

## OVERVIEW of the Daf

### 1) Proving the giver was not deathly ill (cont.)

The Gemara presents a revised version of an earlier exchange between R' Yochanan and Reish Lakish.

### 2) A minor selling his father's property

Rava and R' Huna bar Chinana, both citing R' Nachman, disagree whether a son may sell his father's property at eighteen or twenty.

R' Zeira unsuccessfully challenges R' Huna bar Chinana's position that a son may not sell his father's property before he is twenty.

Rava confirms R' Huna bar Chinana's interpretation of the Mishnah.

### 3) Classifying someone as a סריס

R' Chiya taught in a Baraisa that a person is not assumed to not be a סריס until the majority of his years have passed.

R' Chiya's advice for triggering puberty is recorded.

### 4) A minor selling his father's property (cont.)

Rava and R' Rava bar R Shila, both citing R' Nachman, disagree whether the eighteenth or twentieth year is treated like before the time or after the time.

It is noted that Rava's opinion was inferred from a ruling of his rather than a definitive statement.

Gidal bar Menashe asked Rava whether a fourteen year old girl who understands business can sell her father's property and Rava responded that she could.

The reason Gidal bar Menashe mentioned a girl who was fourteen is explained.

A related incident is recorded that elaborates on determining whether a youngster understands business.

(Continued on page 2)

## REVIEW and Remember

1. When is an orphan permitted to sell his father's land?  
 \_\_\_\_\_
2. At what point do we declare a person as a סריס even though he does not present any of the physical characteristics of a סריס?  
 \_\_\_\_\_
3. Under what conditions would a teenager be permitted to sell his father's land?  
 \_\_\_\_\_
4. Is there a restriction on a teenager from giving testimony?  
 \_\_\_\_\_

## Distinctive INSIGHT

### At what age may a young person sell land?

איתמר קטן מאמתי מוכר בנכסי אביו

A discussion took place regarding the age at which a child has the legal right to sell property he inherits from his father. Rava says in the name of Rav Nachman that a child may sell property once he is eighteen years old. Rav Huna bar Chinana says in the name of Rav Nachman that the child must be at least twenty years old before he may sell the property he inherits.

Rashbam explains that the discussion here is only regarding selling land. However, in regard to moveable objects, the Gemara in Gittin (59a) rules that the sale and purchase by young children is valid. The Gemara there explains that the sages enacted that a transaction of a six or seven year old child be valid, in order that the child be able to deal and obtain provisions for his daily subsistence. However, the sages did not make this same dispensation regarding land. In fact, the opposite is true, as the sale of land by a young child of bar mitzvah age might be valid from a Torah perspective, but the sages ruled that it is not valid until he is eighteen or twenty. The reason is that generally, a young person is not aware of the intricacies and details involved in the sale of real estate, and a young person might easily fall prey to agreeing to the cash being offered for the family's estate. He or she might quickly sell all the land of the family before realizing the full consequences of his actions. Therefore, the sages denied any sale of land until the child is a bit older and more experienced in worldly matters.

Rabeinu Tam (תד"ה מוכר) holds that the restriction regarding selling land applies to any land owned by a young person under age eighteen or twenty, even land which he bought. We are concerned that a young person may be enticed by the cash offered, and he might sell without considering the matter fully. All other Rishonim explain that this restriction applies only to inherited land, but land which a child bought or received as a gift may be sold even before he is eighteen or twenty. The concern is that land he receives without effort is not too precious to him, and he might opt for a quick sale which might be to his disadvantage. Land which he bought has some value for him, so we are not afraid that he will sell it carelessly. A gift is also usually given to someone who has earned favor in the eyes of the giver, and the young person who received it realizes that the gift is of value, so we need not enact a limitation to prevent its improper sale.

