

A בס"ד

Intro

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

The Mishnah's Halachah of

חזקה שאין עמה טענה
נעל גדר פרץ כל שהוא
הרי זו חזקה

Regarding a חזקה that serves as a קנין to acquire a piece of land with the owner's permission, three years are not required, and once he makes even a minimal improvement to the actual field in front of עדים, he acquires the field.

The Gemara elaborates in the cases of

נעל גדר פרץ כל שהוא

The minimal improvements of a door, gate or opening in a field;

The Halachah of

נתן צרור והועיל
נטל צרור והועיל
הרי זה חזקה

If a person added a stone or removed a stone from a fence to allow regular amount of water into a field, and it was beneficial to the field's irrigation, the חזקה is effective.

B The Halachos regarding

שתי שדות ומצר אחד ביניהן

If a גר who died owned two fields and there was a raised border between them, one must perform a חזקה in each field, and also have intentions to acquire that field.

שני בתים זה לפנים מזה

If a גר left over two houses one within the other, a חזקה in the outside house can only acquire that house, while a חזקה in the inner house can acquire both houses.

הבונה פלטרין גדולים בנכסי הגר

ובא אחר והעמיד להן דלתות קנה

If one person built a large mansion with no doors in a גר's property, and then a second person built doors on the mansion, the second person who closed off the mansion acquires the property, but not the first person.

A

חזקה שאין עמה טענה
נעל גדר פרץ כל שהוא
הרי זו חזקה

נעל גדר פרץ
כל שהוא

נתן צרור והועיל
נטל צרור והועיל
הרי זה חזקה

B

שתי שדות
ומצר אחד ביניהן

שני בתים
זה לפנים מזה

הבונה פלטרין גדולים
בנכסי הגר
ובא אחר והעמיד להן דלתות
קנה

C המוצא פלטרין בנכסי הגר
וסד בהן סיוד אחד או כיור אחד קנאן
If there was an existing mansion on a גר's property, if a
person coated the walls with lime, or made drawings on
the wall, he acquires the property.

המציע מצעות בנכסי הגר
קנה
If a person spread out a blanket and laid down on a גר's
property, he acquires the property

C

המוצא פלטרין בנכסי הגר
וסד בהן סיוד אחד
או כיור אחד
קנאן

המציע מצעות
בנכסי הגר
קנה

1 So let's review ...

The previous Mishnah on מב דף concludes with the following distinction:

במה דברים אמורים במחזיק
אבל בנותן מתנה והאחין שחלקו
והמחזיק בנכסי הגר
נעל וגדר ופרץ כל שהוא הרי זו חזקה

As the Gemara explains

חסורי מחסרה והכי קתני
במה דברים אמורים
חזקתן שלש שנים
בחזקה שיש עמה טענה

Only regarding a חזקה that serves as proof against someone else's claim, three years are required; such as

מוכר אומר לא מכרתי

ולוקח אומר לקחתי

The previous owner claims that he did not sell the field,

while the occupant claims that he did sell him the field.

The מחזיק must occupy the property for three years, to

establish this type of חזקה.

אבל חזקה שאין עמה טענה

However, regarding a חזקה that serves as a קנין to acquire a piece of land with the owner's permission, three years are not required; such as

נותן מתנה

A gift or a sale of land; OR

והאחין שחלקו

Brothers who divided their father's estate; OR

והמחזיק בנכסי הגר

A person who seeks to acquire the property of a convert who died and his entire estate became הפקר, ownerless, because he has no heirs;

נעל גדר פרץ כל שהוא

הרי זו חזקה

Once he makes even a minimal improvement to the actual field in front of עדים, he acquires the field, and the other party cannot retract.

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1

במה דברים אמורים במחזיק
אבל בנותן מתנה והאחין שחלקו
והמחזיק בנכסי הגר
נעל וגדר ופרץ כל שהוא הרי זו חזקה

חסורי מחסרה והכי קתני
במה דברים אמורים
חזקתן שלש שנים
בחזקה שיש עמה טענה

Only regarding a חזקה that serves as proof against someone else's claim, three years are required; such as

מוכר אומר לא מכרתי
ולוקח אומר לקחתי

The previous owner claims that he did not sell the field, while the occupant claims that he did sell him the field.

The מחזיק must occupy the property for three years, to establish this type of חזקה.

