

OVERVIEW of the Daf

1) An erroneous sale by an agent (cont.)

Rava in the name of R' Nachman maintains that an agent who makes an erroneous sale is like Beis Din that makes an error, and the sale is binding. Rav Shmuel bar Bisna in the name of R' Nachman maintains that an agent is like a widow and an error invalidates the sale.

Each Amora explains his rationale.

The Gemara rules in favor of Rav Shmuel bar Bisna's opinion that the sale is invalid.

This ruling is unsuccessfully challenged from a Mishnah that indicates that an agent's error does not nullify his action.

2) The dispute in the Mishnah

R' Huna bar Chanina in the name of R' Nachman rules in accordance with the opinion of Chachamim in the Mishnah.

The assertion that this is R' Nachman's position is unsuccessfully challenged.

R' Dimi reported that Rebbi once ruled in accordance with the position of Chachamim, and when challenged he reversed his ruling.

According to R' Safra's version, Rebbi thought he would rule like Chachamim but was convinced otherwise.

The Gemara proposes an explanation of the dispute between R' Dimi and R' Safra but it is rejected.

3) Selling the property of the deceased

R' Yosef rules that when the widow or Beis Din sells the property of the deceased the guarantee rests upon the orphans.

The Gemara explains the point of these two rulings.

4) An error by Beis Din

R' Sheishes is cited as explaining that even according to R' Shimon ben Gamliel the error made by Beis Din when selling a field may not exceed half the property's value.

A Baraisa supports this explanation.

Ameimar in the name of R' Yosef ruled that when Beis Din sells property without making an announcement it is as if they erred regarding an explicit Mishnah and the sale is invalid.

The Gemara explains the term "as if" as used in this context.

Ameimar's ruling is unsuccessfully challenged.

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Today's Daf Digest is dedicated by Mr. Richard Tresley
In loving memory of his mother
מרת דאבא בת ר' אברהם זאב, ע"ה

Today's Daf Digest is dedicated
לע"נ הרב מיכאל בן הרב אלחנן שרגא זצ"ל
By Mr. and Mrs. Joseph Abramchik

Distinctive INSIGHT

The court acts in the best interest of the orphans

ולית ליה לר' נחמן מה כח בית דין יפה? והאמר רב נחמן אמר שמואל
יתומים שבאו לחלוק בנכסי אביהן בית דין מעמידין להן אפיטרופוס וכו'

The Mishnah (99b) discusses a situation where the court errs in its evaluation of the property owned by orphans. Chachamim are of the opinion that if they err up to one-sixth of the value of the land, either on the high side or if they estimated too low, the sale is valid. Once they err one-sixth or more, the sale is not valid. Rabban Shimon ben Gamliel argues and holds that the authority of the court is binding, and even if they err by a sixth or even more, the sale is valid. As Rabban Shimon notes, otherwise what is the power of the court worth, if their authority can be questioned?

Rav Nachman rules according to Chachamim of our Mishnah. The Gemara notes, however, what seems to be an inconsistency in the approach of Rav Nachman, as in a similar context Rav Nachman cites Shmuel regarding a case where an agent was appointed by the court to represent orphans in the division of their father's estate. This supervisor chose for the orphans what he felt was the best portion for them, but when the orphans reached majority, they protested and rejected his decisions. Shmuel holds that the decisions of the court-appointed agent are null, but Rav Nachman himself states that the judgment of the court, as exercised by its agent, are final. The Gemara resolves the positions of Rav Nachman. In our Mishnah, the court erred, and their decision is cancelled, as per the opinion of Chachamim. The orphan's representative did not err, so the portion he assigned for the orphans is binding.

Rashi (in Yevamos 67b, and Gittin 34a) learns that the court appointed an executor to represent the orphans because they were all underage. Rambam (Hilchos Nachlos, 10:4) and Rosh learn that whereas some of the orphans were underage, among them were also adults. The adult orphans want to divide up the estate. The court will appoint a guardian to analyze the situation, and he will determine whether it is in the best interests of the younger orphans to have the property divided. If it is not in their best interests, the dividing of the assets will not be done, even if all the parties agree that they want it. ■

REVIEW and Remember

1. What is the halacha when an agent makes an error in price?
2. Who guarantees the sale of property made by a widow?
3. Is Beis Din authorized to sell the property of orphans without making a prior announcement?
4. Does a woman involved in prohibited relationships collect a kesubah?

