

A בס"ד

Intro

Today we will learn בע"ה of מסכת בבא בתרא דף ק"ד
Some of the topics we will learn about include.

The Machlokes regarding

קנין

עד אימתי חוזר

If someone finalized an agreement by making a קנין חליפין, he can retract up to a certain point in time. And the question is; until when can he retract?

אין הבעל יורש את אשתו בקבר

The husband inherits only those assets that were in his wife's possession at the time she died, but he does not inherit those assets that she would inherit after she died, as in a case of

מתה

ואח"כ מת אביה

If the wife first died and then her father died with no sons and his assets were bequeathed to her;

The husband does not inherit those assets. Her sons - or if she has no children, her closest relatives - inherit these assets.

B אין הבן יורש את אמו בקבר

להנחיל לאחין מן האב

A son only inherits his mother's assets when he is alive, but he does not inherit his mother's assets after he dies, as in a case of

מת הבן

ואח"כ מתה אמו

If the son first died and then his mother died, the son's heirs through his father do not inherit these assets. Rather, the mother's heirs through her father inherit these assets.

opinion of רבי יהודה בן ר' שמעון

דבר תורה וכו' אשה יורשת את בנה

A mother inherits the assets of her children if the father is no longer alive, and he disagrees with our Mishnah that holds

האשה את בנה

לא נוחלין

A mother does not inherit the assets of her deceased son.

A

קנין
עד אימתי חוזר

אין הבעל יורש
את אשתו בקבר

מתה
ואח"כ מת אביה

B

אין הבן יורש את אמו בקבר
להנחיל לאחין מן האב

מת הבן
ואח"כ מתה אמו

רבי ירמיה ק"ר שמעון
דבר תורה וכו'
אשה יורשת את בנה

האשה את בנה
לא נוחלין

1 So let's review ...

The Gemara proceeds with a Machlokes regarding

קנין
עד אימתי חוזר

If someone finalized an agreement by making a קנין חליפין, he can retract up to a certain point in time, because as the Rashbam explains

דקים להו לרבנן דאדעתא דהכי מיקני איניש
שיתן לבו אחרי כן

There is a general assumption that the person still intends to think it over and decide whether to finalize the קנין. Therefore, the Gemara asks

עד אימתי חוזר

Until when can he retract?

רבה says

כל זמן שיושבין

He can retract as long as they are still seated at this meeting; but, he cannot retract once they stood up.

רב יוסף says

כל זמן שעוסקין באותו ענין

He can retract only as long as they are still discussing this same topic; but he cannot retract once they began to discuss a different topic, even though they're still seated.

Accordingly, in the previously mentioned Halachah of 'שלשה שנכנסו לבקר את החולה וכו'

רצו עושין דין

If three people came to visit a sick person on his deathbed and he gave them instructions on how to divide his estate among his heirs, they can act as a Bais Din and divide the estate according to his wishes.

According to רבה we must say

דקמו והדר יתיבו

They must first stand up, and then sit down, to ensure that he cannot retract, and then divide the estate.

While according to רב יוסף we must say

דיסליקו מענינא לענינא

They must divert the conversation to a different topic to ensure that he cannot retract, and then divide the estate.

However, they cannot divide the estate beforehand, because as the Rashbam explains

כיון דיכול לחזור בו ויבטל הדין

לא הוי דין

The חולה still has the ability to retract and void their division.

The Gemara concludes

והלכתא כוותיה דרב יוסף

בשדה ענין ומחצה

This is one of the three areas where the Halachah follows רב יוסף.

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1

קנין
עד אימתי חוזר

If someone finalized an agreement by making a קנין חליפין, he can retract up to a certain point in time.

Rashbam explains

דקים להו לרבנן דאדעתא דהכי מיקני איניש
שיתן לבו אחרי כן

וידע אם אפשר לו בקנין זה לעשותו קנין גמור

There is a assumption that the person still intends to think it over and decide whether to finalize the קנין.

