

שבת קודש פרשת מטות-משעי | מסכת כתובות דף מ"ד

INSIGHTS FROM OUR CHABUROS

Two Documents and דינא דבר מצרא

פשיטא ראשון ושני במתנה ליפות כחו הוא דכתב ליה משום דינא דבר מצרא

The "law of the neighbor" is that we grant right of first refusal to an adjacent neighbor to buy land which is for sale. All other factors being equal, there is a great benefit for a person who already lives next door to acquire the land for sale, in order that his property be extended. It is clearly better for a person to have all his property in the same area, if he so wishes, rather than to own several separate lands. We recognize this, and we direct the seller, based upon "ועשית הישר והטוב - a person should do that which is good and right," to sell the land to the neighbor, if the neighbor is interested in buying it. This priority is only granted in a case where the owner is selling the land. If, however, the owner wishes to give it away as a gift, in such a case we cannot tell the owner to whom he must give a gift.

In our Gemara, a field was sold. Later, the original owner gave the buyer a second document of ownership to the same land, but this document indicated that the transfer was a gift, and not a sale. Here, the second document does not nullify the first document. We clearly understand that the original owner realized that merely with a sales document, the buyer might be subject to losing the land due to the "law of the neighbor." He therefore gave the buyer an additional document, this time indicating that it was a gift, in order to protect him from דינא דבר מצרא, which does not apply to a gift. Tosafos adds that in this case, the buyer should hide the first document, because if both documents would be seen, the buyer would be subject to the limitations of the first deal, which was a sale.

Tosafos also mentions that in a case of a sales document followed by a gift document, if the buyer himself is also a neighbor, the seller obviously did not write the second document for the advantage. Here, the gift transaction cancels the sale.

STORIES OF THE DAF

Modern Miracles

"והוציאו את הנערה...וסקלה..."

During the air raids and chaos of World War I, Rav Isser Zalman Meltzer, zt"l, invited the then young Rav Shach, zt"l, to stay in the Rosh Yeshiva's already crowded house. There was a great danger at the time, and Rav Meltzer explained that he needed the protection of one who was truly toiling in Torah in his home. In later years, Rav Shach would always comment how much he learned about humility from his mentor. Imagine a gadol like Rav Isser Zalman telling a young bochur that he needed the merit of his student's learning! During this period, Rav Meltzer would examine the chiddushim that he had urged the young Rav Shach to write. One such piece that Rav Shach later recalled involved a concept from this week's daf, the issue of הוצאת שם רע.

Rav Shach cited the Rambam which states that we can only judge the case of a slanderer before a court of twenty-three judges, and only when the Beis Hamikdash stands, since a guilty verdict can lead to execution. פיתוי and אונס can be judged by a court of three. Rav Shach asked, "Why shouldn't we judge a case of הוצאת שם רע even when no Beis Hamikdash stands since there is no death penalty involved nowadays?"

In his writing, Rav Shach answered, "The text of the Rambam here is unclear and ought to be corrected. It would have been better if it said that during the time of the Beis Hamikdash we only judged הוצאת שם רע before a court of twenty-three judges. Now that we are in exile and there is no possibility of execution, הוצאת שם רע is to be judged before a court of three, like פיתוי and אונס."

When Rav Issur Zalman saw this chiddush, he was clearly inspired. "This is אמיתה של תורה - the genuine Torah truth!

This chiddush is your unique portion in Torah that even the Rishonim didn't reveal!" In later years, Rav Shach would always refer to this as a classic example of how a rebbi should express his confidence in his talmidim and encourage them to grow to greatness in Torah!

PARSHA CONNECTION

In this week's daf the גמרא explains that a מתנה is better than מכר. The מדרש in this week's פרשה describes the fact that the reason the ראובן and בני גד had so much צאן ומקנה was because they received it as a present: הלכה ג' - זכה בכחמה - זכה בכל, זכה בתנות נבראו בעולם. זכה באחת מהן נטל חמדת כל העולם: זכה בחכמה - זכה בגבורה - זכה בכל, זכה בעושר - זכה בכל. אימתי? בזמן שהן מתנות שמים ובאות בכח הקב"ה והתורה אבל גבורתו ועשרו של ב"ו אינו כלום and are acknowledged as such have a קיום but those who come by other means, do not survive. The מדרש concluded by saying that because ראובן and בני גד liked their possessions so much, that they were the first to be exiled.

