

Bava Basra – Simanim

Tef 53 – דף נג

פרק ג – חזקת הבתים

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

Rebbe Yochanan said: נטל צרור והועיל – *If one placed a stone and benefited* the property with it, הועיל – or *removed a stone and benefited* the property, הרי זו חזקה – *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, האי מבריח 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, האי מיא – where he sealed water inside [the field] to water it, and prevent it from draining, and in the second case removed a stone, האי מיא – וארות לה מיא – מול המיא – מול המיא היא מבריח לה נולט אוני של היא מבריח לה מיא – אוני מיא – אוני מיא היא מבריח לה מיא אוני של היא מבריח לה מיא היא מבריח לה מיא היא מבריח לה מיא היא מבריח לה מיא אוני של היא מבריח לה מיא היא מבריח מבריח לה מיא היא מבריח לה מיא היא מבריח לה מיא היא מבריח לה מיא היא מבריח לה מנוע לה מיא היא מבריח לה מוא היא מבריח לה מיא היא מבריח לה מיא היא מבריח לה מיא היא מבריח לה מוא היא מבריח לה מוא היא מבריח לה מוא היא מבריח לה מוא היא מבריח לה מנוע לה מיא היא מבריח לה מנוע לה מוא היא מבריח לה מבריח לה מוא היא מבריח לה מבריח לה מנוע לה מיא היא מבריח לה מבריח לה מנוע לה מנוע לה מבריח לה מנוע לה מב

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, אף אותה 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 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 <u>boundary</u>, and this is also left unresolved.

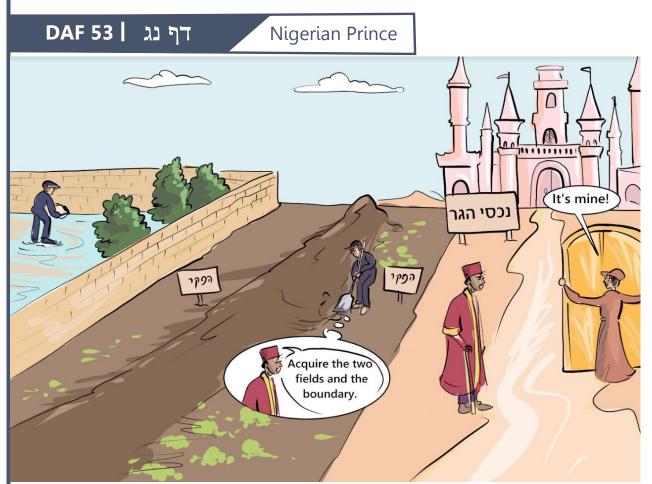
3. Building a mansion vs. installing doors, etc., and spreading mats

The Gemara considers various acts regarding acquiring property from *hefker*. Rabbah bar Avuha said: – If *one builds a large mansion in the property of a ger* who died, – *and another comes and installs doors on it*, קנה, – [the <u>second person</u>] *acquires* the property. The one who built the mansion does not acquire it, because – *ite second person*] *acquires* the property. The one who built the mansion does not acquire it, because – *tex* א 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 נכסי הגר who died went to the guy who came along and installed a door.

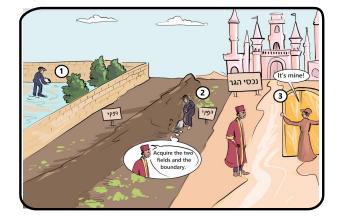
מסכת בבא בתרא



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- 2. Acquisition of two hefker fields with a אצר between them
- Building a mansion vs. installing doors regarding who makes a קנין



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