(Continued on page 2)

# HALACHAH Highlight

## The difference between a fool and one who is insane

כיון דמסברי ליה וסבר מידע ידע

Since they explained the matter to him and he understood he surely knows

One of the difficult tasks is to determine when a person crossed the line and is considered insane (שוטה) and when a person is merely slow to understand (פתי) but not insane. Teshuvos Maharit<sup>1</sup> discussed a yavam who had a difficult time speaking and was noticeably unintelligent but he understood for the most part how the world worked and was capable of making business transactions. Furthermore, he was capable of responding yes and no appropriately to simple questions that were posed to him. Maharit inferred from our Gemara that such a person is categorized as a פתי and not one who is insane. Our Gemara teaches that as long as one can understand something that is explained to them he is not categorized as insane. Teshuvos Oneg Yom Tov<sup>2</sup> explains that Maharit's parameters apply even when the person in question is not capable of understanding any more than the most common and basic concepts.

Teshuvos Divrei Malkiel<sup>3</sup> disagrees and cites Rambam as proof that even a פתי is to be categorized as one who is insane. Rambam<sup>4</sup> writes that a person who does not grasp when ideas are contradictory and in general does not understand things to

(Insight...continued from page 1)

ר"ן, in the name of the עיטור, writes this same rule applies to land which a young person receives from relatives other than the father. The point is, as we stated, that the young owner does not appreciate the value of the land. Rambam and Shulchan Aruch rule accordingly. Rashba says that this enactment is only regarding inheritance from a father, which is a common situation, but not regarding inheritance from other relatives. ■

the same degree as sane people is to be categorized as one who is insane and therefore unfit to testify. Divrei Malkiel asserts that the guideline set by Rambam is not limited to the context of testimony; rather it is a general guideline to be implemented for all areas of halacha that require a person who has daas. Rav Moshe Feinstein<sup>5</sup>, however, supports the position of Maharit and writes the following. As long as a person is capable of understanding concepts that are explained to him he is categorized as a פתי rather than one who is insane and is thus fit to do chalitzah. Although there are dissenting opinions - regarding this matter one does not have to be concerned with those opinions when the alternative is for the yevama to remain an aguna incapable of otherwise receiving chalitzah. ■

1. שו"ת מהר"י"ט ח"ב אה"ע סי' ט"ז.
2. שו"ת עונג יו"ט סי' קנ"ג.
3. שו"ת דברי מלכאל ח"א אה"ע סי' ע"ח.
4. רמב"ם פ"ט מהל' עדות ה"ט - ג.
5. שו"ת אג"מ אה"ע ח"א סי' קס"ד. ■

# STORIES Off the Daf

"From the age of twenty..."

"מבן עשרים שנה..."

It is well known that the non-Jewish authorities throughout our long exile often worked very hard in many different ways to drive us away from the faith of our ancestors. Rav Shach liked to relate how the gedolim of different ages would outmaneuver the authorities time and time again.

It was the year תרנ"ב and the Russian government had called a compulsory meeting for the rabbis of the region to discuss various issues regarding Russia's Jewish population. The Russian minister, without giving any indication of the direction of the meet-

ing, asked when a Jewish child is considered to be an adult according to Torah law. The immediate answer of thirteen caused him to smile and ask a very dangerous statement. "If thirteen is the age of Jewish majority, I propose that every young man from thirteen should be permitted to convert without his parents or rabbis having a say in the matter. After all, he is completely mature and should be able to decide for himself."

After a moment's silence, Rav Tzvi Hirsch, the son of the famous Rav Yitzchak Elchonon of Kovno, ז"ל, gave a very brilliant reply. "Although it is true that regarding many issues a child of thirteen and above is considered a man, the Talmud tells us in Bava Basra 155 that if a young man sells property he inherited from his father before he reaches twenty years of age, the sale is

invalid. We see that he is not yet mature enough to sell property, which is merely a material concern. It is surely obvious that he is not a sufficiently mature judge of the much more grave matters of eternity and is unable to give up his rich spiritual inheritance before he reaches a more advanced age!"<sup>1</sup> ■

1. משלחנו של רבינו, ע"י ק"ד. ■

(Overview...continued from page 1)

R' Huna the son of R' Yehoshua rules that an orphan may give testimony.

Mar Zutra asserts that that ruling is limited to testimony related to movable objects.

R' Ashi unsuccessfully challenges the qualification of Mar Zutra.

Ameimar rules that an orphan may give a gift.

R' Ashi challenges this ruling. ■