

Today's Daf Digest is dedicated
L'ilui Nishmas Mr. Israel Gotlib of Antwerp and Petach Tikva, Yisrael Tzvi ben Zev (23 Av).
Family Weiss, London

OVERVIEW of the Daf

1) The sale of a bathhouse (cont.)

An incident related to selling a bathhouse is presented and R' Yosef and Abaye cite conflicting Baraisos to support their respective positions.

R' Ashi resolves the contradiction.

2) **MISHNAH:** The Mishnah discusses what is included in the sale of a town.

3) Slaves

R' Acha the son of R' Ashi infers from the Mishnah that slaves are treated the same as land.

R' Ashi rejects this inference.

4) *Santair*

Two definitions of the Mishnah's term *santair* are presented.

An unsuccessful attempt is made to arrive at the correct definition of this term from an inference from the Mishnah.

A second version of this discussion is recorded.

Another unsuccessful attempt is made to prove which definition of the term *santair* is correct.

(Continued on page 2)

REVIEW and Remember

1. What was the point of dispute between R' Yosef and Abaye?

2. What are the two suggested definitions of the term סמטר?

3. What is an אנקולמוס?

4. When are animal enclosures included in the sale of a town?

Today's Daf Digest is dedicated
By the Kaufman, Handelman, and Wolper families
in loving memory of their grandfather
ר' מרדכי בן ר' אביגדור ז"ל
Mr. Max Kaufman z"l

Distinctive INSIGHT

The סנטר is sold together with the city

מאי סנטר? הכא תרגימו בר מחוייניתא, שמעון בן אבטולמוס אומר באגי

In the Mishnah, Rabban Shimon ben Gamliel taught that if a city is sold that the סנטר is included in the sale. The Gemara inquires regarding the definition of this term, and we discover that there is a dispute among the Amoraim how to explain it.

In Bavel, the סנטר was translated to be a *בר מחוייניתא*, which Rashbam (first explanation) explains to mean someone appointed to identify the boundaries of fields and their owners. This was an essential government position, without which the city could not function. In his second comment, Rashbam cites Rabeinu Chananel who explains that this was a guard of the city. Rashba says that he was appointed to monitor who paid the property taxes and who had not done so. Ritva writes that this position was one where the ownership, boundaries, and tax status of each field was monitored.

Sefer *דוד בית* points out that the first explanation of Rashbam seems most reasonable, as the Aramaic word *מחוייניתא* comes from the term "לאחוי," which means "to show." This seems to describe someone who could show the boundaries and owners of each field, and it has nothing to do with taxes. Also, it is not reasonable that the guarding of the city would be assigned to one individual, so the comment of Rabeinu Chananel is not reflected in the role which an individual would serve.

In his Commentary to the Mishnah, Rabeinu Obadiah of Bertinoro cites the phrase *בר מחוייניתא*, and he translates it as the guard, as did Rabeinu Chananel. Tosafos Yom Tov questions the comment of Rabeinu Obadiah. He first notes that the Bertinoro explains that the *בית השלחין* which are sold with the city are the fields and gardens *within* the city limits. Accordingly, the first opinion in the Mishnah holds that the fields beyond the city limits are not included in the sale of the city. Rabban Gamliel disagrees and holds that the סנטר is sold. The Gemara had said that if *בית השלחין* are the fields inside the city, and that the fields outside the city are not included, then this means that Rabban Gamliel argues and says that סנטר, which are the fields beyond the city limits, are sold. This uses סנטר translated as באגי, the fields outside the city. This is the translation of סנטר provided by שמעון בן אבטולמוס, and not that it refers to a guard, as was translated in Bavel. ■

HALACHAH Highlight

Are animals and slaves included in the sale of a town?

אפילו היו בה בהמה ועבדים הרי כולן מכורין

Even if there were animals and slaves in it they are all included in the sale

Rambam¹ writes that if one sells a city and includes a clause that states that he is selling everything that is in the town, all movable objects are included in the sale. Rambam does not, however, address whether animals and slaves are included in the sale of everything that is in the town. Tur², however, writes explicitly that one who sells a town and everything that is in it includes even the animals and slaves of the town. Sema³ writes that when Shulchan Aruch⁴ writes that everything is included in the sale his intent is to follow the ruling of Tur and slaves and animals will be included in the sale of the town.

Ma'aseh Rokeach⁵ suggests that the point of dispute relates to which source is considered primary. Rambam follows the opinion of the Baraisa (68b) that indicates that one who sells a city does not sell its suburbs, and since that Baraisa does not mention animals and slaves Rambam also omits reference to them when presenting this halacha. Tur and Shulchan Aruch assume that the Mishnah is primary and thus since the Mishnah mentions that animals and slaves are included in the sale of a town they present that as halacha.

(Overview...Continued from page 1)

5) Animal enclosures

A contradiction between two Baraisos concerning the question of whether animal enclosures are included in the sale of a town is noted.

The Gemara resolves the contradiction.

This resolution is unsuccessfully challenged.

6) **MISHNAH:** The Mishnah discusses the items that are included in the sale of a field and the items that are excluded from that sale. ■

Ulam Hamishpat⁶ suggests that Rambam agrees that animals and slaves are included in the sale of the town and the reason he did not mention them explicitly was that they are included in his statement that all movable objects are included in the sale. He then rejected this explanation since when he discusses the sale of a courtyard he mentions that all the movable objects associated with the courtyard are included in the sale and in that context it is clear that slaves and animals are not included in the sale. Therefore, he concludes that Rambam did not address the case of animals and slaves in both cases and thus one should not assume that their absence from the list indicates that they are not included in the sale of the town. ■

1. רמב"ם פכ"ו מהלי מכירה ה"א.
2. טור חו"מ סי' רט"ו.
3. סמ"ע סי' רט"ו ס"ק כ"א.
4. שו"ע שם סעי' ד'.
5. מעשה רקח על הרמב"ם הני"ל אות ב'.
6. אולם המשפט סי' רמ"ח סעי' י'.

STORIES Off the Daf

An all-inclusive gift

"המוכר את השדה...לא מכר את..."

Although the minimum kesuvah payment is usually two hundred zuz, one is permitted to add any sum he wishes. Some authorities advocate some kind of tosefes kesuvah, since two hundred zuz is no longer considered a large sum of money and the purpose of a kesuvah is to provide a wife with a degree of financial security.

But it used to be that money was much harder to come by and a year's worth of food was a veritable fortune.

In those times it was more difficult to come up with a tosefes kesuvah, but it was still sometimes found. It is therefore not surprising that when a certain woman received a garment for her tosefes kesuvah that included attached bracelets, there was a dispute whether the adornments were included in the tosefes. After all, the addition was worth the entire value of the garment.

The woman claimed that it was obvious that her deceased husband had meant to give her the entire garment, but the orphans denied this emphatically. When this question was brought before the Mahari Weill, ז"ל, he ruled that the woman was not entitled to the extras on the garment. "We

see in Bava Basra 68 that a sale includes only what is specified. Although a gift is inclusive of everything unless the giver specifies limitations, this is only because one who receives a gift is embarrassed to ask. But why should a woman be ashamed to ask her husband to specify that the entire garment is to be hers including all accoutrements?"¹

But the Taz, ז"ל, disagreed. "The Rashbam on daf 73 writes that regarding movable objects, a gift and a sale are the same. It follows that it is the responsibility of the giver to specify. Since, in our case, he did not, the entire garment goes to the widow."² ■

1. שו"ת מהר"י וויל, סי' קמ"ד
2. ט"ז על אבה"ע סי' קי"ט, סי' ד' ■