

OVERVIEW of the Daf

1) Two deeds to the same property (cont.)

The Gemara concludes relating an incident of two people who had deeds to the same property.

2) **MISHNAH:** The Mishnah presents the halacha of a case where a husband sold a field encumbered to his wives' ke-subos and the first wife had relinquished her right to claim this field. The Mishnah applies this halacha to two additional cases.

3) Relinquishing rights to a husband's field

The Gemara questions the validity of a woman's relinquishing her rights to her husband's field.

A resolution is suggested.

This resolution is challenged from a Mishnah and the Gemara suggests that the contradictory Mishnayos represent a dispute between R' Meir and R' Yehudah concerning the question of whether a woman could claim that she agreed to something to make her husband happy.

R' Pappa suggests an alternative resolution to the contradiction.

R' Ashi offers a resolution wherein both sources follow the opinion of R' Meir.

4) Collecting encumbered property

A Mishnah rules that a creditor may not collect from encumbered property if there is free property available to collect.

The Gemara inquires whether this ruling applies even when the free property was destroyed.

An unsuccessful attempt to resolve the inquiry is made.

R' Yaimar rules that under such conditions encumbered property may be collected and an incident is cited as an example of this.

The proof from the incident is rejected.

The Gemara rules that under such conditions encumbered property may be collected.

5) A gift of land to a woman

Abaye rules that if a woman receives a gift of land with the instructions that after she dies it should go to a third party and she subsequently marries, the husband keeps the property upon his wife's death because he is considered a buyer of the property.

The Gemara asserts that Abaye's ruling follows R' Shimon ben Gamliel's position.

An unsuccessful challenge is presented concerning the assertion that Abaye follows R' Shimon ben Gamliel.

Abaye issues another ruling pertaining to a gift of land to a woman, with the instructions that after she dies it should go to a third party, who sells the property and then dies.

The Gemara explains why this case is different than the

(Overview...Continued on page 2)

Distinctive INSIGHT

Collecting from the buyers when the borrower's fields are lost
איבעיא להו אישתדוף בני חרי מהו דליטרוף ממשעבדי

A borrower sold some of his land which was encumbered to pay a loan, but some property remained which was "free and clear." Subsequently, the available land which he kept became ruined. The question is whether the lender can now collect land from the buyers.

Pnei Yehoshua explains the two sides of the issue that the Gemara explores. Why is the rule generally that collection of a loan by a lender cannot be from encumbered land as long as there are free and clear lands remaining in the possession of the borrower? On the one hand, it may be in order to protect the buyers, who bought land knowing that they had left other lands with the borrower to cover his expenses. If this is the reasoning, then even if the lands of the borrower subsequently become ruined, the buyers are still protected. They are not to sustain a loss after having acted responsibly. On the other hand, the reason for the rule may be that we do not want to cause a loss to the buyers as long as the borrower can himself still pay off the loan. As long as the debtor himself has land in his possession, the buyers should not have to sustain a loss on his behalf. From this perspective, we can only protect the buyers as long as the debtor, in fact, has land. But here, where the land became ruined, we would be able to turn to the buyers and expect them to forfeit their purchases to reimburse the lender. Although when they bought their lands they made sure to leave the borrower with adequate property to cover his debts, at this point the claim of the original lender is stronger than theirs. ■

REVIEW and Remember

1. Explain the principle נחת רוח עשיתי לבעלי

2. How does R' Yeimar resolve the inquiry pertaining to collecting sold property when the free property was destroyed?

3. Who, according to Abaye, is a cunning evildoer?

4. What is the difference between the terms ניוזנת and הניזונת?

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By Dr. and Mrs. Moshe Nitekman
In loving memory of their father
ר' ראובן בן ר' אברהם הלוי, ע"ה

HALACHAH Highlight

Exhuming the body of a woman buried next to a man

ואין חייבין בקבורתה

They (the orphans) are not obligated to bury the widow

There was once a man who was buried in his family's burial plot and some time later it was discovered that a woman, who was not his wife, was buried in the grave next to his. The family inquired whether there is an obligation to exhume the body of this woman since it is customary to not bury men and women next to one another who are not married or perhaps once the burial was done the grave should not be disturbed.