HALACHAH Highlight

Naming children after their grandparents

אמר לפניו פרטא בנו של ר' אלעזר בן פרטא בן בנו של ר' פרטא הגדול
Parta, the son of R' Elazar ben Parta the grandson of R' Parta the great said before him

The Midrash¹ mentions that in ancient times since people were familiar with their lineage they would name their children after current events, but nowadays that we are no longer familiar with our lineage we choose names used by our ancestors. Agudah² adds that the custom is to name people after the child's grandparents because every person considers his father a tzaddik. Teshuvos Rivam Shneituch³ demonstrates from our Gemara that it was an ancient practice to name a child after the child's grandparents, for our Gemara refers to R' Parta the son of R' Elazar ben Parta, the grandson of R' Parta the great. The rationale behind this custom, explains Rav Shneituch, is that naming a child after a tzaddik fulfills the dictum of לזכר צדיק לברכה—the righteous will be remembered for blessing and the child will be protected by that tzaddik's merit. This led to the practice of naming children after righteous grandparents, and from that developed the common custom to name children after grandparents even if they were not tzaddikim.

Torah Temimah⁴ offers another rationale for the custom of naming children after deceased relatives. By naming children after their ancestors the children are reminded of their lineage and it allows later generations to connect to earlier generations. He also cites our Gemara as evidence of this concept of naming children after their ancestors. This explains why people are particular about the warning of Rabbeinu Yehudah Hachasid against a man and his father-in-law sharing the same name or a woman

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Tangentially, the Gemara explains why certain items are sold without a prior announcement.

Two more resolutions to the challenge against Ameimar are presented.

R' Yosef bar Minyomi explains why Beis Din in Nehardea did not make announcements before selling property.

5) Selling movable items that belong to orphans

Two opinions are presented regarding how movable items that belong to orphans should be sold.

The Gemara explains that the two opinions do not conflict but rather refer to different circumstances.

Two related incidents are recorded.

6) **MISHNAH:** The Mishnah lists certain women who do not receive a kesubah, and others who despite the forbidden nature of their marriages receive a kesubah.

7) Clarifying the Mishnah

Rav and Shmuel disagree how the Mishnah should be read which relates to a dispute whether a minor girl who is divorced receives a kesubah.

It is demonstrated how Shmuel is consistent in his position on this matter. ■

and her mother-in-law sharing the same name. If, for example, a man and his father-in-law shared the same name it would be impossible for the man to name his child after his father-in-law since that would result in the father and son sharing the same name. This produces the undesirable result of not being able to connect generations through their names. ■

1. מדרש רבה פרשת נח פרק ל"ז.
2. שבת פ"א ס"י י"ז.
3. שו"ת ריב"ם שנייטוך יו"ד ס"י נ"ח.
4. תורה תמימה בראשית פרק ל"ב הע"ד. ■

STORIES Off the Daf

Rigging the Bidding

”לא איבעי לך למיטעי”

On our daf we find that if a messenger made a mistake regarding a sale, the sale does not stand. Since this is a pure error and the owner can say to his agent that he should not have erred, the sale is invalid. This is even more the case if one deliberately causes another to err.

A certain conspicuously wealthy tourist once spent Shabbos in a hospital in Israel. The hospital had a shul with a regular minyan, and the aliyos were all sold. All proceeds were donated to the hospital.

When it came time to sell an aliyah,

one of the members of the minyan decided to have some fun at the tourist's expense. He arranged with a few friends that every time the tourist bid for an aliyah, they would outbid him until he was paying much more than an aliyah had ever sold for in that hospital. Perhaps it might be a record for the entire city!

As predicted, the tourist bid for the first aliyah being offered. One person outbid him. As he upped the bid, another person outbid him. He seemed to think that this was the normal procedure, and the aliyah skyrocketed to an exorbitant price.

From the winning bids on the succeeding aliyos, the gevir realized that he had been taken for a ride and was apparently obligated to pay over twenty times the

maximum price that the members of the minyan would have been willing to pay for maftir.

He asked Rav Chaim Kanievsky, shlit" a, if he was obligated to pay the full amount.

Rav Kanievsky answered, “No. You agreed to pay such an exorbitant amount because you were misled. There was no genuine competition here, and if you had only known this you would never have bid so high. This is a classic case of גניבת דעת and is similar to the Yerushalmi in the beginning of the third chapter of Kidushin. There we find that Rav Ze'irah cursed a person who rigged competition in the market only to cause a prospective buyer to overpay. The same curse is operative in your case!” ■

