

HALAKHA

Before the Sabbatical Year, he may neither enter, etc. – לפני שבועית אינו יורד וכו'. If one vows prior to the Sabbatical Year that benefit from the property of another is forbidden to him, employing the language: This property, it is prohibited for him to enter the other person's field and eat his produce, even during the Sabbatical Year. If he vows during the Sabbatical Year, it is prohibited for him to enter the field; however, he may eat produce that leans outside the field (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 6:13).

If one vowed before the Sabbatical Year that benefit from another's food is forbidden – נדר הימנו מאכל – לפני שבועית: If one vows prior to the Sabbatical Year that another's food is forbidden to him, he may enter the other person's field but may not eat its produce. If he vows during the Sabbatical Year, he may also eat the produce, as it is ownerless (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 6:15).

NOTES

He may not enter his field – אינו יורד לתוך שדהו: This is because he benefits from stepping into his field. The consensus is that the Gemara is referring to the summer, when owners of fields are particular about people stepping in their fields (*Shita*).

And it is Rabbi Yohanan and Reish Lakish – ורבי יוחנן ורבי לקיש: This dispute between Rav and Shmuel on the one hand and Rabbi Yohanan and Reish Lakish on the other hand is also cited in the Jerusalem Talmud; however, there it is a dispute between Rabbi Yohanan and Reish Lakish. Rabbi Yohanan's opinion there corresponds to his opinion here, and Reish Lakish's opinion corresponds to the opinion of Rav and Shmuel here. According to the understanding of the Gemara here, at this stage it is a dispute with regard to the interpretation of the mishna: Rav and Shmuel understand the mishna as distinguishing between one who vowed prior to the Sabbatical Year and one who vowed during the Sabbatical Year. However, Rabbi Yohanan and Reish Lakish understand the mishna to be discussing only a vow made prior to the Sabbatical Year, and the distinction is between entering the field and eating the produce before the Sabbatical Year and during the Sabbatical Year. That is how the dispute is explained in the Jerusalem Talmud, and it is in accordance with the interpretation of *Tosafot*, the Rashba, and the Ran.

A person can render an item...forbidden – אדם אומר דבר אסור: The basis of this dispute is the question of whether the legal status of an item that is *konam* is the same as that of consecrated property. Consecrated property remains consecrated even after it is no longer in the possession of the one who consecrated it. There are those who rule that an object forbidden as *konam* is permitted once it leaves the possession of the one who vowed. This is because the object is consecrated only for certain individuals and only as long as the object remains in the possession of the one who vowed. Therefore, the prohibition remains in effect only as long as the item is in his possession and it is no longer in effect once the item leaves his possession (*Shita*).

מתני' המוֹדֵר הַנְּאֵה מִחִבְרֵוֹ, לִפְנֵי שְׁבִיעִית – אינו יורד לתוך שדהו, ואינו אוכל מן הנוטות. ובשבועית – אינו יורד לתוך שדהו, אבל אוכל הוא מן הנטיעות הנוטות. נדר הימנו מאכל לפני שבועית – יורד לתוך שדהו ואינו אוכל מן הפירות, ובשבועית – יורד ואוכל.

גמ' רב ושמואל דאמרי תרוניהו: נכסיו אלו עליך לפני שבועית – אין יורד לתוך שדהו, ואינו אוכל מן הנוטות, אף על פי שהגיע שבועית. ואם בשבועית נדר – אין יורד לתוך שדהו, אבל אוכל מן הנוטות.

ורבי יוחנן וריש לקיש דאמרי תרוניהו: נכסיו עליך לפני שבועית – אין יורד לתוך שדהו ואין אוכל מן הנוטות, הגיע שבועית – אינו יורד לתוך שדהו, אבל אוכל הוא את הנוטות.

לימא בהא קמפלגי, דרב ושמואל סברי: אדם אסור דבר שברשותו אפילו לכשיצא מרשותו, ורבי יוחנן וריש לקיש סברי: אין אדם אסור דבר שברשותו לכשיצא מרשותו?

ותסברא? מי איבא למאן דאמר אין אדם אסור דבר שברשותו לכשיצא מרשותו? אם בן נפלגי ב'נכסים אלו', וכל שכן ב'נכסיו'!

MISHNA In the case of one for whom benefit from another is forbidden, before, i.e., a year other than the Sabbatical Year,^b he may neither enter^h the field of that other person, nor eat from the produce that leans out of the field, even if he does not enter the field. And during the Sabbatical Year, when the produce of the trees is ownerless, he may not enter his field;ⁿ however, he may eat from the growths that lean out of the field, as the produce does not belong to the other person. If one vowed before the Sabbatical Year that benefit from another's food is forbidden^h for him, he may enter his field; however, he may not eat of the produce. And during the Sabbatical Year, he may enter the field and may eat the produce.

