

OVERVIEW of the Daf

1) The acquisition of chazakah (cont.)

Rav inquires whether one giving a gift must instruct the recipient to make a chazakah.

Shmuel asserts that it is obvious that he must give this instruction and the Gemara gives the reason Rav was uncertain about the matter.

The Gemara elaborates on the exact details involved in establishing a chazakah, like the extent of the breach or the new construction as well as the circumstances of the new fence or the breach.

R' Asi in the name of R' Yochanan discusses the placement or removal of a stone as a means of establishing a chazakah.

R' Assi in the name of R' Yochanan discusses different scenarios of a person who makes one chazakah on the boundary between two ownerless fields.

R' Zeira and R' Elazar present related inquiries that the Gemara leaves unresolved.

R' Nachman in the name of Rabbah bar Avuha discusses the parameters of making a chazakah when there are two houses, one behind the other.

2) Acquiring the property of a deceased convert

R' Nachman in the name of Rabbah bar Avuha rules that putting doors on a house is a stronger act of chazakah than building a mansion.

R' Dimi bar Yosef in the name of R' Elazar presents another method of establishing a chazakah on the property of a deceased convert.

R' Amram reports in the name of R' Sheishes that spreading out sheets and lying upon them also makes a chazakah on the property of a deceased convert.

A Baraisa is cited that supports this position.

A detail in the Baraisa is clarified. ■

REVIEW and Remember

1. What is the definition of כל שהוא when it comes to establishing a chazakah?
2. What are the circumstances in which placing one stone would establish a chazakah?
3. Is the boundary divider between two fields considered connected to those two fields?
4. Why does the construction of a mansion not establish a chazakah on the property of a deceased convert?

Distinctive INSIGHT

Acting to prevent a loss from a field

האי מבריה ארי מנכסי חבירו הוא

A field of a convert who died without heirs can be acquired by anyone who wishes to take it. Anyone who performs a constructive act to show his ownership of the field has acquired it.

Rebbe Assi in the name of Rav Yochanan presents some examples of actions which can be effective to acquire this field of a convert. If someone places a stone to plug up a hole in the wall surrounding the field, or if he removes a stone, thereby creating a hole in the fence, these acts can serve as a chazakah for the field. The Gemara analyzes how these simple acts can be effective. If placing a stone prevents a river from entering the field to flood it, and removing a stone allows water that threatens to flood the field to flow out, although these acts are truly beneficial, the Gemara notes that they are not acts which improve the field, but they are rather acts which help to prevent damage from occurring. Rashbam explains that it is incumbent upon any Jew to prevent a loss when he notices someone else's property at risk. This is the category of **מבריה ארי**, "chasing away a lion." This act is therefore not valid to be a chazakah in the land to acquire it. So, what is the case to which Rav Assi referred? It is where one placed a stone to complete the fence to allow water to remain in it and irrigate it. Removal of a stone is also referring to where an opening was made to allow water to enter to water the field.

Regarding why **מבריה ארי** does not constitute a chazakah, **מינוש** explains that a chazakah can only be established when a person is performing an act which the Torah does not obligate him to do. When he acts on his own volition, he is asserting his personal control of the land. When his actions are Torah mandated, as is the case for **מבריה ארי**, we cannot say that he is performing an act of personal ownership.

Ramban notes that an owner himself is expected to save and protect his own property, and a bystander is not commanded to intervene when the owner is present. When one who is not obligated to perform an act of **מבריה ארי** in the presence of the (previous) owner of the field nevertheless does so, this self-motivated intervention still cannot be part of a chazakah, because his actions are viewed to be a gesture to help the owner and not appear to be smug and indifferent to someone else's distress.