אבל חזקה שאין עמה טענה

However, regarding a חזקה that serves as a קנין to acquire a piece of land with the owner's permission, three years are not required; such as:

והמחזיק בנכסי הגר	והאחין שחלקו	נותן מתנה
A person who seeks to acquire the property of a convert who died, and his estate becomes הפקר because he has no heirs.	Brothers who divided their father's estate.	A gift or sale of land.

נעל גדר פרץ כל שהוא
הרי זו חזקה

Once he makes even a minimal improvement to the actual field in front of עדים, he acquires the field, and the other party cannot retract.

2 The Gemara proceeds to elaborate on the Mishnah's Halachah of

גדר כל שהוא
הרי זו חזקה

וכמה כל שהוא
What type of minor improvement is sufficient as a קנין
חזקה?

למואל offers an example;
גדר גדר והשלימו לעשרה
הרי זו חזקה

If he added to the height of an existing fence to ten טפחים
which prevents one from entering the field, it is an act of
acquisition.

And the Gemara explains;

IF
דמעיקרא לא הוו סלקי לה
השתא נמי לא סלקי לה

מאי עבד?
If both before and after his work people were unable to
climb the fence and enter, the חזקה is certainly not
effective because there was no improvement.

And IF
דמעיקרא הוו סלקי לה
השתא לא סלקי לה

טובא עבד
If before his work people were able to climb the fence and
after his work they cannot, the חזקה is certainly effective
because he accomplished a major improvement.

2 גדר כל שהוא - הרי זו חזקה

וכמה כל שהוא

What type of minor improvement
is sufficient as a חזקה?

למואל

גדר גדר והשלימו לעשרה
הרי זו חזקה

If he added to the height of an existing fence to ten טפחים
which prevents one from entering the field,
it is an act of acquisition.

?

דמעיקרא
הוו סלקי לה
השתא
לא סלקי לה
טובא עבד

If before his work people were
able to climb the fence and
after his work they cannot,
the חזקה is certainly effective
because he accomplished a
major improvement.

דמעיקרא
לא הוו סלקי לה
השתא נמי
לא סלקי לה
מאי עבד?

If both before and after his
work people were unable to
climb the fence and enter,
the חזקה is certainly not
effective because there was
no improvement.

דמעיקרא הוו סלקי לה ברווחא
השתא קא סלקי לה בדוחקא

Before his work it was easy to climb the fence,
but now, after his work, it became difficult.

The חזקה is effective even though one can still enter,
because this is nevertheless a minor improvement
in that it is no longer easy to enter.

3

Similarly,
פרץ כל שהוא
הרי זו חזקה
And שמואל explains
ופרץ פרצה כדי שיכנס ויצא בה
הרי זו חזקה
He widened the entrance of an existing fence, which
allows one to enter the field.
This too, refers to where
דמעיקרא הוו עיילי בה בדוחקא
והשתא עיילי בה ברווחא
Before his work it was difficult to pass through, and now
it became easy to pass through. The חזקה is effective even
though one was able to enter even before, because this is
nevertheless a minor improvement in that it is no longer
difficult to enter the field.

And regarding
נעל כל שהוא
הרי זו חזקה
The רשב"ם explains this could be a case of
דסתם סתימה כל שהוא
He built a door that closes off only a portion of an
entranceway and
דמעיקרא הוו סלקי לה ברווחא
והשתא קא סלקי לה בדוחקא
He made it difficult to enter;
OR
שקבע מנעול בדלת לנעול בו
He built a lock on an existing door. However
סגר את הדלת
ונעל במפתח
בנכסי הגר אינה חזקה
If one merely closed and locked the door, in a case of a גר's
property where he did not receive the field directly from
its owner, this is not a valid חזקה, because he did not
actually build anything.
=====

3

פרץ כל שהוא - הרי זו חזקה

Skull

ופרץ פרצה כדי שיכנס ויצא בה
הרי זו חזקה

*He widened the entrance of an existing fence,
which allows one to enter the field.*

דמעיקרא הוו עיילי בה בדוחקא
והשתא עיילי בה ברווחא

*Before his work it was difficult to pass through,
and now it became easy to pass through.*

- A minor improvement -

נעל כל שהוא - הרי זו חזקה

*ר"ם explains this could be a case of
דסתם סתימה כל שהוא*

*He built a door that closes off only a portion
of an entranceway, and*

*דמעיקרא הוו סלקי לה ברווחא
והשתא קא סלקי לה בדוחקא*

He made it difficult to enter;

OR

שקבע מנעול בדלת לנעול בו

He built a lock on an existing door.

