

OVERVIEW of the Daf

1) Acquiring property in one's utensils

Rav and Shmuel maintain that a person's utensils can acquire for him anywhere except in a public domain.

R' Yochanan and Reish Lakish maintain that one's utensils can acquire for him even in the public domain.

R' Pappa suggests that there is no dispute between the two positions and one was referring to the actual public domain whereas the second position was discussing a simta.

Support for this explanation is presented.

A Baraisa is cited to prove that one can acquire property in one's utensils that are in the public domain.

This proof is rejected in favor of an alternative explanation of the Baraisa.

2) The utensil of the buyer in the domain of the seller

R' Sheishes inquires whether the utensil of the buyer in the domain of the seller acquires objects that are placed in it.

R' Huna cites a Mishnah that indicates that they do acquire property for the buyer.

R' Nachman rejects the proof from the Mishnah and demonstrates from a Baraisa that the buyer's utensils do not acquire objects for him if they are on the seller's property.

R' Nachman's proof from the Baraisa is unsuccessfully challenged.

Rava begins to formulate another proof from a Baraisa pertaining to this inquiry. ■

REVIEW and Remember

1. Why is a simta called a public domain?

2. When does the buyer become the owner of the produce that is being measured for him?

3. What is the proof, according to R' Huna, that a buyer's utensils acquire for him even when they are in the domain of the seller?

4. What is R' Yochanan's principle related to his wife's lap?

Distinctive INSIGHT

The donkey drivers and workers

משך חמריו ופועליו והכניסן לתוך ביתו...שניהם יכולין לחזור בהן

The Gemara presents an inquiry which Rav Sheishes asked Rav Huna whether an item is acquired by a buyer when it is placed into the utensil of the buyer while it is in the domain of the seller.

Within this discussion, Rava cites a Baraisa: If a buyer pulls the seller's donkey drivers and workers who were carrying the fruit being sold, and he brought them into his domain, the sale is not valid, and either the seller or the buyer may back out of the deal. Rava deduces that if the utensils of the seller in the domain of the buyer prevent the sale from being final, it would be reasonable to say that the utensils of the buyer in the domain of the seller would also not be valid in order to finalize a sale.

The text of the Beriasa according to Rashbam reads that the buyer pulled "חמריו ופועליו" of the seller, which we explain to mean that the donkey drivers and workers themselves were pulled by the buyer. This seems to indicate that the donkeys themselves who followed behind the drivers did not enter into the property of the buyer. Pulling of the persons carrying the fruit is not enough to effect a transaction. Apparently, though, if the donkeys were carrying the fruit, the transaction would be valid if they followed the drivers into the domain of the buyer, even though it was only the drivers or workers who were actually pulled. The reason for this is that once the animals are led into the yard of the buyer, the pulling (משיכה) is considered to have been done directly for the animal due to the fact that the buyer was the cause of this transfer.

Tosafos explains that the text of Rashbam cannot be correct, because "חמריו ופועליו" seems to suggest the workers of the buyer, and not the seller as Rashbam understood. If the buyer pulls his own workers carrying the fruit, the sale would certainly be valid. Rather, Tosafos has a text which reads that "חמורין ופועליו" were pulled. This means that the donkey drivers and workers of the seller were pulled by the buyer, and the buyer does not acquire the fruit they carry by pulling the people, until the fruit is unloaded from their backs. The case could also be where the buyer pulled the workers of the seller, and they, in turn, pulled the donkeys laden with the

HALACHAH Highlight

The virtual domain of a depositor

ברשות הלה המופקדים אצלו וכו'

In the domain of the one with whom the object was deposited etc.

The Gemara Bava Kama (100b) teaches that if one gives wool to a dyer to dye a particular color and the craftsman dyes the wool a different color, the dyer must, according to R' Meir, reimburse the customer the cost of his wool. The Gemara in Bava Mezta (88b) explains that the reason the dyer must reimburse the customer for his wool is that we consider him to have stolen the wool. Rav Tzvi Yavrov¹ wondered how the dyer could be considered a thief if he did not do an act of theft by taking someone else's property without permission (הוצאה קנין (מרשות לרשות דרך קנין).

Rav Nosson Gestetner², author of Teshuvos L'horos Nosson, answered that taking the customer's wool with the intention of dyeing it another color is considered the act of taking it from the domain of the customer into his own domain even though the wool was in his possession all along. Proof that this is considered theft is found in Shulchan Aruch's ruling³ that a watchman who steals the

(Overview...continued from page 1)

fruit. Here, again, the buyer does not acquire the fruit with his pulling of the workers. ■

object that was deposited by him is liable for whatever happens to the object just as a thief. The rationale behind this ruling is that wherever the object rests, even when it is under the care of a watchman, it is considered as though it is in the domain of the owner. Thus when the watchman takes the object for himself it is considered as though he is taking the object from the owner's domain into his own. One source for this principle is found in the Rashbam's⁴ commentary to our Gemara where he states that we assume that the watchman (נפקד) transfers some of his domain to the depositor (מפקיד) for the purpose of selling and measuring his produce as is common amongst watchmen. Accordingly, when the customer gave the wool to the dyer it remained in the domain of the customer until the moment when the dyer took the wool to dye it a different color. At that point he steals the wool from the customer's domain and must reimburse the customer for the stolen wool. ■

1. דבריו מובא בשו"ת להורות נתן דלקמן.
2. שו"ת להורות נתן ח"ה סי' קי"א.
3. שו"ע חו"מ סי' שנייה סעי' ג'.
4. רשב"ם ד"ה המופקדין אצלו. ■

STORIES Off the Daf

Weights and measures

"מדה של אחד מהן..."

Today's daf discusses some halachos relating to measurements.

The Chofetz Chaim, zt"l, was unusually scrupulous that his weights and measures should always be exactly correct. Despite his zealous care not to waste a moment unnecessarily, adjusting his scales was the one business need that took him out of the beis midrash every weekday without fail.

Each day, he would close his Gemara to visit his store and check that the weights and measures were exact-

ly correct. He would never rely on his having checked them the day before, since he saw it as his holy duty to be absolutely certain that he was not cheating anyone, even for one day.¹

Reb Yosef, zt"l, a student of the Chofetz Chaim and also the ironmonger of Radin, recounted an amazing story which demonstrates the care that his rebbe took in this area. "The Chofetz Chaim gave me the honor of making his weights for him and replacing them when they wore out, but he would not allow me to make the marks signifying the exact position of each weight. This task he left to himself. If I had not seen how he dealt with those weights I would never have believed it.

"It took him hours to make one

siman on a weight. In order to ensure that the weight was exactly correct he would spend hours before he was finally satisfied that it could be used."

"It is well known that I was a very poor man in those years," Reb Yosef continued. "But I tell you now that I would not have agreed to mark those weights with the scrupulous care of the Chofetz Chaim if he had paid me twenty five ruble an hour! Even for what was a veritable fortune for me, I would never have been able to replicate the intense focus that the Chofetz Chaim put into what otherwise would have been a simple task, with a much less honest result."² ■

1. החפץ חיים חייו ופעליו, ח"א, ע' נ"ד
2. הצדיק רבי שלמה, מילואים, ע' קע"ה