

## Bava Basra – Simanim

פרק ב - השותפין

### דף ג – 3 Daf

#### 1. How the partners' agreement to divide the *chatzeir* is binding

Rav Assi explained, in the Gemara's second version, that the partners divided a property כשאין בה דין חלוקה – *which was not subject to legal division*, i.e., it was too small for either to demand a division, but they agreed to do so. The Gemara asks, נהדרו בה – *but let them retract*, since a mere verbal agreement to divide the *chatzeir* is not binding!? Rebbe Yochanan explained: שקנו מידן – *they acquired from each other* with a legal *kinyan*, e.g. חליפין. The Gemara objects that it is – *an acquisition of mere words*, i.e., an intangible commitment to divide the property, and so it clarifies: בשקנו מידן ברוחות – *they acquired from each another the sides* of the property which they would respectively own, and this acquisition is binding. Rav Ashi said: כגון שהלך זה בתוך שלו והחזיק – *the case is where this one went into his half of the chatzeir and performed a kinyan chazakah*, וזה בתוך שלו והחזיק – *and this other one went into his half and performed a kinyan chazakah*.

#### 2. The height of the אמה טרקסין, and the difference between the first Beis Hamikdash and the second

The Mishnah taught that a wall of גזית – *planed stones* which is four *amos* tall must be five *tefachim* wide. The Gemara wonders if this is the necessary ratio, because the אמה טרקסין (the wall separating the קדש from the קדש הקדשים in the first Beis Hamikdash) was thirty *amos* high, but only six *tefachim* wide!? The Gemara answers that the extra *tefach* was enough to support a much higher wall. Still, the second Beis Hamikdash did not have an אמה טרקסין, because six *tefachim* of width can only support thirty *amos* of height, but the second Beis Hamikdash was taller. The source that it was taller is from the *passuk*: גדול יהיה כבוד הבית הזה האחרון מן הראשון – *the honor of this later House will be greater than that of the first*. Amoraim debated its meaning; one said it means בבנין – *in the structure*, that it would be taller, and one said it means בשנים – *in years* of existence, because the second Beis Hamikdash stood for 420 years, ten years longer than the first. Although part of the height could have been built as a wall, and the rest as a *paroches*, there was a tradition that the divider must be either entirely a wall or a curtain, not a combination of the two.

#### 3. Demolishing a *shul* to build a new one

Rav Chisda said: עד דבני בי כנישתא אחריתי – *a person may not demolish a shul* לא ליסתור איניש בי כנישתא – *until he has built another shul* to replace it. Some say this is because of פשיעותא – *negligence*, that a new *shul* may not be built, and some explain it is because of צלויי – *a place for davening* in the interim. A practical difference between these reasons is if there is already another place available to *daven*. Rav Ashi ruled that even if funds were deposited for building, or even if construction materials were already set aside, we are still concerned they may be sold for funds necessary to redeem captives, and the *shul* will not be built. The Gemara qualifies Rav Chisda's law: חזי בה תיוהא – *if they see cracks in it* and it may collapse, they may demolish it and then build another. Rav Ashi saw cracks in the *shul* in Masa Mechasya, and he demolished it, and brought his own bed there until the new construction was fully completed. Bava Ben Buta advised Herod to demolish the Beis Hamikdash and rebuild it, either because he saw cracks in it, or because a king can be relied upon to fulfill his commitment.

#### Siman – Camel

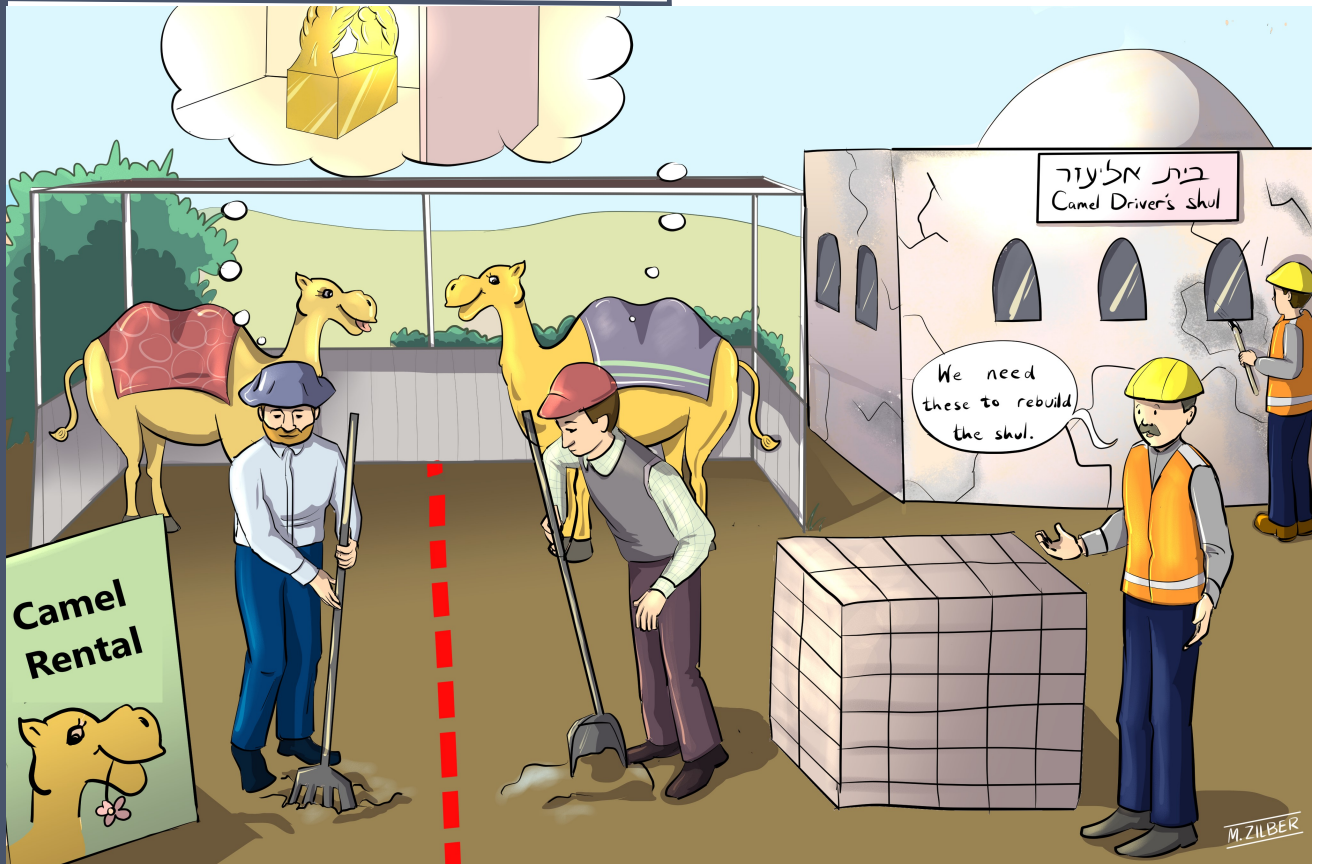
When the partners of the camel rental business divided their lot, making a *kinyan chazakah* for their respective sides so they couldn't retract, they considered building a wall like the אמה טרקסין in the first Beis Hamikdash, but were told the materials were needed to rebuild the Camel Drivers Shul next door, which was being demolished and rebuilt due to the cracks seen in the building.

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Camel



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### 3 things to remember

1. How the partners' agreement to divide the *chatzeir* is binding
2. The height of the אמה טרקסין, and the difference between the first *Beis Hamikdash* and the second
3. Demolishing a shul to build a new one

