

OVERVIEW of the Daf

1) Clarifying the Mishnah (cont.)

Another resolution to the contradiction between two Beraisos is presented.

2) A slave taken forcibly from a Jew

A Baraisa rules that a slave taken as payment for a loan or by an extortionist does not go free.

This ruling is unsuccessfully challenged.

Another unsuccessful challenge to this ruling is presented.

Rav rules that a slave that was sold to a blackmailer goes free.

The rationale for penalizing the owner is explained.

3) Selling a slave to a non-Jew

R' Yirmiyah asks a series of questions related to the ruling that one who sells his slave to a non-Jew is obligated to set him free.

The Gemara answers only some of R' Yirmiyah's questions.

R' Ami was asked whether the Jewish owner of a slave is permitted to take money for a slave that gave himself over to bandits.

R' Zerika cited a Baraisa that indicates that it is permitted to take money in this case.

The proof from the Baraisa is rejected.

R' Ami ruled that it is permitted to take money in this case.

R' Yehoshua ben Levi rules that someone who sells his slave to a non-Jew is obligated to buy him back even at one hundred times the slave's value.

The Gemara inquires whether the reference to "one hundred times" was precise or an exaggeration.

An unsuccessful proof is presented.

A second version of the previous discussion is recorded.

R' Yirmiyah asked R' Assi whether the fine to buy back a slave sold to a non-Jew extends to his children in the event that he dies. The Gemara elaborates on the question.

R' Assi demonstrated that the penalty does not extend to the child of the one who sold his slave to a non-Jew.

Abaye presents a parallel ruling.

4) Selling a slave to someone who lives outside of Eretz Yisroel

A Baraisa presents a dispute whether a slave who was sold to someone who lives outside of Eretz Yisroel goes free.

(Overview...Continued on page 2)

REVIEW and Remember

1. What is the status of a woman betrothed by a half-freed slave?
2. How does a person arrive at a full understanding of Torah?
3. What is the dispute between R' Yosef bar Chama and R' Zeira?
4. What is the status of a field sold during Yovel?

Distinctive INSIGHT

The penalty for financial misdeeds

כוון מלאכתו במועד ומת לא קנסו את בנו אחריו

Our Gemara cites two examples of a person who acted improperly in order to gain financially. One is where a person intentionally inflicted a blemish onto a בכור, in order not to have to give the animal to the kohen and thereby keep it for himself, and the other is where a person sold his non-Jewish slave to a non-Jew. In both cases, the person is penalized. In the first case, the owner is not allowed to slaughter the animal based upon this particular wound, and in the second case, the slave must be redeemed, even at high cost.

The Mishnah in Moed Kattan (12b) teaches that although labor is prohibited on Chol HaMoed, there are certain situations where we make an exception. For example, it is permitted for a person to collect his produce to protect it from thieves, and one may draw his flax out of the dye in order that it not be ruined. The qualification for these emergency exceptions is that a person does not intentionally schedule to perform these salvage operations on Chol Hamoed. If a person is faced with a bona fide crisis, he may react, but he may not "create" a mishap to coincide with Chol Hamoed. If he does manipulate the conditions and schedules such tasks for Chol Hamoed, the halacha prohibits him from dealing with it, and he is penalized (קונסין) and must sustain the financial loss.

There are two explanations in the Rishonim to explain the nature of this penalty. Rashi (Bechoros 34b) explains that we do not allow the owner to perform any labor necessary to salvage his items. Although there is a general category of דבר האבד—a potential financial loss—where we permit work to be done, in this case we do not extend the leniency to this person who intentionally scheduled to do this work on Chol Hamoed. In Moed Kattan (12b), Rashi explains that the penalty is that we do not allow the person to benefit from the item which resulted from work on Chol Hamoed. Not only should the work not be done, but if it is done, we also impose a penalty not to benefit from it.

Rambam (Commentary to Mishnah, Moed Kattan) writes that anyone who schedules work to be done on Chol Hamoed is penalized, and the product of this labor is deemed ownerless by the court for all to take. This suggests that the father is prevented from doing such labor, but if a son inherits a situation which confronts him with a loss, the son may perform the work necessary to salvage the item, as he was not the one who scheduled the work to be done on Chol Hamoed. ■

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 By Mr. and Mrs. Ira Arthur Clair and family
 In loving memory of their father's 8th Yaharzeit
 ר' שלום שכנא בן ר' ברוך ע"ה

HALACHAH Highlight

Receiving reparations for a stolen Beis Haknesses

המוכר ביתו לעובד כוכבים דמיו אסורין

One who sells his house to an idolater, the money received for the sale is prohibited