רב יוסף

כל זמן שעוסקין
באותו ענין

He can retract only as long as they are still discussing this same topic; but he cannot retract once they began to discuss a different topic, even though they're still seated.

רבה

כל זמן שיושבין

He can retract as long as they are still seated at this meeting; but, he cannot retract once they stood up.

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They must divert the conversation to a different topic to ensure that he cannot retract, and then divide the estate.

רבה

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והדר יתיבו

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כיון דיכול לחזור בו ויבטל הדין
לא הוי דין

The חולה still has the ability to retract and void their division.

והלכתא כוותיה דרב יוסף
בשדה ענין ומחצה

This is one of the three areas where the Halachah follows רב יוסף.

2 The Gemara continues to explain the Mishnah at the beginning of the Perek:

Among the third group the Mishnah taught

מנחילין ולא נוחלין

האשה את בניה

והאשה את בעלה

A mother does not inherit the assets of her deceased son, and a wife does not inherit the assets of her deceased husband

The Gemara asks, this is already known from the second group where the Mishnah states

נוחלין ולא מנחילין

האיש את אמו

והאיש את אשתו

A son inherits the assets of his deceased mother, and a husband inherits the assets of his deceased wife, but not the reverse.

The Gemara answers

הא קא משמע לן

דאשה את בנה

דומיא דאשה את בעלה

The Mishnah comes to teach that a son inherits his mother in the same way a husband inherits his wife:

מה אשה את בעלה

אין הבעל יורש את אשתו בקבר

Just as the husband inherits only those assets that were in his wife's possession at the time she died, but he does not inherit those assets that she would inherit after she died, as in a case of

מתה

ואח"כ מת אביה

If the wife first died and then her father died with no sons and his assets were bequeathed to her;

The husband does not inherit those assets. Her sons - or if she has no children, her closest relatives - inherit these assets.

אף אשה את בנה

אין הבן יורש את אמו בקבר

להנחיל לאחין מן האב

So too, a son only inherits his mother's assets when he is alive, but he does not inherit his mother's assets after he dies, as in a case of

מת הבן

ואח"כ מתה אמו

If the son first died and then his mother died, the son's heirs through his father do not inherit these assets. Rather, the mother's heirs through her father inherit these assets, because as the Rashbam explains

כיון דמת פקע לו כחו בירושת אמו

Once the son died, he lost the rights to his mother's assets.

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2

נוחלין ולא מנחילין

האיש את אמו

והאיש את אשתו

A son inherits the assets of his deceased mother, and a husband inherits the assets of his deceased wife, but not the reverse.

מנחילין ולא נוחלין

האשה את בניה

והאשה את בעלה

A mother does not inherit the assets of her deceased son, and a wife does not inherit the assets of her deceased husband



הא קא משמע לן

דאשה את בנה

דומיא דאשה את בעלה

The Mishnah comes to teach that a son inherits his mother in the same way a husband inherits his wife:

אף אשה את בנה

אין הבן יורש

את אמו בקבר

להנחיל לאחין מן האב

So too, a son does not inherit his mother after he dies, as in a case of

מת הבן

ואח"כ מתה אמו

If the son first died and then his mother died.

Rather, the mother's heirs through her father inherit these assets,

because ...

כיון דמת פקע לו כחו בירושת אמו

Once the son died, he lost the rights to his mother's assets.

מה אשה את בעלה

אין הבעל יורש

את אשתו בקבר

Just as the husband does not inherit those assets that she would inherit after she died, as in a case of

מתה

ואח"כ מת אביה

The wife first died and then her father died with no sons.

