

Daf Notes

Insights into the Daily Daf

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Bava Metzia Daf 9

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Daily Daf

Does Riding Acquire?

The *Gemora* cites a *braisa* in an attempt to support Rav Yehudah's opinion that riding does not constitute a *kinyan*. The *braisa* states: If two people were pulling a camel or leading a donkey, or one was pulling and one was leading, if the *kinyan* is done in this way, they acquire (*the Gemora will explain this below*). Rabbi Yehudah states: He does not acquire it unless he is pulling a camel or leading a donkey.

The *braisa* had stated: Or one of them was pulling and one was leading. This implies that riding would not be a valid mode of acquisition!

The *Gemora* rejects the proof: Riding would also be valid. The reason why it specifically stated pulling and riding was to exclude the position of Rabbi Yehudah, who said that there has to be either pulling by a camel or leading of a donkey. The *braisa* therefore makes a point of saying that even the opposite (*leading a camel or pulling a donkey*) is valid.

The *Gemora* asks: If so, why didn't the *Tanna Kamma* say: Two people who were pulling or leading, whether a camel or a donkey?

The *Gemora* answers: This is because there is indeed one way that the *Tanna Kamma* holds is invalid. Some say this is the pulling of a donkey, and some say this is the leading of a camel.

Some ask a question from the end of the *Tanna Kamma's* statement: If the *kinyan* is done in this way, they acquire. What does this exclude? It must be that it excludes riding.

The *Gemora* answers: No, it excludes the opposite (*of pulling a camel and leading a donkey*).

The *Gemora* asks: This means that he has the same position as Rabbi Yehudah!?

The *Gemora* answers: The difference is, as stated above, either the pulling of a donkey or the leading of a camel.

The *Gemora* attempts to answer this from another *braisa*. The *braisa* states: If one was riding the donkey and the other was holding the reins, one acquires the donkey and one acquires the reins. This seemingly proves that riding acquires!

The *Gemora* rejects the proof: The case is where the rider is leading the animal with his feet (*meaning that he is kicking the animal with his feet and causing it to walk, not just sitting on top of it*).

The *Gemora* asks: If so, the one who is riding it should also acquire a portion of the reins!?

The *Gemora* answers: Actually, it should say: One acquires the donkey and half of the reins, and one acquires the donkey and half of the reins.

The *Gemora* asks: It is understandable that the one who is riding acquires, as a competent person picked up the

reins for the rider (*and he can thereby acquire his half*). However, when the other person picks it (*the reins*) up, how does he acquire his half (*the other half is already "up" on the donkey*)? [Rashi explains that to acquire ownerless items, one must pick them up fully, not only on one side.]

The Gemora answers: The *braisa* must mean that one acquires the donkey and the reins, and the other acquires the reins that are in his hand (*which is regarded as separate from the rest of it*).

The Gemora asks: What is the logic for this? Even if you say that when one lifts up a found object for his fellow, the fellow acquires it, this is correct only when one picks it up on behalf of his fellow. But in this case, the one holding the reins picked it up on his own behalf. Now, if he himself does not acquire it, how can he possibly acquire it for others?

Rather, Rav Ashi answers: The *braisa* means that one acquires the donkey and its headstall (*what is on the animal's head – which is regarded as part of the donkey*), and the other acquires what is in his hand. The rest (*of the reins*) is not acquired by either.

Rabbi Avahu answers: The *braisa* is literal - one acquires the donkey and the other acquires the reins (*even the part on the animal's head*). This is because he (*the one holding the reins*) can pull the reins (*with one pull; this is because the animal's head is high above the ground*) and bring it to himself. [*He therefore acquires it even though it was not lifted, for if he wanted to, he could hold it in the air by yanking it off the animal.*]

The Gemora notes: Rabbi Avahu's answer is mistaken. If you will not say it is mistaken, then if a cloak is half on the ground and half on a pillar, and then someone came and picked up the part on the ground and someone else came and picked up the half on the pillar, we would say that the first person should acquire the entire cloak, and the second person would not acquire any part of it. This would be because the first person could pull it and bring it to him! Being that we do not say this, it must be Rabbi Avahu is mistaken.

The Gemora attempts to prove that a rider does acquire from a *braisa*. The *braisa* states: Rabbi Eliezer says that if someone is riding a found animal in the field and leading in the city, he acquires. [*This shows riding acquires.*]

The Gemora rejects the proof: Here too, the case is where he is riding with his feet.

The Gemora asks: If so, this is the same as riding!?

The Gemora answers: These are two types of leading.

The Gemora asks: If so, why doesn't one acquire if he was riding in the city?

Rav Kahana says: This is because a person does not normally ride within the city.

Rav Ashi asked Rav Kahana: Accordingly, would you say that someone who picks up a wallet on *Shabbos* has not acquired it because it is not normal to pick up a wallet on *Shabbos*? Rather, we say that he has sinned and acquired. Here too, say it is not normal but he acquires!?