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 Mr. and Mrs. Avi Goldfeder
 In loving memory of their father
 ר' ירוחם פישל בן ר' משה אברהם הכהן, ז"ל

HALACHAH Highlight

The position of the unfinished amah in a new home

אמר ר' חסדא וכנגד הפתח

R' Chisda says it is opposite the doorway

Shulchan Aruch¹ cites the Gemara (60b) that rules that subsequent to the destruction of the Beis Hamikdash Chazal enacted that one who builds a house may not plaster it completely. One is obligated to leave a one amah by one amah square unfinished **לחורבן** – זכר – as a commemoration of the destruction of the Beis Hamikdash. The place that should be left unfinished is **כנגד הפתח**. The phrase **כנגד הפתח** would seem to indicate that the unfinished square should be opposite the entrance into the house. This is in fact the explanation of Levush² who writes that one should see the unfinished space as one enters the house. Pri Megadim³, however, asserts that the unfinished space should be left next to the entrance. He maintains that the term **כנגד** should not be understood to mean opposite, as understood by Levush but rather it means next to. He cites as proof to this assertion the translation of Targum Yehonason (Bereishis 21:16) of the phrase **ותשב לה** and **מנגד** which he translates to mean and she sat next to him.

Sha'arei Teshuvah⁴ disagrees with Pri Megadim and notes that the language of the Torah and the language of Chazal are not necessarily consistent with one another and the term **כנגד** in Chazal always means opposite rather than next to. Furthermore, it is logical to assume that it should mean opposite the

(Insight...continued from page 1)

Ramban extends this to a case of a field of a convert who has died. The field is ownerless, but if a bystander acts to save the field from loss, there is no mitzvah to do so, but it still is a gesture of intervening in order not to allow an unnecessary loss from occurring. Chidushei Rabbi Akiva Eiger writes that it seems from Rashbam that an act of fixing a field of a convert can be part of a chazakah. ■

entrance to the house so that one should see the unfinished area as he enters the house. Teshuvos Mishkanos Haro'im⁵ also disagrees with Pri Megadim and cites the comment of Rashbam in our Gemara as support for the position that **כנגד** means opposite. The Gemara discusses making a chazakah on the property of a convert who passed away and the method that is described is to plaster or make a design that is a one amah square on the wall **כנגד הפתח**. Rashbam⁶ explains that when the improvement is made opposite the entrance it is more noticeable and a one amah square is sufficient but if it is done elsewhere in the house the improvement must be larger than a square amah. We see that Rashbam also understands the term **כנגד** as opposite and there is no reason to think that it should have another meaning in the context of leaving a **זכר לחורבן**. ■

1. שו"ע או"ח סי' תק"ס סעי' א'.
2. לבוש שם.
3. פמ"ג מ"ז שם סק"א.
4. שע"ת שם סק"א.
5. שו"ת משכנות הרועים סי' י"ח.
6. רשב"ם ד"ה וכנגד הפתח. ■

STORIES Off the Daf

"Opposite the door"

"אמר רב חסדא וכנגד הפתח..."

Once, Rav Meir Shapiro of Lublin, zt"l, paid a visit to the widowed daughter of the illustrious Rav Chaim of Tzanz, zt"l. (This was not improper since she lived in her father's house and was known to have profound yiras shamayim.) Here was a woman raised by one of the greatest Chassidic masters of the earlier generations, who had much to share with visiting chachomim.

When the rav entered the house he was immediately riveted by the amah al amah left bare as a reminder of the churban. Interestingly, this sign was directly opposite the front door of the house.

"Who made the **זכר לחורבן** like this?" asked Rav Meir.

"My holy father did this with his own hands," answered the widow.

The rav smiled broadly and said, "ברוך שכוונתי" to his great understanding."

He then explained to the family members, "There is a big disagreement regarding the precise placement of this amah al amah, since when the Gemara in Bava Basra 62 states that one should leave an amah al amah, Rav Chisdah comments that this must be left 'כנגד הפתח.' But where precisely is that? When I had to decide where to place this amah al amah for Yeshivas Chachmei Lublin, I paskened that it should be opposite the front door, precisely where the Divrei Chaim placed his amah al amah.

"I learned this from earlier on in the

meseches. On daf 53 we find a different statement of Rav Chisdah regarding making a chazakah on the property of a deceased convert who has no heirs. There we find that if one plasters a picture on the wall of such a convert's house, he acquires it. Rav Chisdah comments that this must be **כנגד הפתח** and the Rashbam explains that this means that it must face the entrance of the house.

"It seems clear that the Rashbam later did not explain Rav Chisdah's statement because he already explained it earlier, especially since the reasoning for both is that it should be noticeable.

"I am so gratified to see that I was **מכון** to the tzaddik's ruling!" ■

1. קונטרס שלשה שריגים בסוף סי' פי צדיק, שריג א', אות ב' ■