

Bava Metzia - Simanim

דף קב – Daf 102

פרק ח – השואל את הפרה

1. Why the משכיר of a house acquires the דבל in the courtyard, ווערו של אדם קונה לו שלא מדעתו The Mishnah on the previous Daf taught that if one rents his house to another, the manure found in the courtyard belongs to the landlord. The Gemara asks that if the courtyard was also rented, or if the oxen belonged to the tenant, then the manure should belong to the tenant (in the former case, because his rented chatzeir acquires for him, and in the second, because the manure was produced by his cows).

The Gemara explains that the case is אול בחצר דמשכיר – with the landlord's courtyard, which he did not rent out (as Rashi explains), ותורי דאתו מעלמא קמו בה – and cows which came from elsewhere were standing in it. Since the cows' owners presumably were mafkir the manure, the landlord acquires it with his chatzeir. The Gemara notes that this supports the ruling of Rebbe Yose bar Chanina: חצרו של אדם קונה לו שלא מדעתו – a person's chatzeir acquires for him without his knowledge. The Gemara analyzes this principle at length.

2. שליחו הקן where the nest is in private property

Rebbe Yose bar Chanina's ruling is challenged from a Baraisa which teaches that doves of a dovecote are subject to the *mitzvah* of שילוח הקן, and are prohibited to be taken by others because of "דרכי שלום" (i.e., Rabbinically). According to Rebbe Yose, the eggs should be acquired by the *chatzeir*, and be exempt from because the *passuk* says: "כי יקרא" – *if* a bird's nest *happens* etc., שליחו הקן – which *excludes* a nest which is "at hand"!? Rava answers: ביצה ביציאת רובה הוא דאיחייבה לה בשילוח – an egg becomes obligated in חמיקנא לא קניא עד דנפלה לחצרו, beduis the mother's body, ומיקנא לא קניא עד דנפלה לחצרו – but is not acquired (by one's chatzeir) until it falls into his courtyard. It is during this interim that the Baraisa says the eggs are subject to שילוח הקן. Alternatively, the Gemara explains that since Rav says it is forbidden to acquire the eggs while the mother is roosting on them, they are subject to שילוח because שילוח לא מצי זכי ליה *his chatzeir also does not acquire them*.

[The Rabbinic prohibition against stealing is explained according to each interpretation.]

Siman - Cave

The landlord who was thrilled to acquire the זבל that was in his courtyard of the cave he rented out, since חצרו של אדם קונה לו שלא מדעתו, and happily noticed eggs in the שובך so he could do the *mitzvah* of שילוח הקן, had come to collect half of the thirteenth month's rent, since he had rented it at the rate of twelve dinars per year, one dinar per month.

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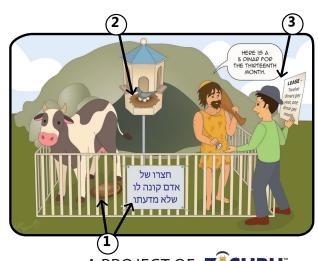
Cave



The landlord who was thrilled to acquire the זבל that was in his courtyard of the cave he rented out, since חצרו של אדם קונה לו שלא מדעתו, and happily noticed eggs in the dovecote so he could do the *mitzvah* of שילוח הקן, had come to collect the half of the thirteenth month's rent, since he had rented it at the rate of twelve dinars per year, one dinar per month.

things to remember

- 1. Why משכיר of house acquires זבל in the courtyard, חצרו של אדם קונה לו שלא מדעתו
- 2. שליחו הקן where the nest is in private property
- 3. In a home rental of twelve dinars per year, one dinar per month," the extra month's rent is divided



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