The Gemora answers: Rather, the case is where there is a buyer and seller. The seller states, "Acquire this in a normal fashion." If it is a public domain, he acquires with riding (*as it is normal to ride in a public domain within the city*). Similarly, if he is an important person (*who usually rides an animal*), he acquires. If it is a woman, she acquires (*as she also rides instead of leading*). If it is a base person, they also acquire (*as they don't mind riding in general*). (8b – 9b)

Acquiring Things on an Animal

Rabbi Elozar inquired: If someone said to his friend, "Pull this animal with intent to acquire the vessels (*and not the animal*) that are on it," what is the law?

The Gemora asks: "With intent to acquire?" How does it help that his friend has in mind to acquire if the seller did not first tell him explicitly "acquire them?"

Rather, the case is where he said, "Pull this animal and acquire the vessels on top of it." Does the pulling of an animal help to acquire the vessels on top of it, or not?

Rava says: If the person were to instruct his friend to acquire the animal and the vessels on top of it, would that work? The animal is a moving courtyard, and a moving courtyard cannot effect an acquisition! If you will say the case is where the animal stood still after he acquired it (*and he should then be able to acquire the vessels as the animal is a regular courtyard*), this cannot be. The rule is that anything that cannot acquire due to its mobility also cannot acquire while standing or sitting still. The law is

that if it is tied up, then it can be used to acquire as a courtyard.

Rav Papa and Rav Huna the son of Rabbi Yehoshua said to Rava: If this is so, if a person was sailing in a boat and fish jumped into the boat, would we say that the boat is a moving courtyard and does not acquire the fish?

Rava answered: A boat is considered a stationary object, and is just being moved by the water.

Ravina said to Rav Ashi: If this is so, if a woman was walking in the public domain and her husband threw a *get* into her lap or into her basket, would she not be divorced?

He answered: Her basket is stationary, and it is just she who is moving underneath it. (9b)

Mishna

If someone was riding on an animal and saw a lost object, and asked his friend to give it to him, if his friend took it and said, "I am acquiring it (*for myself*)," he has acquired it. If when he gave it to his friend on the animal, he then says, "I acquired it first," his words are meaningless. (9b)

Acquiring for Another

The *Gemora* cites a *Mishna*: If someone was gathering *pe'ah* (a corner of the field is left over for the poor), and he said that it is designated for someone who is poor, Rabbi Eliezer says he has effectively acquired it for that poor person. The *Chachamim* say: It should be given to the first poor person present.

Ulla says in the name of Rabbi Yehoshua ben Levi: This argument is regarding a rich person who acquires for a poor person. Rabbi Eliezer holds that being that he could technically make all of his possessions ownerless and thereby be able to take *pe'ah* for himself, he is fit to acquire *pe'ah*. Once he is fit to acquire *pe'ah*, he can similarly acquire it for someone else who can acquire *pe'ah*. The *Chachamim* hold: We only say one theoretical at a time, not two. [*We do not say both that he could theoretically accept pe'ah, and that he could therefore theoretically accept for his friend.*] However, everyone would agree that if a poor person would acquire for another poor person, the acquisition would be valid.

Rav Nachman asked Ulla: Why didn't you say that the argument is even in a case from one poor person to

another (*and the Chachamim still rule that he does not acquire it, for they would not hold of the "since" principle*)?

Rav Nachman proves his point: For regarding a found object, everyone is regarded as a poor person (*for everyone is entitled to acquire it*), and yet we learned in a *Mishna*: If someone was riding on an animal and saw a lost object, and asked his friend to give it to him, if his friend took it and said, "I am acquiring it (*for myself*)," he has acquired it. Now, if you would say that the argument is even in a case from one poor person to another, this *Mishna* can be following the *Chachamim's* viewpoint (*and that is why the rider does not acquire it*). However, if you hold that the argument is only from a rich person to a poor one, but they would all agree with respect of a poor person to another, who is our *Mishna* following? It is not the *Chachamim* or Rabbi Eliezer!?

Ulla answers: The *Mishna* is dealing with a case where the fellow said, "I acquired it for myself in the beginning" (*and that is why the rider does not acquire it*). (9b – 10a)

INSIGHTS TO THE DAF ***Mobile Courtyard***

The *Gemora* states that a moving courtyard cannot effect an acquisition for its owner. The *Rishonim* disagree as to the reason for this. *Rashi* and *Tosfos* maintain that since the *halacha* that a courtyard can effect an acquisition for its owner is derived from the *halacha* of acquiring through one's hand, a moving courtyard, which does not resemble to a hand (*which is stationary*), cannot effect an acquisition for its owner.

The *Ritva* and the *Ran* suggest a different reason for this. They say that since the courtyard can be a great distance away from the owner, it is not considered protected by the owner, and therefore it is disqualified from effecting an acquisition for the owner.

The *Divrei Mishpat* notes that the following case would be a difference between them: If a lost object would fall on his animal which is in his courtyard. If a mobile courtyard is excluded because it does not resemble a person's physical hand, he will not acquire this lost object, for the animal is a moveable object. If, however, a mobile courtyard is disqualified from effecting an acquisition because it is not guarded from intrusion by

the owner, here, he will acquire the lost object because the object is protected.