Rav Moshe Feinstein¹ responded that there is certainly no prohibition involved in burying a man next to a woman, but it does violate common custom. There are two customs concerning how cemeteries are arranged. According to one custom there are separate rows for men and women, and even husbands and wives are not buried next to one another. Alternatively, there is a custom for husbands and wives to be buried next to one another and within the row, men and women are alternated, i.e. male - female, female - male, male - female, etc. That said, Rav Feinstein notes that it can be assumed (אנן סהדי) that the husband would not want another woman to be buried in the grave next to his. Furthermore, there may be an obligation on the children to bury their mother next to their father since there are many wives who are particular about that matter. Although our Mishnah writes that the orphans are not obligated to bury the widow, that refers to where the widow is not their mother. However, in the event that the widow is their

case in the Mishnah.

Rafraim noted that these rulings of Abaye are contradictory.

R' Ashi resolves the contradiction.

6) Clarifying the Mishnah

A Baraisa is cited that clarifies the last two cases of the Mishnah.

הדרן עלך מי שהיה נשוי

7) **MISHNAH:** The Mishnah discusses the various financial issues pertaining to a widow.

8) Clarifying the Mishnah

The Gemara inquires whether the correct reading of the Mishnah is **ניזונת** or **הניזונת** and explains that the difference between the two readings is whether the orphans have the option to not give financial support to the widow. ■

mother it is certainly incumbent upon them to bury their mother in the grave of her choice.

Rav Feinstein concludes that since this circumstance is considered shameful (בויון) for the deceased man and the family, it is appropriate to exhume the body of the woman and move her to a different grave. Although there is a general principle that a corpse should not be exhumed to be moved from a shameful grave to an honorable grave, that ruling applies only when the first grave was in a shameful location, i.e. next to the fence under where the people walk, but if it is disgraceful to the adjacent bodies it is necessary to move the body to end that shame. ■

1. שו"ת אג"מ יו"ד ח"ג ס"י קמ"ח. ■

STORIES Off the Daf

Collecting the Debt

"אין נפרעין מנכסים משועבדים במקום שיש בני חורין"

On today's daf we find that one may not collect an unpaid debt from purchased land when the debtor has unsold property, "בני חורין," in his possession. The Yeshuos Yaakov, ז"ל, explained this metaphorically. "In Avos we find the only בני חורין is one who toils in Torah. This can be applied to our Gemara here: Hashem does not collect on the moral debts of the Jewish people, from

משועבדים, if there is a בני חורין, a tzaddik, available who can shoulder the burden."

When Rav Shimshon Pinkus, ז"ל, was tragically killed in a car accident, many people were heartbroken—and none more so than the young orphans.

The words of Rav Chaim Kanievsky, shlit"א, encouraged the orphans greatly. "It is a puzzling thing; Chazal say that if there is a decree of vast destruction against the generation, Hashem often takes a tzaddik from this world and that is considered an atonement. But why should the righteous have to suffer for the sins of the generation? The Magid of Dubnah, ז"ל, explains that this is actually worthwhile for the tzaddik, since his reward is

very great."

A contemporary of the Shitah Mekubetses wrote that one who dies to atone for the tzibbur gains entry in the מחיצה of the Avos. He explains clearly why this is worthwhile: "Even if one lived a thousand years and had toiled in Torah the entire time, he could not have reached this exalted level!"

When the son-in-law of the Chofetz Chaim, ז"ל, passed away, his daughter tearfully expressed her pain, "But Tatteh, why did Hashem have to take my Hirschele from me?"

The Chofetz Chaim gently replied, "If not for his passing, half the world would have had to go. Isn't this worth it?" ■

