



## OVERVIEW of the Daf

### 1) Clarifying the Mishnah (cont.)

Another resolution to the contradiction between two Baraisos is presented.

### 2) A slave taken forcibly from a Jew

A Baraisa rules that a slave taken as payment for a loan or by an extortionist does not go free.

This ruling is unsuccessfully challenged.

Another unsuccessful challenge to this ruling is presented.

Rav rules that a slave that was sold to a blackmailer goes free.

The rationale for penalizing the owner is explained.

### 3) Selling a slave to a non-Jew

R' Yirmiyah asks a series of questions related to the ruling that one who sells his slave to a non-Jew is obligated to set him free.

The Gemara answers only some of R' Yirmiyah's questions.

R' Ami was asked whether the Jewish owner of a slave is permitted to take money for a slave that gave himself over to bandits.

R' Zerika cited a Baraisa that indicates that it is permitted to take money in this case.

The proof from the Baraisa is rejected.

R' Ami ruled that it is permitted to take money in this case.

R' Yehoshua ben Levi rules that someone who sells his slave to a non-Jew is obligated to buy him back even at one hundred times the slave's value.

The Gemara inquires whether the reference to "one hundred times" was precise or an exaggeration.

An unsuccessful proof is presented.

A second version of the previous discussion is recorded.

R' Yirmiyah asked R' Assi whether the fine to buy back a slave sold to a non-Jew extends to his children in the event that he dies. The Gemara elaborates on the question.

R' Assi demonstrated that the penalty does not extend to the child of the one who sold his slave to a non-Jew.

Abaye presents a parallel ruling.

### 4) Selling a slave to someone who lives outside of Eretz Yisroel

A Baraisa presents a dispute whether a slave who was sold to someone who lives outside of Eretz Yisroel goes free.

R' Shimon's opinion in the Baraisa is unsuccessfully challenged.

R' Yirmiyah inquired about the status of slaves owned by a woman from Israel who marries someone from Bavel.

The Gemara elaborates on the question.

The inquiry is left unresolved.

R' Avahu reports that R' Yochanan taught him that if a slave follows his owner out of Eretz Yisroel and then the owner sells him there he must be set free.

This ruling is unsuccessfully challenged.

A related Baraisa is cited.

R' Anan reports that he heard Shmuel issue two rulings, one related to the case of a slave who was sold to someone outside of Eretz Yisroel and the other related to someone who sold a field during the Yovel year. In one case the purchaser is refunded the purchase money and in the other case he is not, but R' Anan did not remember which ruling applied to which case.

R' Yosef resolves the matter by citing a related Baraisa. ■

## Distinctive INSIGHT

### *The penalty for financial misdeeds*

כּוּן מלאכתו במועד ומת לא קנסו את בנו אחריו

Our Gemara cites two examples of a person who acted improperly in order to gain financially. One is where a person intentionally inflicted a blemish onto a **בכור**, in order not to have to give the animal to the kohen and thereby keep it for himself, and the other is where a person sold his non-Jewish slave to a non-Jew. In both cases, the person is penalized. In the first case, the owner is not allowed to slaughter the animal based upon this particular wound, and in the second case, the slave must be redeemed, even at high cost.

The Mishnah in Moed Kattan (12b) teaches that although labor is prohibited on Chol HaMoed, there are certain situations where we make an exception. For example, it is permitted for a person to collect his produce to protect it from thieves, and one may draw his flax out of the dye in order that it not be ruined. The qualification for these emergency exceptions is that a person does not intentionally schedule to perform these salvage operations on Chol Hamoed. If a person is faced with a bona fide crisis, he may react, but he may not "create" a mishap to coincide with Chol Hamoed. If he does manipulate the conditions and schedules such tasks for Chol Hamoed, the halacha prohibits him from dealing with it, and he is penalized (**קונסין אותו**) and must sustain the financial loss.

There are two explanations in the Rishonim to explain the nature of this penalty. Rashi (Bechoros 34b) explains that we do not allow the owner to perform any labor necessary to salvage his items. Although there is a general category of **דבר האבד**—a potential financial loss—where we permit work to be done, in this case we do not extend the leniency to this person who intentionally scheduled to do this work on Chol Hamoed. In Moed Kattan (12b), Rashi explains that the penalty is that we

(Continued on page 2)

## REVIEW and Remember

1. Why is a slave owner penalized for selling his slave for a non-Jewish blackmailer?
2. What is the monetary penalty for selling one's slave to a non-Jew?
3. Why are there different consequences for one who clears his field of thorns and one who fertilizes his field during Shemittah?
4. What is the status of a field sold during Yovel?

