

## OVERVIEW of the Daf

### 1) Purchasing the stolen field after the thief sold it (cont.)

The practical difference between the two explanations of Rav is refuted and another practical difference is presented.

This distinction is also challenged and the Gemara offers another practical difference between these two explanations.

The Gemara discusses additional cases of a robber acquiring ownership of a field that he initially stole and gave to someone else.

Three opinions are presented to set the parameters for how long after the sale of stolen land do we assume that the robber was seeking to purchase the land to be able to stand by his word.

Rami bar Chama challenges Rav's earlier ruling that a robber may not seize the stolen property from the purchaser if the robber purchased it from the owner.

Rava defends Rav's ruling.

R' Sheishes unsuccessfully challenges Rava's explanation of the relevant Baraisa.

Two related exchanges are presented.

R' Yochanan offers an explanation of the Baraisa.

### 2) Selling property before it is purchased

R' Huna in the name of Rav rules that one who tells his friend, "The field that I will purchase will be yours retroactively from now when I purchase it," has made a binding commitment.

Rava initially asserts that this ruling is limited to a case where the seller referred to an unspecified field but he then retracted this position and stated that Rav's ruling applies even when the seller referred to a specified field.

### 3) Finding a שטר הקנאה

Shmuel rules that one who finds a שטר הקנאה should return it to the owner of the document, the creditor.

R' Nachman conforms that this is Shmuel's position.

R' Amram suggests a proof to this ruling from a Mishnah.

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## REVIEW and Remember

1. What is the practical difference between Mar Zutra and R' Ashi's respective explanations of why a robber purchases the land to protect his purchasers?

2. Is it possible to sell property one anticipates he will inherit from his father?

3. What is a שטר הקנאה?

4. What is a חלטאתא?

## Distinctive INSIGHT

### Selling the land which will be acquired later

אמר רב הונא אמר רב האומר לחבירו שדה שאני לוקח לכשקחנה קניה לך מעכשיו, קנה

Rav Huna in the name of Rav taught the halacha that if someone sells to his friend a field that he is about to purchase from the moment he acquires it, the sale is valid, and the seller may not rescind the offer. The Gemara proceeds to identify the source for this ruling of Rav to be the opinion of R' Meir, who holds that a person can transfer ownership of an item which has not yet entered into existence.

The precise wording of Rav's statement is that the sale is arranged to be valid "מעכשיו" – retroactively from now." Tosafos (ד"ה קניה לך) points out that being that Rav holds according to R' Meir, the sale should be valid immediately even without the seller's stipulating that the sale be effective back to the original moment of the agreement.

Tosafos (Kiddushin 63a) notes that we find two places where the stipulation that the transaction be valid "from now" is stated explicitly. One is our Gemara regarding the sale of a field which is yet to be acquired by the seller. The other place is Kiddushin (ibid.) where a person tells a slave who is owned by someone else, "When I purchase you, I hereby release you from now." Tosafos also mentions that the source of the opinion of R' Meir in the Mishnah does not include this detail, in the case where a man tells a woman, "I hereby betroth you after I convert." Nevertheless, Tosafos feels that although the Mishnah does not include this detail, it is quite possible that the Mishnah is dealing with a case where the stipulation of מעכשיו was said.

Tosafos concludes that there should be no need to say מעכשיו as logic dictates that according to the opinion that one may transfer ownership of an item that is not yet in existence, the transaction would be effective from the time of the arrangement.

Therefore, Tosafos cites ר"י who says that when the term is said, if the sales document is lost or ruined before the seller later buys the field, the earlier sale is still valid, because he said the transaction would be valid from the earlier time. Pnei Yehoshua and רש"ש (Kiddushin, ibid.) question this opinion of ר"י. How can the sale be valid in this case? When it was written, the document referred to the sale of land which was not yet owned by the seller, and when the land was acquired the document was gone.

כל העומד לבא לרשותו כאלו בא לרשותו. The land which was destined to come into his possession is already considered as if it was his at the time of the writing of the document, before the document was lost. ■

Today's Daf Digest is dedicated  
 By the Meer, Rosen and Storz families  
 In memory of their father and grandfather  
 ר' ברוך בן ר' אברהם, ע"ה

# HALACHAH Highlight

## The business of gift-giving

וחד אמר מתנה כמכר וכו'

*One opinion maintains that a gift is similar to a sale etc.*

The Gemara teaches that a gift is treated like a sale and the reason is that it is assumed that the one giving the gift is doing so because he feels a sense of gratitude for something that he received and thus the gift is part of an exchange making it similar to a sale. Poskim use this principle, that there is no distinction between a gift and a sale, for other matters. For example, Rabbeinu Mahari Weil<sup>1</sup> rules that if one sent a friend on a mission and in the course of carrying out the mission the agent died, the principal requires atonement. He should fast for forty days and should give a generous gift to the orphans.