However

*סגר את הדלת ונעל במפתח
בנכסי הגר אינה חזקה*

*If he merely closed and locked the door,
in a case of a גר's property where he did not receive the field
directly from its owner, this is not a valid חזקה,
because he did not actually build anything.*

4 The Gemara continues

א"ר אסי א"ר יוחנן
נתן צרור והועיל
נטל צרור והועיל
ה"ז חזקה

If a person added a stone or removed a stone from a fence, the חזקה is effective only if it was beneficial to the field.

As the Gemara explains;

נתן צרור

דצמד לה מיא

He added a stone to seal a hole and keep regular amounts of water inside; or

נטל צרור

וארוח לה מיא

He removed a stone to allow regular amounts of water to enter the field,

ה"ז חזקה

Because he improved the irrigation of the field;

However in a case of

נתן צרור

וסכר מיא מינה

If he added a stone to prevent flooding water on the outside from entering the field; or

נטל צרור

ואפיק מיא מינה

If he removed a stone to allow flooding water inside to exit the field;

אין זה חזקה

This חזקה is not effective even though it was an improvement, because it is not considered an act of acquisition and does not indicate ownership, because

האי מבריה ארי מנכסי חברו הוא

He is merely fulfilling his obligation to save someone's property from damage.

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4

א"ר אסי א"ר יוחנן
נתן צרור והועיל
נטל צרור והועיל
ה"ז חזקה

If a person added a stone or removed a stone from a fence, the חזקה is effective only if it was beneficial to the field.

As the Gemara explains...

נטל צרור
וארוח לה מיא
He removed a stone to allow
regular amounts of water
to enter the field,

נתן צרור
דצמד לה מיא
He added a stone to seal a
hole and keep regular
amounts of water inside

ה"ז חזקה

Because he improved the irrigation of the field.

However in a case of...

נטל צרור
ואפיק מיא מינה
If he removed a stone
to allow flooding water
inside to exit the field.

נתן צרור
וסכר מיא מינה
If he added a stone to prevent
flooding water on the outside
from entering the field.

אין זה חזקה

This חזקה is not effective
even though it was an improvement,
because it is not considered an act of acquisition
and does not indicate ownership,
because

האי מבריה ארי מנכסי חברו הוא
He is merely fulfilling his obligation to save
someone's property from damage.

5 The Gemara continues
 ואמר רב אסי א"ר יוחנן
 שתי שדות ומצר אחד ביניהן
 If a גר who died owned two fields and there was a raised
 border that separated between them;
 החזיק באחת מהן
 If a person made a חזקה on one field, even if his intentions
 were
 לקנות אותה ואת חברתה
 To acquire both fields
 אותה קנה
 חברתה לא קנה
 He only acquires that field, but not the other field, because
 מצר מפסיק
 His חזקה does not apply to the other field, because it's
 considered a separate field.

Also, if his intentions were
 לקנות את חברתה
 To acquire only the other field
 אף אותה לא קנה
 He does not acquire anything, even the first field, because
 as the רשב"ם explains
 דלא נתכוין להחזיק בה
 He had no intention of acquire this field, and
 ואין חזקה אלא מדעתו
 One must have specific intention to acquire through חזקה.

5

ואמר רב אסי א"ר יוחנן
שתי שדות ומצר אחד ביניהן
*If a גר who died owned two fields
 and there was a raised border that separated them;*
החזיק באחת מהן
*If a person made a חזקה on one field,
 even if his intentions were*
לקנות אותה ואת חברתה
To acquire both fields
**אותה קנה
 חברתה לא קנה**
*He only acquires that field, but not the other field,
 because*
מצר מפסיק
*His חזקה does not apply to the other field,
 because it's considered a separate field.*

לקנות את חברתה
*If his intentions were
 to acquire only the other field*
אף אותה לא קנה
*He does not acquire anything, even the first field,
 because as the רשב"ם explains*
דלא נתכוין להחזיק בה
He had no intention of acquire this field, and
ואין חזקה אלא מדעתו
One must have specific intention to acquire through חזקה.

6 However, in the case of שני בתים זה לפנים מזה
 If a גר left over two houses one within the other;
 החזיק בפנימי
 לקנות אותו ואת החיצון
 קנה שניהן
 If he made a חזקה on the inner house and intended to
 acquire both houses, he does acquire both houses, because
 as the רבינו גרשום explains;
 הואיל ויש דרך לפנימי על החיצון
 The inner house owns the rights to exit and enter through
 the outer house, and we consider the חיצון to belong to the
 פנימי.

