



Volume 5. Issue 28

Batei Arei Choma

In the ninth *perek* we learnt about the sale of *batei arei choma* – houses of walled city (that was walled in the times of *Yehoshua*). The *Torah* writes (*Yayikra* 25:29-30):

If a man sells his house in a walled city, its redemption can occur up to a year from the sale. If he does not redeem until a full year, then the house in the walled city shall belong to the purchaser for generations and will not return in the *yovel* year.

One may ask, why is the time frame for redemption so short when compared to others that we have learnt about? The *Sefer HaChinnuch* explains that a house in a walled city in Israel should be very dear to its owner. If the owner does not make every effort to buy it back then he is penalised such that it now completely belongs to the owner.

The *Mishnah* (9:4) teaches due to this time limit, purchasers of such houses made a habit making themselves unavailable on the last day for redemption thereby ensuring that they achieved full and permanent ownership of the house. To avoid this problem, *Hillel* instituted that the original owner deposit the money at the *Beit Ha'Mikdash*, “break down the door” and take possession of his house.

A question that arise from this *Mishnah* is what if there were some other circumstance out of the owners control (*ones*) the prevented the original owner from redeeming his house on the final day. Is it his “bad luck”? Does he lose his house? Answering this question will reveal a deeper understand of *batei arei chomah*.

The *Minchat Chinnuch* writes that it initially seems that since *Hillel* had to institute the decree for a case that appears to be *ones*, it would imply that in any case of *ones* the original owner would lose his house.

The *Minchat Chinnuch* does mention those opinions that reject this proof as this is an instance of *ones* on the final

day alone. Since the person had plenty of time during the rest of the year to redeem the house, the law might be stricter than normal. According to these opinions if the *ones* extended for the entire period then the original owner would still be able to redeem his house.

The *Magen Avraham* (*Orach Chaim*, 108:11) however argues that no proof can be brought from this case and in general (except for *Gittin*) *ones* even on the final day would be considered. Here however, the sale of the house is not considered a formal sale. Instead it is viewed as a loan (the price paid by the purchaser) with the house as a guarantee and if the “borrower” does not pay back the loan in the “allotted time” (the year) the house belongs to the “lender”.¹ In the laws of loans, even if the face of *ones*, if the loan is not paid in the allotted time then the guarantee changes hands. This is an exception to the general rule of *ones rachmana patra* (- the *Torah* exempts a person due to *ones*).

The *Ktzot HaChoshen* (*Choshen Mishpat* 55:1) has a different understanding of the mechanism by which the laws of *batei arei chomah* operates. Consequently he writes that in this case even if the seller endured an *ones* for the entire period he would lose his ability to redeem the house. He explains that the house actually belongs to the purchaser at the time sale. The *Torah* however made the sale on the condition that if the owner wishes to redeem it he may do so. If it does not, even due to *ones*, the right of redemption is lost.²

The *Minchat Chinnuch* writes that the difference between these two understandings is the requirement placed on the original owner when he wishes to redeem the his property. According to the first understanding, since the initial transaction was only a loan, then only the money needs to be returned. However if we understand that initially a formal sale was made with the option of redemption made available, then the original owner would be required to enact a form acquisition (*kinyan*).

Yisrael-Yitzchak Bankier

¹ The *Netivot* brings a proof to support this understanding from the fact that *Gemara* deals with the issue of *ribit* (interest) attached to the laws of *Batei Arei Chomah*. (See the *Gemara* and *Netivot* for more detail.)

² The *Netivot* disagrees arguing that that explanation is the same as any sale made with a time-bound condition where *ones* would certainly be considered. (See inside for his proofs.)

Revision Questions

ערכין ז' :ה' – ט' :ו'

- Explain the debate relating to a field that was purchased from one's father, sanctified and then the father passed away. (ז' :ה')
- Which people are able to redeem their field even after *yovel*? (ה' :ז')
- What happens if someone sanctifies a field when the laws of the *yovel* year do not apply and how does it differ from when *yovel* does apply? (ח' :א')
- When *hekdesh* sell a field, what is the law if the receive offers of 10, 20, 30, 40 and 50 but then , in reverse order, each of the parties take back their offer? (ב' :ח')
- In the bargaining process of the sale of a *hekdesh* field, what is the law if both the original owner and another person offer \$20? (ב' :ח')
- In the continuing bargaining, what must the owner offer to an offer of : \$21, \$22, \$23, \$24 and \$25? (ג' :ח')
- What are the two types of *charamim* and what type of *cherem* is referred to in the eight *perek*?
- According to *R' Elazar* what is the law if someone is *machrim* his entire property? (ד' :ח')
- From where does *R' Elazar ben Azarya* learn that one should not *machrim* all his possessions? (ד' :ח')
- Can one *machrim* their child? (ה' :ח')
- Explain the debate regarding who are unable to *machrim*? (Include all three opinions.) (ה' :ח')
- What is the difference between the two types of *charamim*? (ו' :ח')
- If someone declares something *cherem* which type of *cherem* has he employed? (ו' :ח')
- Can a person *machrim* an existing *korban*? (ז' :ח')
- If someone was *machrim* a *bechor* how is it redeemed? (ז' :ח')
- If someone sells their (ancestral) field during a time when *yovel* applies, what is the time limit before which he cannot redeem the field? (ז' :א')
- What incidents would extend the time limit described in the previous question? (ז' :א')
- If someone sold their ancestral field and then it was sold again, if he wishes to redeem it, when does he deal with the first purchaser and when does he deal with the second? (ז' :ב')
- In what three ways is redeeming an ancestral field from *hekdesh* more lenient then redeeming it from another purchaser? (ז' :ב')
- If someone sells their house in a walled city, what is the time limit before which he cannot redeem the house? (ז' :ג')
- What is the limit after which he cannot redeem the house? (ז' :ט')
- If the purchaser sold the house, how is the time limit described in the previous question calculated? (ז' :ג')
- What would happen if the house was not redeemed by the end of this time limit? (ז' :ד')
- What did law *Hillel* institute with regards to the law described in the previous question? (ז' :ט')

Local Shiurim

Sunday -Thursday
Between mincha & ma'ariv
Mizrachi Shul

Friday & Shabbat
10 minutes before mincha
Mizrachi Shul

Quick Thought...

The Sold "House"

If a man sells his house of dwelling in a walled city, its redemption can occur up to a year from the sale.

In line with his interpretation of the previous verses, the *Orach Ha'Chaim* explains that this verse, on a deeper level, explains how it could be possible that *Hashem* destroyed the *Beit Ha'Mikdash*.

The "man" in the *pasuk* refers to *Hashem* as the *pasuk* states "*Hashem ish milchama*". The "house of dwelling" (*beit moshavo*) is to be understood as referring to the *Beit Ha'Mikdash* while the "walled city" as referring to *Yerushalaim*.

The *Ohr Ha'Chaim* explains that the "walls" is the very reason why "redemption can occur". Citing the *Midrash (Tehillim 79:1)* he explains that *Hashem* took his "anger" out on the bricks and mortar as opposed to the inhabitation. Had it not been so, *chas v'shalom*, then there would be no one left, no future redemption and no rebuilding of his "house".

Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
9 th November י"א חשוון	10 th November י"ב חשוון	11 th November י"ג חשוון	12 th November י"ד חשוון	13 th November ט"ו חשוון	14 th November ט"ז חשוון	15 th November י"ז חשוון
Erchin 9:7-8	Temurah 1:1-2	Temurah 1:3-4	Temurah 1:5-6	Temurah 2:1-2	Temurah 2:3-3:1	Temurah 3:2-3