Teshuvos Tzemach Tzedek<sup>2</sup> asserts that Mahari Weil's ruling is limited to a case where the victim was performing his agency without payment but if the agent was paid for his job there is no need for atonement. Since it is common for people who are seeking a means of support to put their lives in danger and the agent knew that he was putting his life at risk the principal is not held accountable. Teshuvos Ramatz<sup>3</sup>, however, challenges this distinction from our Gemara which indicates that even someone who does something for free is assumed to be involved in a sale or exchange of sorts. As such there should be no distinction between someone who was paid to carry out a task and someone who was not paid for that task.

Another application of this concept relates to the prohibition against giving a gift on Shabbos. Teshuvos Divrei Malkiel<sup>4</sup> proves from our Gemara that the prohibition against giving gifts

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R' Zeira rejects this proof.

Rava challenges this refutation but offers another explanation why the Mishnah is not a proof to Shmuel's ruling.

Tangentially, the Gemara explains why the debtor needs a new document of ownership when he pays his debt and takes back his seized land.

### 4) Finding a loan document

R' Avahu in the name of R' Yochanan rules that one who finds a loan document should not return it to the owner even if it is certified.

R' Yirmiyah unsuccessfully challenges this explanation. Rava also challenges this explanation and offers his own resolution.

### 5) Debtors

Rava begins to cite a ruling from R' Nachman related to a debtor who is told to pay his loan. ■

on Shabbos addresses the one who wants to give the gift but not the recipient. The reason is that the prohibition against giving gifts is derived from the verse **ממצוא חפצך**—[refraining] from pursuing your weekday activities and that pasuk restricts involvement in business activities. Since our Gemara teaches that one who gives a gift is, in a sense, paying back a debt, he is the one who would violate the pasuk of **ממצוא חפצך** but the recipient does not violate this restriction. ■

1. שו"ת מהר"י וויל סי' קכ"ה

2. שו"ת צמח צדק סי' ס"ג

3. שו"ת רמ"ץ או"ח סי' מ"ו

4. שו"ת דברי מלכאל ח"א סי' ק' ■

# STORIES Off the Daf

## Changing standards

אבא מן ספרי דמר שמואל הוה

Rav Yissachar Dov Ba'abad, zt"l, lamented the pitiful state of shidduchim during his times. "In Chulin 124 we find that Rav Nachman was the son-in-law of the Reish Galusa, yet in Bava Metziyah 16 we see that Rav Nachman's father was a court scribe, surely not a lucrative occupation. We can draw a very important lesson when we juxtapose these two facts. It shows how klal Yisrael used to relate to shidduchim. For them, the most important advantage of a shidduch was k'vod haTorah. So much so that they did what in our times would be virtually inconceivable:

the daughter of the Reish Galusa married a talmid chacham who was the son of a simple court scribe!

"Today, in our great sins, almost no wealthy man would be willing to take such a lowly shidduch. Even someone with exceptional lineage thinks nothing of rejecting a proposal with the son of a melamed or a sofer, even if the prospective bochur is unquestionably good."<sup>1</sup>

Rav Tzvi Yavrov, shlit"a, pointed out that this has changed in many communities. "Although it used to be that whenever people heard of a person in learning getting engaged they would immediately rush to see the poor father who was lowly enough to marry his daughter to a ben Torah, nowadays, this is no longer the case at all. Quite the contrary!"

Rav Chaim Kanievsky, shlit"a, ex-

plained that the Chazon Ish, zt"l, was very instrumental in changing people's attitude in this regard.<sup>2</sup> A certain bochur once approached the Chazon Ish, zt"l, regarding a prospective shidduch. The boy described the situation, "The girl's family has exceptional lineage and her father sings her praises that she is willing to sacrifice by marrying a ben Torah, despite the material difficulties that often come along with this lifestyle."

The Chazon Ish immediately advised him to avoid this match. "If the girl sees a life of Torah as a sacrifice and fails to grasp the fortune that such a life offers, she is not worthy of marrying a ben Torah!"<sup>3</sup> ■

1. אוצר יד החיים ע' קע"ב

2. דרך שיחה ע' ק"י

3. מעשה איש ח"ב ע' ר"ח