

## Bava Basra – Simanim

### פרק ג – חזקת הבתים

### דף כח – Daf 28

#### 1. חזקת הבתים...חזקתן שלש שנים מיום ליום

The third Perek begins: חזקת הבתים – Regarding establishing a *chazakah of houses*, or various water pits, dovecots, bathhouses, olive presses, irrigated fields, and slaves, *and any property which continually produces benefit*, חזקתן שלש שנים מיום ליום – *their chazakah is established by using them unchallenged for three years from day to day*, after which the new occupant can claim he owns the property without providing documentation. The *chazakah* of שדה הבעל – *field watered by rain*, which produces seasonally and not continually, is three years, but not complete years. Rebbe Yishmael says it is established with three months at the end of the first year, the entire second year, and three months at the beginning of the third year, for a total of eighteen months. Rebbe Akiva only requires one month before and after the middle year, totaling fourteen months. Rebbe Yishmael concludes that the above applies to a grain field, but regarding a field of various trees which ripen at different times, as soon as he gathers the wine produced by the vines, picks the olives, and gathers the dried figs, it qualifies as a three-year *chazakah*.

#### 2. שור מועד from חזקת ג' שנים derived הולכי אושא

Rebbe Yochanan said: שמעתי מהולכי אושא – *I heard from those sages who went to Usha*, that they would explain the source for three-year *chazakah*: משור המועד – *it is derived from a mu'ad ox*. Just as with a שור מועד, after it goes three times, *מועד ליה בחזקת תם וקם ליה בחזקת מועד* – *it leaves the former status as a tam and establishes a status as a mu'ad*, so too with regard to property, *כיון דאכלה תלת שנין – once [the occupant] uses it for three years*, *נפק לה מרשות מוכר וקיימא לה ברשות לוקח* – *it leaves the seller's possession and stands in the buyer's possession*. Although the owner of a שור מועד does not pay full damages until the fourth goring (despite being a *mu'ad* after three gorings), that is only because there is no damage to be paid, but this occupant takes possession of the property immediately after three years. Although the property is assumed his after occupying it for three years, he still must explain how it became his (through purchase, etc.), because the *chazakah* merely supports the claim he makes.

#### 3. Completing *chazakah* in a shorter time according to הולכי אושא

The Gemara asks, if *chazakah* of properties is derived from שור מועד, then according to Rebbe Meir, who holds an ox becomes a *mu'ad* even if קירב נגיחותיו – *it gored three times close together* (on a single day), then one should establish a *chazakah* if he ate three fruit on a single day, such as figs!? Rashi explains that figs do not ripen all at once, so if he ate three figs when they ripened at different times of the day, they should constitute three crops. The Gemara answers that the respective gorings do not exist at the same time, so they are considered three separate gorings, whereas these figs all existed together (although they ripened separately) and are not considered separate crops. The Gemara ultimately asks that one should establish a *chazakah* by harvesting three full *aspasta* crops (a plant for animal fodder) over three months. The Gemara concludes that the "הולכי אושא" are Rebbe Yishmael, who allows *chazakah* to be established in less than three years (regarding a שדה הבעל) and would agree to an *aspasta chazakah* in three months. The Gemara will continue to seek a source for *chazakah* according to the Rabbonon who require three full years.

#### Siman - Strongman

The strongman who spent three years working the field he bought, establishing a *chazakah*, and was visited by travelers from Usha who told him that he reminded them of a goring cow who becomes a *mu'ad* after three times, watched his neighbor make a quick *chazakah* in three months, with three growths of *aspasta* for animal fodder.



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### 3 things to remember

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חזקתן שלש שנים מיום ליום
2. חזקת ג' שנים derived הולכי אושא  
שור מועד
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