GEMARA It is Rav and Shmuel who both say that if one vowed before the Sabbatical Year: Benefit from this property is forbidden to you, the other may neither enter his field, nor eat from the produce that leans out of the field, even though the Sabbatical Year arrived in the interim, because the prohibition of the produce took effect before the Sabbatical Year and remained in effect after the Sabbatical Year began. And if he vowed during the Sabbatical Year, he may not enter a field that is included in that property; however, he may eat from the produce that leans out of the field, because the produce was ownerless when he vowed.

And it is Rabbi Yohanan and Reish Lakishⁿ who both say that if one vowed before the Sabbatical Year: Benefit from my property is forbidden to you, the other may neither enter his field nor eat from the produce that leans out of the field. When the Sabbatical Year arrives, he may not enter his field; however, he may eat from the produce that leans out of the field, because the produce is ownerless.

The Gemara suggests: Let us say that they disagree about this, that Rav and Shmuel hold: A person can render an item in his possession forbidden,ⁿ and the prohibition remains in effect even when it leaves his possession. Since he rendered the produce forbidden before the Sabbatical Year, the prohibition remains in effect after the produce becomes ownerless during the Sabbatical Year. And Rabbi Yohanan and Reish Lakish hold: A person cannot render an item in his possession forbidden and have the prohibition remain in effect when it leaves his possession. Therefore, it is permitted to eat the produce during the Sabbatical Year.

The Gemara asks: And how can you understand it in that manner? Is there anyone who says that a person cannot render an item in his possession forbidden and have the prohibition remain in effect when it leaves his possession? If so, if Rabbi Yohanan and Reish Lakish hold that one cannot do so, let them disagree in the case of one who said: Benefit from this property is forbidden to you, and that would be true all the more so if he said: Benefit from my property is forbidden to you. In the latter case, it is clear that the prohibition remains in effect only as long as the item remains in his possession.

BACKGROUND

Sabbatical Year – שבועית: The Sabbatical Year is the last year in the seven-year Sabbatical cycle. The first cycle began after the conquest and subsequent settlement of Eretz Yisrael under the leadership of Joshua. The *halakhot* of the Sabbatical Year are based on Torah law (Leviticus 25:1–7), but most authorities maintain that the conditions for the applicability of the mitzva by Torah law do not currently exist, and therefore its present-day observance is based on rabbinic ordinance.

The Hebrew term for the Sabbatical Year, *shemitta*, means abandonment or relinquishment. During the Sabbatical Year, all agricultural land must lie fallow, and it is prohibited to work the

land, except for those tasks necessary to sustain existing crops. All produce that grows is ownerless and must be left unguarded in the fields, accessible to any person, animal, or bird. As long as produce remains in the fields, the produce of that type may continue to be eaten, although it may not be bought and sold in the typical manner or used for purposes other than food. After the last remnants of the crop are removed from the field, that crop may no longer be eaten and must be removed from the house. There is a dispute among the authorities as to whether elimination entails physical destruction of the produce or declaring it ownerless.

One who says to his son, benefit from my property is *konam* – האומר לבנו קונם: If one vows that benefit from him is forbidden to his son, then if the father dies his son inherits from him. But if the father stipulated that the prohibition will remain in effect during his lifetime and after his death, his son does not inherit from him (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 5:6; *Shulhan Arukh, Yoreh De'a* 216:7; 223:2).

NOTES

אם – If the father dies, his son does not inherit from him – **מית לא יירשנו**: The Ran writes that this does not mean that the son is completely disinherited, as it is explained later that the heir has certain rights in that property. Rather, it means that he may not benefit from the property directly, due to the prohibition (see 47a).

מכל – In any case, the first question remains difficult – **מקום קשיא**: Most commentaries explain that the reference here is to the first question: Why did Rabbi Yohanan and Reish Lakish state their opinion in a case where the one who vowed stated: My property? If the dispute is with regard to the principle, they should have formulated their disagreement in a case where the one who vowed stated: This property. The Rid interprets that the fundamental question of whether one can establish a prohibition that will remain in effect after the object leaves his possession is resolved in the mishna, where it is taught that if he stipulates that the vow will be in effect during his lifetime and after his death, his son does not inherit from him. Although the language that is effective in extending the prohibition is subject to dispute, it is clear that one can extend the prohibition to a time after the object leaves his possession.

ותו: הא תנן דאדם אוסר דבר שברשותו לכתשיצא מרשותו. דתנן: האומר לבנו "קונם שאתה נהנה לי", מית – יירשנו: "בחייו ובמותו".

And furthermore, didn't we learn in a mishna (*Bava Kamma* 108b) that a person can render an item in his possession forbidden and the prohibition remains in effect when it leaves his possession? This is as we learned in a mishna, that with regard to one who says to his son: Benefit from my property is *konam*^h for you, if the father dies, the son will inherit him. He is not deriving benefit from his father's property, as after death it is no longer his. If the father vowed to render benefit from his property forbidden to his son during his lifetime and upon his death,

Perek IV
Daf 42 Amud b

אם מית – לא יירשנו! שאני הכא. דקא אמר ליה "בחייו ובמותו".

then if the father dies, his son does not inherit from him.^N Apparently, one can render his property forbidden and have it remain forbidden after it is no longer in his possession. The Gemara rejects that proof: It is different here, as he said to him explicitly: During his lifetime and upon his death. There is no proof that in a case where he did not explicitly extend the prohibition to the period after it leaves his possession, the prohibition would not remain in effect.

