



Nedunya via a Shalish

The *Mishnah* (6:7) records the debate regarding a father, who prior to his death, entrusted money with a third party to purchase land for a *nedunya* (dowry) for his daughter. In this case, the daughter asked the agent to hand the money directly to her husband. *R' Meir* maintains that the agent must still purchase land as he was instructed. The *Bartenura* explains that *R' Meir* maintains that it is a *mitzvah* to fulfil the wishes of the deceased. *R' Yossi* however argues that if the land was already purchased and the daughter wanted to sell the property, she would be able to do so "from now". Consequently her request should be granted. The *Bartenura* restricts the scope of the debate. If the case involved a *ketana*, since the rationale that she could sell the land does not stand, then everyone would agree that the agent must purchase the land. Also, if the case involved a *gedolah* (adult daughter) that was already married, then everyone would agree that the money would be given directly to the husband. The debate is only in the case that involved a *gedolah* during *eirusin* (the period of betrothal). We shall try to understand this debate.

The *Ran* explains that were it not for *R' Meir's* position that it is a *mitzvah* to fulfil the wishes of the deceased, then he would agree that she could receive the money directly. This is because in this case the father has, from the outset, effectively given the daughter the funds. It is only because he instructed that they should be used to purchase a field, that the *R' Meir* is sensitive to the father's wishes. The *Ran* asserts that this case must be understood this way. If the case was that the funds only belonged to her once the land was purchased, then even without the motivation to honour his wishes, the land would need to be purchased prior to her taking control.

The *Ran* continues that *R' Yossi* either disagrees that the deceased wishes must be honoured;¹ or simply since she could sell it as soon as the land is purchased, the intermediate step is unnecessary.

The fact that the funds are considered the daughter's from the outset is important, as it answers another question.² The *Ran* anticipates the following question. The *Gemara* (*Bava Batra* 155a) rules that one is not allowed to sell inherited property until they reach the age of twenty. One might ask that in this case, even if the daughter is a *gedolah*, if she is under the age of twenty, *R' Yossi* should agree with *R' Meir* that the agent must do as instructed. The *Ran* explains that despite the funds originating from the father, the purchased land is not considered the father's. In a similar direction the *Ran* also cites the *Raavad*, that even though the funds originated from the father, since they were gifted to her from the beginning, it is not considered as part of the inheritance and not covered by the law in *Bava Batra*.

The *Tosfot Yom Tov* comments the *Ran's* understanding that the funds belonged to the daughter from the outset helps to explain the *Mishnah's* language when *R' Yossi* argues that "... if she wishes to sell it, it is [considered] sold **from now**".

The *Chidushei Mahariach* uses the above explanation to explain why *R' Meir* only argues in the case of *eirusin* and not after marriage. He explains that the reason the *Chachamim* forbade selling inherited lands until the heir reaches twenty was out of the concern that the assets gained without effort would be squandered. In the case of the dowry, where both the husband and wife each have financial interests and obligate the husband financially, there is less of concern that the property will be traded flippantly. However, in the case where they are only betrothed, and the obligations of the husband have not yet commenced, according to *R' Meir* the original concern exists. Consequently, he argues that the agent performs his duties. *R' Yossi* however disagrees, arguing that the concern also does not exist during *eirusin*.

Yisrael Bankier

¹ The *Tosfot* (69b, s.v. *ha*) ask that if this is the reason that *R' Yossi* argues, then the logic that the field should already be considered as if it was purchased and sold is unnecessary. The *Tosfot* answer, that perhaps *R' Yossi* does maintain that the deceased wishes do not need to be honoured. Nevertheless, *R' Yossi* provides a different argument against *R' Meir* while assuming his position.

² See *Beit Yaakov* who cites the *Tosfot* (*Bava Batra* 149a) as a difficulty with this explanation.

Revision Questions

יבמות ו' ז' - ח' ג'

- Explain the debate regarding whether an orphaned woman can tell the executor of the *yerusha* responsible for her welfare, to hand over control to her *erus*? (ז': ו')
- Regarding the previous question, when is there no debate? (ז': ו')
- What are the two opinions regarding the time until a husband must divorce his wife if he made a vow preventing her from benefiting from his property? (ז': ז')
- What are the two opinions regarding the time until a husband must divorce his wife if he upheld her vow preventing her from benefiting from his property? (ז': ז')
- What are the two opinions regarding the time until a husband must divorce his wife if he upheld her vow preventing her from adorning herself and why? (ג': ז')
- How much time is it until a husband must divorce his wife if he upheld her vow preventing her from visiting her father? (Include two cases.) (ד': ז')
- Why must a husband divorce his wife if he upheld her vow not to go to a *beit avel* or *beit mishteh*? What is the exception to this rule? (ז': ז')
- When does a women lose here *ketubah*? (ז': ז')
- What is *dat moshe*? (ז': ז')
- What is *dat yehudit*? (ז': ז')
- What is a *kolanit*? (ז': ז')
- Which *mumin* are problematic if they were concealed from the husband prior to marriage? (ז': ז')
- When does the law mentioned in the previous question no longer apply? (ז': ז')
- If the family claims that the *mum* developed after *eirusin* on who is the burden of proof? (ז': ז')
- What is the law when *mumin* develop on the husband after marriage? (ז': ז')
- For which *mumin* developing on the husband is there agreement that the husband must divorce his wife? (ז': ז')
- Is there any restriction placed on a woman who inherits property: (ז': ז')
 - Prior to marriage?
 - After *kidushin*?
 - After *nisuin*?
- How does *R' Shimon* differentiate between property that, if sold by the wife after marriage, the husband may reclaim it from the buyers and property that the husband may not reclaim? (ז': ז')
- What is done with the following items that a wife inherits: (ז': ז')

Melbourne, Australia

Sunday -Thursday
10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Friday & Shabbat
10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Efrat, Israel
Shiur in English

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

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mishnahyomit.com/shiurim

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SHIUR ON KOL HALOSHON

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
6 May כ"א אייר	7 May כ"ב אייר	8 May כ"ג אייר	9 May כ"ד אייר	10 May כ"ה אייר	11 May כ"ו אייר	12 May כ"ז אייר
Ketubot 8:4-5	Ketubot 8:6-7	Ketubot 8:8-9:1	Ketubot 9:2-3	Ketubot 9:4-5	Ketubot 9:6-7	Ketubot 9:8-9