# HALACHAH Highlight

## Receiving reparations for a stolen Beis Haknesses

המוכר ביתו לעובד כוכבים דמיו אסורין

One who sells his house to an idolater, the money received for the sale is prohibited

During the period of the Holocaust there were many towns where all the Jewish residents were forced to flee for their lives and while they were gone non-Jews took possession of their Beis Haknesses. After the war there were some communities where the residents returned and even after a strong and concerted effort they were not able to repossess the Beis Haknesses. The only progress they made in their negotiations was an agreement by the non-Jewish owners of the Beis Haknesses to reimburse the Jews for the property that was taken. The residents wondered whether it was permitted for them to take the money. The reason for their uncertainty was the ruling in Shulchan Aruch<sup>1</sup> that prohibits the sale of a Beis Haknesses of a large city and perhaps taking money for the Beis Haknesses that was already confiscated is included in the prohibition. On the other hand, since it is impossible to take legal possession of the building and refusing to take payment for the building will not benefit their cause, perhaps it is permitted to take the money since it is not really a sale of the property.

Rav Betzael Stern<sup>2</sup>, the B'tzeil Hachochmah, begins his analysis of this issue with our Gemara. The Gemara states that it is prohibited to sell one's home to an idolater (Rashi<sup>3</sup> explains that this halacha applies in Eretz Yisroel) and if one does sell his home to an idolater the money is prohibited from benefit. If, however, the idolater took the house forcefully and the Jewish owner has

(Insight. Continued from page 1)

do not allow the person to benefit from the item which resulted from work on Chol Hamoed. Not only should the work not be done, but if it is done, we also impose a penalty not to benefit from it.

Rambam (Commentary to Mishnah, Moed Kattan) writes that anyone who schedules work to be done on Chol Hamoed is penalized, and the product of this labor is deemed ownerless by the court for all to take. This suggests that the father is prevented from doing such labor, but if a son inherits a situation which confronts him with a loss, the son may perform the work necessary to salvage the item, as he was not the one who scheduled the work to be done on Chol Hamoed. ■

no recourse, neither in Beis Din nor in the secular courts, it is permitted for the Jewish owner to take the money offered for the sale of the house because he is merely saving himself from suffering a financial loss rather than selling the house. This seems to be a precedent for our case and indicates that when the sale of property is forced on the Jewish owner and is not done willingly, the prohibitions are suspended. This principle should apply to a Jew selling his home to an idolater as well as selling a Beis Haknesses to non-Jews.

After further analysis he concludes that it is permissible to take the money the non-Jews are offering for the building that used to be a Beis Haknesses. He also emphasizes that there is no reason to hold off from taking the money with the hope that with time the non-Jews will have a change of heart and return the building to the Jewish community. ■

1. שו"ע או"ח סי' קניג סעי' ז.
2. שו"ת בצל החכמה ח"א סי' כ"ט.
3. רש"י מ"ד ד"ה המוכר ביתו. ■

# Gemara GEM

## Eminent Domain

דמיו אסורים

A question arose regarding a Jew who was being forced by non-Jews to sell them a Sefer Torah. This is clearly addressed in Shulchan Aruch (Y.D. 74:1), which prohibits the sale of Sefer Torah, even to sell an older sefer in order to purchase a newer one. Now, this is true where an owner of a Sefer Torah willingly is considering to sell his holy possession. However, if the non-Jews is forcing the Jew to part with his prize possession, and if he does not cooperate they will steal it from him outright, the question is whether he is permitted to acquiesce, whereby he will at least save his

money and be paid for his loss.

Rabbi Yitzchak Silberstein was asked a similar question, based upon a situation which arose in the city of Yafo. At that time, the non-Jewish officials decided to build a train route from Yafo to Yerushalyim, and in order to do so the path of the train was going to require the demolishing of several houses in its way. One of the owners of a house in this path resisted, and he was warned that if he would not cooperate and agree to a fair payment for his house, the city would forcefully take it, due to the law of eminent domain, and he would receive nothing. The halachic issue was a prominent consideration, as the Gemara in Gittin 44a states that one may not sell a house in Eretz Yisroel to a non-Jew, and if he does the money he receives is prohibited to him.

The Nishmas Chaim (Yoreh De'ah) rules, in light of Baraisa on Gittin 44a, that if the owner is being forced to sell, and the owner has no legal option to prevent him, he may accept the money being offered.

Rabbi Chaim Berlin also permitted the Jew to collect the money being offered for his home which was being taken from him. After all, the Jew was not trying to dispose of the house, but it was the government who determined that they needed it for the public good. The train would ultimately improve transportation, increase commerce, and generally improve the welfare of the people of Eretz Yisroel. He therefore felt that this person would be allowed to take the money being offered for the house. And, the owner of the Sefer Torah being "stolen" from him would be allowed to accept the money he was being offered. ■

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