



Volume 10. Issue 10

Ona'ah of Land

In the fourth *perek* we learnt about *ona'ah*. In respect to business transactions this refers to fraud. More specifically we have learnt that if a product is over-priced or under-priced beyond a sixth of the value then the acquisition is reverted. If it is equal to a sixth then the margin is returned. Anything less, the difference is considered accepted by the parties. The *Mishnah* (4:9) however teaches that there are a number of items regarding which the laws of *ona'ah* do not apply. One of those listed is land.

The laws of *ona'ah* are derived from the following *pasuk* (*Vayikra* 25:14): “When you make a sale to your fellow or make a purchase from the hand of your fellow, do not aggrieve one another.” The *Beraita* (56b) learns that the specific mention of “a purchase from the hand” excludes land from the laws of *ona'ah*.

The *Ramban* (ad loc) however notes a difficulty with this explanation. The above-cited *pasuk* is part of the section that discusses law that every fifty years (*yovel*) all land is returned to their original owners. According to the simple meaning of the *pasuk*, it teaches that one should not disobey the instruction of the next *pasuk* that when land is sold, the price must be adjusted according to the number of years remaining till the *yovel* year. The *Ramban* also cites other laws that the *Chachamim* derive that relates to land. It is therefore surprising that our *Gemara* learns that due to the reference “from the hand” that this *pasuk* does not refer to land.

Consequently we are forced to understand this *pasuk* independent of the *pasuk* that follows and only refer to movable objects (*metaltelin*). With that in mind and not dismissing the context entirely, the *Ramban* understand that while the technical laws of *ona'ah* (as

described above) only apply to *metaltelin*, the prohibition of *ona'ah* applies equally to land as well. We can therefore understand the wording and placement of the *pasuk*. “When you buy” is written in plural referring to both *metaltelin* and land, “or make a purchase from the hand or your fellow” which is written in the singular referring to *metaltelin*, “do not aggrieve” which is written in the plural referring to both.

The *Mishneh Le'Melech* (*Malveh Ve'Loveh* 4:1) however understands that the *Tosfot* maintains that there is not prohibition of *ona'ah* at all with respect to land. The *Gemara* (61a) addresses why separate prohibitions were required for *ona'ah*, interest and theft and why they could not have been derived from one another. The *Tosfot* there ask why the *Gemara* could not have answered that theft could not have been learnt from *ona'ah* since the prohibition of theft applies to *avadim* whereas *ona'ah* does not. Now since the *Gemara* connects *avadim* and land and the discussion in that *Gemara* is about the prohibition, the *Tosfot* must understand that no prohibition of *ona'ah* applies to land.

The *Sema* (227:51) however presents a different approach. He explains that with respect to land there is not transgression of *ona'ah*. That is however with respect to monetary *ona'ah*. We have however learnt about another form of *ona'ah* – *ona'at devarim*. This is learnt from the *pasuk* (*Vayikra* 25:17): “Each of you shall not aggrieve his fellow...” We have learnt (4:10) that this is transgressed by, e.g. one who asks the price of an object without have any intention to buy it. The *Sema* understands that one who unfairly prices land will certainly have transgressed this prohibition.

Yisrael Yitzchak Bankier

Revision Questions

בבא מציעא ד' ז' ה' ח'

- What are the five laws for which the value of a *prutah* is the minimum value? (ד': ז')
- What are the five cases where one is obligated to add a "fifth"? (ד': ח')
- What are the four things to which *ona'ah* does not apply? (ד': ט')
- For what other three laws are these things unique? (ד': ט')
- What three things does *R' Yehuda* add to the list? (ד': ט')
- Provide two examples of *ona'at devarim*? (ד': י')
- Can a wine seller water down his wine? (ד': י"א)
- Can a grain seller sell grain from multiple sources as one unit? (ד': י"ב)
- What marketing tactic does *R' Yehuda* prohibit? (ד': י"ב)
- Can one fix up an old product and sell it as new? (ד': י"ב)
- What example does the *Mishnah* provide for *neshech*? (ה': א')
- What example does the *Mishnah* provide for *tarbit*? (ה': א')
- Can someone rent out an object at a discounted rate to the person who lent him money? (ה': ב')
- What are *marbin al ha'sachar* and *marbin al ha'mecher* and explain why one of the two is permitted while the other is not? (ה': ב')
- What can be problematic about giving a down payment on a property where the full purchase is conditional on completing the payment? (ה': ג')
- Who lent money using a field as collateral and why did the *Chachamim* permit it? (ה': ג')
- Why is it problematic to give a product to a merchant to sell agreeing that they will split the profit if sold above its value or split the losses? (ה': ד')
- How can this problem be avoided? (ה': ד')
- For which items does the problem discussed in the previous question not apply? (ה': ה')
- Based on the previous three question, what innovation does *R' Shimon ben Gamliel* believe can be employed to avoid this problem? (ה': ה')
- What does the *Mishnah* mean when it says "*mafritz al sadehu*" and is it permitted? (ה': ה')
- What is the nature of a deal where one party gives another "iron sheep" and why is it prohibited? (ה': ו')
- From whom can one charge interest? (ה': ו')
- Can a person purchase produce from another to be collected at a later date:
 - At an agreed price if the price of the produce has not been released?
 - At the current price of the produce? (ה': ז')
- What is the exception to the first case in the previous question? (ה': ז')
- What is different about purchasing manure? (ה': ז')
- Can one stipulate in a permissible purchase where he will collect the product later, that if the price drops he will pay the lower price? (ה': ז')
- What does *R' Yehuda* maintain regarding one who does not make this stipulation and the price falls? (ה': ז')
- To whom can one lend *chittin be'chittin* and why? (ה': ח')

Local Shiurim

Melbourne, Australia

Sunday -Thursday

10 minutes before *Mincha*
 Mizrachi Shul
 Melbourne, Australia

Friday & Shabbat

10 minutes before *Mincha*
 Beit Ha'Roeh
 Melbourne, Australia

Efrat, Israel

Shiur in English

Sunday -Thursday

Rabbi Mordechai Scharf
 9:00am
 Kollel Magen Avraham
 Reemon Neighbourhood

ONLINE SHIURIM

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rav Meir Pogrow
613.org/mishnah.html

Rabbi E. Kornfeld
Rabbi C. Brown
<http://www.dafyomi.co.il/calendars/myomi/myomi-thisweek.htm>

SHIUR ON KOL HALOSHON

Rabbi Moshe Meir Weiss
 In US dial: 718 906 6400
 Then select: 1 – 2 – 4

Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
21 st April י"א אייר	22 nd April י"ב אייר	23 rd April י"ג אייר	24 th April י"ד אייר	25 th April ט"ו אייר	26 th April ט"ז אייר	27 th April י"ז אייר
Bava Metzia 5:9-10	Bava Metzia 5:11-6:1	Bava Metzia 6:2-3	Bava Metzia 6:4-5	Bava Metzia 6:6-7	Bava Metzia 6:8-7:1	Bava Metzia 7:2-3