The חזקה however makes a distinction between a חזקה in
 הגר where he does not acquire the field directly from
 its owner, or a חזקה of מתנה or מכר, a gift or sale, where he
 does acquire the field directly from its owner:

Only regarding
 נכסי הגר

Do we say
 החזיק באחת מהן
 אותה קנה
 חברתה לא קנה

Because
 מומילא קני

He acquires each field on his own, but not through another
 party; therefore
 אין בו כח לקנות
 אלא אותה שדה שהחזיק בה
 The חזקה only has the power to acquire that field, but not
 other fields.

However, regarding מכר
 מכר לו י' שדות בעשר מדינות
 החזיק באחת מהן קנה כולם

If a person sold ten fields that were in ten different
 countries and the buyer paid for all the fields, a חזקה in one
 field can acquire all the other fields as well, because
 דכולהו אשתעבוד ללוקח בשביל מעותיו
 All the fields are obligated to the buyer through his
 payment. Therefore, his חזקה has the power to acquire all
 the fields.

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6 However,
שני בתים זה לפנים מזה
 If a גר left over two houses one within the other;
החזיק בפנימי
לקנות אותו ואת החיצון
קנה שניהן
 If he made a חזקה on the inner house
 and intended to acquire both houses,
 he does acquire both houses.

Because as the רבינו גרשום explains;
 הואיל ויש דרך לפנימי על החיצון

The inner house owns the rights to exit and enter
 through the outer house, and we consider the חיצון
 to belong to the פנימי.

The חזקה however makes a distinction between a חזקה
 in הגר where he does not acquire the field directly from
 its owner, or a חזקה of מתנה or מכר, a gift or sale,
 where he does acquire the field directly from its owner:

However, regarding

מכר
מכר לו י' שדות
בעשר מדינות
החזיק באחת מהן
קנה כולם

If a person sold ten fields
 in different countries and the
 buyer paid for all the fields,
 a חזקה in one field can acquire
 all the fields as well, because

דכולהו אשתעבוד
ללוקח בשביל מעותיו
 All the fields are obligated to
 the buyer through his
 payment.

Only regarding

נכסי הגר
 Do we say
החזיק באחת מהן
אותה קנה
חברתה לא קנה

Because
מומילא קני
 He acquires each field
 on his own, but not through
 another party; therefore

אין בו כח לקנות
אלא אותה שדה
שהחזיק בה

7 The Gemara proceeds with several Halachos of חזקה
 1.
 הבונה פלטרין גדולים בנכסי הגר
 ובא אחר והעמיד להן דלתות קנה
 If one person built a large mansion with no doors on a גר's
 property, and a second person then built doors on the
 mansion, the second person acquires the property, but not
 the first person, because
 קמא לבני בעלמא הוא דאפיך
 The first person is merely like one who placed a pile of
 bricks on the property, and the mansion is not an improve-
 ment, because it's not livable since it is not closed off and
 accessible to all.

7
Several Halachos of חזקה
 1
**הבונה פלטרין גדולים בנכסי הגר
 ובא אחר והעמיד להן דלתות
 קנה**
*If one person built a large mansion on a גר's property,
 and a second person then built doors on the mansion,
 the second person acquires the property,
 but not the first person, because*
קמא לבני בעלמא הוא דאפיך
*The first person is merely like one who placed
 a pile of bricks on the property,
 and the mansion is not an improvement,
 because it's not livable since it is not closed off.*

8 2.
 המוצא פלטרין בנכסי הגר
 וסד בהן סידוד אחד או כיור אחד קנאן
 If there was an existing mansion on a גר' property, if a
 person re-coated the walls with lime, or made drawings on
 the wall, he acquires the property.
 3.
 המציע מצעות בנכסי הגר
 קנה
 If a person spread out a blanket and laid down on a גר's
 property, he acquires the property, because
 ששמשותו הקרקע
 The ground offered him a personal benefit, as a servant
 does to his master.

8
 2
**המוצא פלטרין בנכסי הגר
 וסד בהן סידוד אחד או כיור אחד
 קנאן**
*If there was an existing mansion on a גר's property,
 if a person re-coated the walls with lime,
 or made drawings on the wall,
 he acquires the property.*
 3
**המציע מצעות בנכסי הגר
 קנה**
*If a person spread out a blanket
 and laid down on a גר's property,
 he acquires the property, because*
ששמשותו הקרקע
*The ground offered him a personal benefit,
 as a servant does to his master.*