During the period of the Holocaust there were many towns where all the Jewish residents were forced to flee for their lives and while they were gone non-Jews took possession of their Beis Haknesses. After the war there were some communities where the residents returned and even after a strong and concerted effort they were not able to repossess the Beis Haknesses. The only progress they made in their negotiations was an agreement by the non-Jewish owners of the Beis Haknesses to reimburse the Jews for the property that was taken. The residents wondered whether it was permitted for them to take the money. The reason for their uncertainty was the ruling in Shulchan Aruch¹ that prohibits the sale of a Beis Haknesses of a large city and perhaps taking money for the Beis Haknesses that was already confiscated is included in the prohibition. On the other hand, since it is impossible to take legal possession of the building and refusing to take payment for the building will not benefit their cause, perhaps it is permitted to take the money since it is not really a sale of the property.

Rav Betzalel Stern², the B'tzeil Hachochmah, begins his analysis of this issue with our Gemara. The Gemara states that it is prohibited to sell one's home to an idolater (Rashi³ explains that this halacha applies in Eretz Yisroel) and if one does sell his home to an idolater the money is prohibited from benefit. If, however, the idolater took the house forcefully and the Jewish owner has no recourse, neither in Beis Din nor in the secular courts, it is permitted for the Jewish owner to take the money offered for the sale of the house because he is merely saving himself from suffering a financial loss rather than

(Overview...Continued from page 1)

R' Shimon's opinion in the Baraisa is unsuccessfully challenged.

R' Yirmiyah inquired about the status of slaves owned by a woman from Israel who marries someone from Bavel.

The Gemara elaborates on the question.

The inquiry is left unresolved.

R' Avahu reports that R' Yochanan taught him that if a slave follows his owner out of Eretz Yisroel and then the owner sells him there he must be set free.

This ruling is unsuccessfully challenged.

A related Baraisa is cited.

R' Anan reports that he heard Shmuel issue two rulings, one related to the case of a slave who was sold to someone outside of Eretz Yisroel and the other related to someone who sold a field during the Yovel year. In one case the purchaser is refunded the purchase money and in the other case he is not, but R' Anan did not remember which ruling applied to which case.

R' Yosef resolves the matter by citing a related Baraisa. ■

selling the house. This seems to be a precedent for our case and indicates that when the sale of property is forced on the Jewish owner and is not done willingly, the prohibitions are suspended. This principle should apply to a Jew selling his home to an idolater as well as selling a Beis Haknesses to non-Jews.

After further analysis he concludes that it is permissible to take the money the non-Jews are offering for the building that used to be a Beis Haknesses. He also emphasizes that there is no reason to hold off from taking the money with the hope that with time the non-Jews will have a change of heart and return the building to the Jewish community. ■

1. שו"ע או"ח סי' קנ"ג סעי' ז'.
2. שו"ת בצל החכמה ח"א סי' כ"ט.
3. רש"י מ"ד. ד"ה המוכר ביתו. ■

STORIES Off the Daf

A Question of Compensation

"המוכר בית לעובד כוכבים דמיו אסורין..."

It is hard to imagine the impossible conditions of the Holocaust. First, the Nazis would make decrees; next, they would isolate the Jewish community; finally, the communities were liquidated.

After the war, many of the broken survivors returned home to try and rebuild their shattered lives. To their chagrin, all too often their undisputed assets that had been expropriated by others were not returned. Sometimes the Jews were targets for Nazi sympathizers. What better way to deal with a Jew's claim to property then to

kill him? Even in more moderate places, where much of the stolen properties were returned, there were often insurmountable difficulties. In one town, the magnificent shul had been turned into a public assembly hall. All efforts of the Jews to reclaim the shul were met with complete indifference. Finally, the few survivors were offered monetary compensation for the lost shul. But could they accept it? It is of course forbidden to sell a shul except in the most unusual circumstances, which in this instance did not exist. On the other hand, could they take the money anyway since they were not exactly selling the shul and they would not otherwise be permitted to take possession of it anyway?

This question was raised to the B'tzel

Hachochmah, zt"l. He permitted the community to accept compensation for the stolen shul. "In Gittin 44, we find that although it is forbidden to sell property in Israel to a non-Jew, if the non-Jew stole a Jew's house and the Jew cannot recover it, the owner may accept payment for it. He can force the non-Jew to pay for it in civil courts since this merely recoups the Jew's loss.

"If one may take recompense from a non-Jew for a house he stole in Israel where there is an actual Torah prohibition to sell to him, clearly one may accept compensation in your case as well. In your case, selling a shul is only a Rabbinic prohibition."¹

■

1. שו"ת בצל החכמה, חלק א' סימן כ"ט

