

Bava Basra – Simanim

דף נג – Daf 53

פרק ג – חזקת הבתים

1. Acquiring property by placing or removing a stone of a wall

Rebbe Yochanan said: נטל צרור – *If one placed a stone and benefited the property with it, or removed a stone and benefited the property, this is considered a chazakah to acquire it.* The Gemara asks how the field benefited: if he placed a stone in the hole of a wall to block water from flooding the field or removed a stone from a wall to drain water from it, הארי מברוח ארי מנכסי – *this is similar to chasing a lion out of his fellow's property!* Such an act does not demonstrate ownership, since one is obligated to do so to protect another person's field. Rather, in the first case he placed a stone, דצמד לה מיא – *where he sealed water inside [the field] to water it, and prevent it from draining, and in the second case removed a stone, and increased the water flowing into [the field].*

2. Acquisition of two hefker fields with a מצר between them

Rebbe Yochanan said: שתי שדות ומצר אחד ביניהן – *Regarding two [hefker] fields, with one boundary (a raised strip of land) between them, if he made a kinyan chazakah on one field to acquire it, or with the intent to acquire both, he acquires it but not the other (since it is separated by the boundary).* If he intended only to acquire the adjacent field, לא קנה – *he does not even acquire that field where he made the chazakah.* Rebbe Zeira asked, what is the halachah if he intended to acquire both fields and the boundary? Do we say: מצר דארעא חד הוא וקני – *the boundary of each land is one, and he acquires all of them where he intends to do so (whereas above, he did not intend to acquire the boundary), or do we say [the boundary] stands alone, and [the field] stands alone (i.e., since the boundary is of a higher elevation, it is a separate land and they cannot be acquired together)?* The question is left unresolved. Rebbe Elazar asked if one can acquire both fields through a chazakah made on the boundary, and this is also left unresolved.

3. Building a mansion vs. installing doors, etc., and spreading mats

The Gemara considers various acts regarding acquiring property from hefker. Rabbah bar Avuha said: הגר – *If one builds a large mansion in the property of a ger who died, and another comes and installs doors on it, [the second person] acquires the property.* The one who built the mansion does not acquire it, because לבני בעלמא הוא דאפיך – *he merely "arranged bricks" on the property, since people can enter just as easily as before.* By installing doors, the second person exercised control over the property. Rebbe Elazar said that if one discovers a fully built mansion on hefker property, and plasters its wall once, or engraves a design on the wall, he acquires it. Rav Amram reported that Rav Sheishess taught: הגר קנה – *one who spreads out mats on the property of a ger who died, and lies on them, acquires the property.* The Rashbam explains that although he did not improve the land, the land serviced him by supporting him. Rav Sheishess brought proof from a Baraisa teaching that one acquires a slave through the slave lifting him.

Siman – Nigerian Prince

The Nigerian prince who sent a servant to acquire a chatzeir by placing a stone in the wall locking in the irrigation and sent another to acquire two fields with a raised boundary in between by making one kinyan on them all, was shocked to find that the palace he built on the הגר נכסי who died went to the guy who came along and installed a door.

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3 things to remember

1. Acquiring property by placing or removing a stone of a wall
2. Acquisition of two hefker fields with a מצר between them
3. Building a mansion vs. installing doors regarding who makes a קנין

