property and the second person should not be koneh if the owner recovers! It must be that a partial retraction is considered to be a retraction of the entire gift.
 - The Gemara paskens that a partial retraction is considered to be a full retraction. Therefore, the first part of the Braisa can be discussing where the person died or he recovered, and the second part of the Braisa must be talking about where he recovered.
- **Q:** What is the halacha if a dying person was makdish all of his possessions and he then recovered? Do we say that when one gives to hekdeshe he does so irrevocably, or do we say that no one would give away his possessions irrevocably? **Q2:** What if a dying person makes all his possessions hefker? Do we say that since he gives it to the poor as much as he is giving to the rich he does so irrevocably, or do we say that no one would give away his possessions irrevocably? **Q3:** What if a dying person gave all his possessions to the poor? Do we say that when one gives tzedaka he definitely means to do so irrevocably, or do we say that no one would give away his possessions irrevocably? **TEIKU.**
- **R' Sheishes** said, if a dying person says that ploni should “take” or “yizkeh” (get ownership) or “yachzik” (take possession) or “be koneh” it becomes an effective gift. A Braisa says, if he used the words “yachasin” or “yeiras” (which are forms of inheritance) it will also be a valid gift as long as the recipient is an heir.
 - This Braisa must follow **R' Yochanan ben Broka** (who says that a person may give more to one heir over another).
 - **Q:** What if he said “ploni should benefit from my possessions”? Does that mean that all his possessions should be given as a gift, or does it mean that he should have some benefit, but no gift is actually given? **Q2:** What if he said “ploni should be seen in my possessions”? What if he said “ploni should stand in my possessions”? What if he said “ploni should rely on my possessions”? Do these statements create a valid gift? **TEIKU.**