



Volume 10. Issue 7

## Kinyan Dalet Amot

The *Mishnah* in *Baba Metzia* (1:4) says: “If someone sees an object and falls upon and someone else comes and seizes it, he that seizes it has acquired it”.

The *Gemara* on the *Mishnah* (10a) introduces a concept known as “*Kinyan Dalet Amot*” and says as follows: *Reish Lakish* said in the name of *Abba Kohen Bardela* – “The four cubits of a person acquire for him in any place, the Rabbis made an enactment so that people will not come to fight”. *Rashi* explains this to mean that if a person has an object within four *amot* of his vicinity, the Rabbis made an enactment that no one else can seize it for himself.

After a short discussion, the *Gemara* (10b) then asks a question from our *Mishnah*. If the four *amot* of a person can acquire for him, why does the person who falls upon an object not acquire it through his four *amot*? Why does it belong to the other person who picks it up?

The first answer that the *Gemara* brings is that since the first person fell upon the object, he shows that he only wanted to acquire it by falling upon it and not through his four *amot*. The *Gemara* brings a second answer in the name of *Rav Sheshet*, which is that the Rabbis only enacted *Kinyan Dalet Amot* in a side area (*Simta*) and not in a public area, which is the case in the *Mishnah*.

*Rashi* explains that since there are many people present in a public area, a person does not have his own four *amot*. Therefore, the Rabbis did not enact *Kinyan Dalet Amot* in a public area. It seems that according to *Rashi*, since the entire reason for *Kinyan Dalet Amot* is so that people will not come to fight, the Rabbis did not enact it in an area with many people since it will cause them to fight even more. (The *Meiri* says this more explicitly.) According to *Rashi*, the reason that people will not come to fight is not only the motivation, but also the nature of the enactment.

Alternatively, one could explain this *Gemara* based on a previous section in the *Gemara*, that *Kinyan Dalet Amot* does not work within someone else’s property, since he cannot “make it into his courtyard” (10b). One could say that here too, he cannot make a public domain into his own

courtyard since he does not control the area. According to this understanding, the reason that “people will not come to fight” is only the reason for the enactment, but its nature is a rabbinic version of a *Kinyan Chatzer* (acquisition of one’s courtyard).

The *Gemara* in *Gittin* 78b seems to discuss a case where *Kinyan Dalet Amot* is effective even in a public domain. The *Tosafot* there attempt to resolve that *Gemara* with our *Gemara*, which says that it is not effective in a public domain. They bring two suggestions: One suggestion is that the *Gemara* in *Gittin* is really just discussing a side area and not a public domain. The other suggestion is that in a situation where one is able to guard the object, then *Kinyan Dalet Amot* is effective even in a public domain. According to the latter suggestion, it would seem that the nature of *Kinyan Dalet Amot* is a rabbinical version of a *Kinyan Chatzer*.

Several *Rishonim* on our *Gemara* ask a particular question: if *Kinyan Dalet Amot* works in a side area, why is it that when one is acquiring an object from someone else, he must drag it into the side area (*Kinyan Meshichah*); why does he not acquire it through his four *amot*? The *Tosafot Rid* answers that *Kinyan Dalet Amot* can only be used to acquire an ownerless object (*Hefker*) and not an object that someone else is giving him, since people will only fight over an ownerless object and that is the reason that the enactment was made. This implies that the nature of the enactment is merely a decree so that people will not come to fight. On the other hand the *Nimukei Yosef* says that *Kinyan Dalet Amot* also can also acquire an object from someone else; only that in such a case, the object must be placed within the acquirer’s four *amot*. In a situation where the object was there first, then *Kinyan Dalet Amot* does not work and *Meshichah* is required. This is because the space where the object sits is considered to belong to the current owner of the object and not to the acquirer. This implies that the nature of *Kinyan Dalet Amot* is a rabbinic version of a *Kinyan Chatzer* and not so that people will not come to fight. The *Ramban* on *daf* 10a also says that *Kinyan Dalet Amot* can be used to acquire an object from someone else since “the Rabbis equated it to his courtyard”.

Aron Rubin

**Revision Questions**

בבא קמא י' ג' י'

- If someone loaned money from someone in the city, can he return it to him in the desert? (י' ג')
- Is a person obligated to pay if he borrowed money and is unsure whether he paid the person back? What if he is unsure if even borrowed the money? (י' ג')
- If a someone stole an animal and then returned it without the owner's knowledge, and then the animal is either stolen or dies, is he responsible? (ח' י')
- Can one purchase fruit from someone who is paid to guard fruit trees? (ט' י')
- Can a launderer keep the thread and fluff left over? (י' י')
- After a carpenter has finished work, what parts of the "mess" belongs to him and what belongs his client? When does it all belong to the client? (י' י')

בבא מציעא א' א' ב' א'

- What is the law if two people are holding onto a garment and are disputing the full ownership of the garment? (א' א')
- Regarding the previous question, what if one of the parties claims he has a (half) share in the garment? (א' א')
- What is the law if a person is riding a horse and another is leading it and each of them claims that the horse is theirs? (ב' א')
- If someone is riding a horse and sees a \$5 note on the ground and tells another person to retrieve it for him, when does the money belong to the rider and when does it belong to the person who retrieved it? (ג' א')
- If a person saw an (ownerless) object and jumped on top of it, yet another person came and grabbed it, to whom does it belong? (ד' א')
- When can a person claim ownership of a stray animal by virtue of it being in his property? (ד' א')
- If an adult child who still lives at home finds an object, is it considered his? (ה' א')
- Consider a woman who is divorced but has not yet received her *ketubah*, if she found an object, to who does it belong? (ה' א')
- What should one do if he found a loan contract? In what case is there a debate? (ו' א')
- What should one do if he found a *get* in the street? (ז' א')
- What five documents listed in the *Mishnah* are returned if they are found? (ח' א')
- In what situation are all documents returned? (ח' א')
- According to *Rabban Shimon ben Gamliel* when are loan contracts returned to the borrower? (ח' א')
- Provide a number of examples of objects if found, can be kept. (ט' א')
- According to *R' Yehuda* what principle does he state regarding which object must be announced (in order to find the original owner)? (ט' א')

**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

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

**ONLINE SHIURIM**

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[www.shemayisrael.com/mishna/](http://www.shemayisrael.com/mishna/)

*Rav Meir Pogrow*  
[613.org/mishnah.html](http://613.org/mishnah.html)

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

**SHIUR ON KOL HALOSHON**

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**Next Week's Mishnayot...**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
31 <sup>st</sup> March כ' ניסן	1 <sup>st</sup> April כ"א ניסן	2 <sup>nd</sup> April כ"ב ניסן	3 <sup>rd</sup> April כ"ג ניסן	4 <sup>th</sup> April כ"ד ניסן	5 <sup>th</sup> April כ"ה ניסן	6 <sup>th</sup> April כ"ו ניסן
Bava Metzia 2:2-3	Bava Metzia 2:4-5	Bava Metzia 2:6-7	Bava Metzia 2:8-9	Bava Metzia 2:10-11	Bava Metzia 3:1-2	Bava Metzia 3:3-4

