The Chicago Center
Digest
Mishna Berura
THE DAILY RESOURCE FOR MISHNA BERURA YOMI
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סימן קנ"ד סעיף ט"ו

Overview

Siman 154 Seif 15:

If the citizens of a city purchased a *sefer Torah* and stipulated that if a citizen moves away they will repay him his portion and the value of the *sefer Torah* increases, the person only receives back what he originally donated.

- If there was no stipulation one who moves away receives nothing. (M.B. 57)
- It would seem that if the *sefer Torah* went down in value they would refund him his share based on the lower price. (M.B. 58)
- If partners purchased a house and they stipulated that they could dissolve the partnership whenever they want and the house increased in value he will receive his share based on the current higher price. (M.B. 59)
- If a *Bais HaKnesses* splits in two the assets are split as well. If there are donated items whose donors or the heirs of the donors are well known, they may demand that they be allowed to bring that with them to their new *Bais HaKnesses* but if the donor is no longer associated with that item it is divided together with the rest of the assets. Regarding sacred items that were paid from communal funds, there is a disagreement whether it is divided by the males 13 years old or older or perhaps women and children are also included in this division. (M.B. 59)
- If a person pledged money to fulfill a *mitzvah* and then the government chased everyone away there is a disagreement regarding the circumstances in which the donor remains obligated to continue to fulfill his pledge even though he can longer fulfill the *mitzvah*. (M.B. 59)
- If one finds a lost object in a *Bais HaKnesses* or *Bais HaMidrash* he may keep it but Magen Giborim maintains that the matter is subject to a debate amongst the Rishonim. (M.B. 59)
- If someone donates something he has the right to put his name on that object even if the *tzibbur* does not want his name on the object unless they are willing to reject the donation altogether. (M.B. 59)
- Sefer Chassidim relates that someone built a *Bais HaKnesses* and refused to let members of the community assist him because he wanted it to provide his children with fame and ultimately all his children died. (M.B. 59)

Halacha Highlight

Lost objects found in a *Bais HaKnesses*

Mishnah Berurah Siman 154 Seif Koton 59

מצא דבר בחצר בית הכנסת

If one found something in the courtyard of the *Bais HaKnesses*

Mishnah Berurah (ס"ק נ"ט) in the name of Magen Avrohom writes that one who finds a lost object in the courtyard of the *Bais HaKnesses* has acquired that object for himself and we do not say that the *Bais HaKnesses* already acquired possession of the lost object. The reason is that the ability of a yard to acquire property for its owner is that the one's courtyard is an extension of the owner's hand–חצר מטעם יד—and sacred property does not have that "hand." Mishnah Berurah then mentions that Rav Akiva Eiger and Magen Giborim note that this matter is debated by *Rishonim*. Rav Moshe Feinstein (שו"ת אג"מ יו"ד ח"ה סי' כ"ג אות י"ג) maintains that *halacha* in this case follows Magen Avrohom's position that the *Bais HaKnesses* does not have the capacity to acquire lost objects.

Chasam Sofer (שו"ת חת"ס או"ח סי' מ"ד) points out that even if we were to adopt the position that sacred property has a "hand" the courtyard of the *Bais HaKnesses* would not be able to acquire lost objects. The reason is that a yard can only acquire objects if the yard if secure–משתמרת—and since the public comes in and out of the *Bais HaKnesses* all the time it is not secure and cannot acquire lost objects. Therefore, even if the *Bais HaKnesses* or *Bais HaMidrash* are privately owned the owner does not acquire lost objects that are found in that property when the public has free access to the building. In a *Bais HaKnesses* that does not have many people coming in and out or if one finds a lost object when the *Bais HaKnesses* is first opened up in the morning before a crowd had a chance to gather, the lost object would be subject to the disagreement between Magen Avrohom and Rav Akiva Eiger that was mentioned above.

Stories to Share

A Vague Stipulation

ש"ע קנ"ד, ט"ו: "והתנו..."

Today's amud discusses conditions relating to money used to purchase a sefer Torah.

There was once a wealthy elderly man who lived in the city of Toledo, Spain, who had never been blessed with children. He decided that since money would not avail him in the next world, it would be wiser to declare whatever remains of his estate hekdesh as of that moment to take effect the instant before he died.

The childless man drafted his will but stipulated that if he had a child, the hekdesh would be nullified and all of his property would instead be held in trust by the Beis Din until the youngster reached the age of thirteen. If he survived, the property would be returned to him at his bar mitzvah, but 300 gold coins would be collected for hekdesh of Toledo.

Subsequently, the man had a son and died soon after. When the son reached the age of thirteen, the elders of Toledo requested the promised 300 zehuvim. The young man refused, however. The boy claimed that his late father's language was that the elders would collect the money for the communal treasury, not that it would actually be hekdesh. His father was merely stating his preference, not consecrating the money. When this question reached the renowned Rashbah, however, he ruled that the heir must pay.

"Rava says in the first chapter of Nedarim that one who gives his wife a divorce doesn't need to write 'you are divorced minai,' from me. Since no one may divorce another man's wife, his meaning is obvious. If this is the rule in the case of divorce which is a serious matter, how much more so is it the rule by monetary matters that bear far less severe consequences in the event of an error! If we take the entire will into account, it is obvious that the deceased intended the community to receive part of his estate. Slightly vague language certainly is no excuse for failing to fulfill the will of the deceased!"

שו"ת הרשב"א, ח"ד, ר"י"ג