3 The Gemara continues:
The Mishnah had taught

האשה את בניה
מנחילין ולא נוחלין

A mother does not inherit her sons. However,

says רבי יוחנן משום רבי יהודה בן ר' שמעון

דבר תורה האב יורש את בנו

ואשה יורשת את בנה

A mother does inherit the assets of her son if the father is no longer alive, just as the father inherits the assets of his son, because the Pasuk states

וכל בת יורשת נחלה ממוטות בני ישראל

The pluralized word ממוטות teaches that a daughter inherits the assets of both her father and her mother, and also

מקיש מטה האם למטה האב

In the word ממוטות there is a comparison of the mother to the father, in that

מה מטה האב

אב יורש את בנו

אף מטה האם

אשה יורשת את בנה

Just as a father inherits the assets of his son, so too, a mother inherits the assets of her son.

However, as the Rashbam explains, if the father is alive, only he inherits the assets of the children, but not the mother, because,

דלהכי אהני ליה

משפחת אב קרויה משפחה

The father is considered a closer relative than the mother.

3

האשה את בניה
מנחילין ולא נוחלין

A mother does not inherit her sons.

רבי יוחנן משום רבי יהודה בן ר' שמעון

דבר תורה האב יורש את בנו
ואשה יורשת את בנה

A mother does inherit the assets of her son if the father is no longer alive, just as the father inherits the assets of his son,

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וכל בת יורשת נחלה
ממוטות בני ישראל

The pluralized word ממוטות teaches that a daughter inherits the assets of both her father and her mother, and also

מקיש מטה האם למטה האב

In the word ממוטות there is a comparison of the mother to the father,

מה מטה האב אב יורש את בנו	אף מטה האם אשה יורשת את בנו
Just as a father inherits the assets of his son,	so too, a mother inherits the assets of her son.

However, as the Rashbam explains, if the father is alive, only he inherits the assets of the children, but not the mother, because,

דלהכי אהני ליה


משפחת אב קרויה משפחה

The father is considered a closer relative than the mother.

4 And although the Mishnah rules otherwise;
 האשה את בניה
 מנחילין ולא נוחלין
 A mother does not inherit the assets of her deceased sons.

The Gemara explains that רבי יהודה בן ר' שמעון holds משנתנו איני יודע מי שנאה
 The Mishnah's opinion is contradictory, as the Mishnah does use the היקש of למטה האם to teach בן קודם לבת בנכסי האם
 A son comes before a daughter to inherit his mother's assets as he does in his father's assets.
 Therefore, the Mishnah should have used the same היקש of למטה האם to teach אשה יורשת את בנה

The Gemara however concludes that the Mishnah is not contradictory, and even though they do use the היקש regarding בן קודם לבת בנכסי האם
 The היקש cannot be used regarding אשה יורשת את בנה
 Because the Pasuk states מוטות בני ישראל וכל בת יורשת נחלה
 The exclusive word יורשת teaches יורשת ואינה מורשת
 A woman can only inherit FROM two שבטים, her father and mother; but vice versa, if she dies, both שבטים, her father and mother, do not inherit FROM their daughter, but rather only the father inherits his children and the mother does not inherit her children.

4 
 Although the Mishnah rules otherwise;
**האשה את בניה
 מנחילין ולא נוחלין**
 A mother does not inherit the assets of her deceased sons.

רבי יבוצה ק' ר' למציון holds
משנתנו איני יודע מי שנאה
 The Mishnah's opinion is contradictory, as the Mishnah does use the היקש of

למטה האם ← מטה האם
 to teach

**בן קודם לבת
 בנכסי האם**

Therefore, the Mishnah should have used the same היקש of למטה האם to teach
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The Gemara however concludes that the Mishnah is not contradictory, and even though they do use the היקש regarding
בן קודם לבת - בנכסי האם

The היקש cannot be used regarding
אשה יורשת את בנה

Because the Pasuk states
**ממטות בני ישראל
 וכל בת יורשת נחלה**

יורשת ואינה מורשת

A woman can only inherit FROM two שבטים, her father and mother; but vice versa, if she dies, both שבטים, her father and mother, do not inherit FROM their daughter, but rather only the father inherits his children and the mother does not inherit her children.