When the תורה described the circumstances leading up to their request to inherit it says: ומקנה רב ה' לבני ראובן ולבני גד גו' ויראו את ארץ יעזר גו' והנה המקום מקום מקנה יבואו בני גד ובני ראובן ויאמרו גו' יותן את ומקנה רב what does the possuk start with רב and the "ו" ("and") come to add? The אלשיך הקדוש explains that this provides context for understanding why they came now? They could have come much earlier, after the wars of סיחון. The reason for them coming now is because they already had significant cattle and sheep, but now after מלחמת מדין it became so large that they had to find a solution. This is why it adds a "ו" to explain that they started out with large numbers, and now it became overwhelming.

HALACHA HIGHLIGHT

The Punishment for Spreading False Rumors

המוציא שם רע

One who defames

Shimon accused Reuven, the Sh'liach Tzibbur for the community, of being an adulterer, and as a result of this accusation Reuven was fired from his position and another Sh'liach Tzibbur was hired in his place. Some time later it was discovered that Shimon, out of hatred, had made up the entire story and there was no truth to the accusation. Reuven sought to be reinstated to his position as Sh'liach Tzibbur now that his innocence was reestablished and his reputation restored. The community however did not want to rehire Reuven as Sh'liach Tzibbur because the terms with the replacement were such that he could not presently be dismissed and they could not afford to pay for two people to serve as Sh'liach Tzibbur. Although Reuven tried to find employment as a Sh'liach Tzibbur elsewhere, there were no positions available and Reuven was left unemployed. He filed a case in Beis Din against Shimon to recover his losses and the damage he suffered as a result of the false accusation that Shimon made against him.

The case was presented to the Terumas HaDeshen¹ for a decision. He responded that it is clear that Shimon's behavior is reprehensible and his transgression of making a false accusation against an upright and innocent Jew is very great.

Furthermore, Shimon needs atonement for his behavior and if necessary, Shimon could be excommunicated until he sufficiently appeases Reuven for the pain and anguish he caused him. Additionally, if Reuven decided that he did not wish to forgive Shimon for what he did, he would be categorized as one who is cruel by denying forgiveness when asked². Nonetheless, Beis Din does not have the authority to force Shimon to pay Reuven for the damage he caused since it was indirect and done only verbally. Terumas Hadeshen does, however, conclude that Beis Din could impose a fine on Shimon if they determine that it is necessary to punish Shimon for his transgression to serve as a deterrent to prevent people from lying and spreading false and harmful rumors about others.

1. שו"ת תרומת הדשן סי' ש"ז

2. ע' סמ"ג בהלכות תשובה בשם הירושלמי דהמוציא שם רע אין לו מחילה עולמית

MUSSAR FROM THE DAF

From Surviving to Thriving

The Gemara discusses the concept of תוספת כתובה. This is the process through which a man obligates himself (on his own accord) to give his future wife more than the required 200 zuz.

What can we learn from this concept? There is a very valuable lesson here for the new husband. The תוספת on the כתובה is a potent reminder of what is needed in his new relationship with his wife.

In a marriage, each spouse fulfilling their formal obligations for each other is the minimum requirement. But it is not enough. The relationship also needs an aspect of chesed, of doing more than what is required. It is when one goes above and beyond the basic requirements, and beyond the expectations of the other. When we look for opportunities to give or do more than the required, we infuse our most important relationship with feelings of אהבה, warmth and connection. Surprising a spouse with a small present, a phone call, extra help around the house, or words of appreciation and connection are small but powerful ways to strengthen and secure the marital bond.

The מנהג for the chasan to add a תוספת into the כתובה is not only a message to the chassan, but also to all listening to the כתובה being read. In order for a marriage to go beyond surviving to thriving, we have to put in the extra effort. It is the extra that we put into the seemingly ordinary moments of our lives that can make them extraordinary.

POINT TO PONDER

ד"ה מדתני אמי כי הוציא שם רע על בתולת ישראל ולא בתולת גרים Rashi writes that she is considered an orphan because her father wasn't Jewish and the תורה compared his זרע to a חמור. Since she converted and we have a rule that once a non-Jew converts they are treated like a newborn, why does רש"י need this explanation? He can simply say that she has no father because she is like a שנוולד קטן.

Response to last week's Point to Ponder:

The משנה says that a father gets his daughter's כתובה if she had ארוסין and then divorced. Why is the father entitled to the כתובה? We know that in the case of אנוסה or מפותה the תורה specifically writes that it belongs to the father, but where does he get the rights to her כתובה?

There is a מחלוקת between רבי מאיר and רבי יהודה and רבי מאיר regards the overall obligation of כתובה. According to רבי מאיר it is דאורייתא and it is learned from the מפתה כמותה ישקול כמוהר הבתולות פסוק. Since the money paid by a מפתה belongs to the father, the כתובה which is learned from the same פסוק also belongs to the father. According to רבי יהודה that it's דרבנן, we have to assume that it's going to the father was part of the same תקנה. (see יהושע).