מכל מקום קשיא! אלא ב"נכסים אלו" – בולי עלמא לא פליגי. כי פליגי ב"נכסי".

The second question was answered, but in any case the first question remains difficult.^N Why didn't Rabbi Yohanan and Reish Lakish disagree in a case where he said: This property, as well? Rather, this is the explanation of their dispute: In the case of one who said: Benefit from this property is forbidden to you, everyone agrees that the prohibition remains in effect even after the item is no longer in his possession. When they disagree, it is in the case of one who said: Benefit from my property^h is forbidden to you.

רב ושמואל סברי: לא שניא נכסים אלו" לא שניא נכסי" – אדם אוסר, ורבי יוחנן וריש לקיש סברי: "נכסים" – אדם אוסר: "נכסי" – אין אדם אוסר.

Rav and Shmuel hold: It is no different if he said: This property, and it is no different if he said: My property; in both cases, a person renders an item forbidden and the prohibition remains in effect even after the item is no longer in his possession. And Rabbi Yohanan and Reish Lakish hold: If one said: Property, a person renders an item forbidden and the prohibition remains in effect. However, if he said: My property, a person does not render an item forbidden for the period after it is no longer in his possession, as the phrase my property means property in my possession.

ומי איכא למאן דאמר לא שניא נכסים אלו" ולא שניא נכסי"? והא תנן: האומר לחבירו "קונם לתוך ביתך שאני נכנס", "שדך שאני לוקח", מית או שפכרו לאחר – מותר. "לבית זה שאני נכנס", "שדה זו שאני לוקח" מית או שפכרו לאחר – אסור!

The Gemara asks: And is there anyone who says that it is no different if he said: This property, and it is no different if he said: My property, and that the prohibition remains in effect even after the item is no longer in his possession? But didn't we learn in a mishna (46a): If one says to another: Entering into your house is *konam* for me, or: Buying your field is *konam* for me, then if the owner died or sold the property to another, it is permitted for the one who vowed to enter the house or buy the field, as the prohibition is in effect only as long as it belongs to that person. However, if he said: Entering this house is *konam* for me, or: Buying this field is *konam* for me, then if the owner died or sold the property to another, it remains forbidden. Apparently, there is a difference between a case where he simply renders an item forbidden and a case where he renders an item belonging to a particular individual forbidden.

HALAKHA

This property...my property – נכסים אלו...נכסי: If one vows that benefit from another's property is forbidden, or if another person vowed that benefit from his own property is forbidden to another, benefit is forbidden when it is not the Sabbatical Year. However, during the Sabbatical Year he may eat the produce, because he vowed to render the produce that belongs to him forbidden and during the Sabbatical Year it is ownerless.

However, he may not enter the field. By contrast, if one vowed prior to the Sabbatical Year that: This property is forbidden, it is forbidden even during the Sabbatical Year. If he vowed during the Sabbatical Year, it is permitted for him to eat the produce, but he may not enter the field (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 6:13–14).

A decree lest he remain standing – גזירה שפמא ישהא בעמידה – If one who vowed that benefit from another is forbidden, vowed in a manner that during the Sabbatical Year the other person's produce is permitted for him, it is prohibited for him to enter the field lest he remain standing there longer than necessary for purposes of eating, as the Torah did not render the field ownerless for any purpose other than taking Sabbatical Year produce. (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 6:13).

That other person may neither lend an item to him – לא ישאילנו: One for whom benefit from another is forbidden by a vow may borrow neither items nor money from him. By rabbinic law, he may lend neither items nor money to him lest he come to benefit from him (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 6:16; *Shulhan Arukh, Yoreh De'a* 221:5).

אלא, כי אמרי רבי יוחנן וריש לקיש – ב"נכסי", ורב ושמאי – ב"נכסים אלו", ולא פליגי.

"ובשביעית אין יורד לתוך שדהו" – כו' מאי שנא דאובל מן הנוטות – דפירי דהפקירא אינון, ארעא נמי אפקרה!

אמר עולא: בעומדין אילנות על הגבולים. רבי שמעון בן אלקיים אמר: גזירה שפמא ישהא בעמידה.

מתני' המודר הנאה מחבירו – לא ישאילנו ולא ישאל ממנו, לא ילנו ולא ילוה ממנו, ולא ימכור לו ולא יקח ממנו.

Rather, this is the explanation of the statements of the *amora'im*: When Rabbi Yohanan and Reish Lakish said^N that the prohibition is no longer in effect after the item is no longer in his possession, it was in a case where he said: **My property.** And when Rav and Shmuel said that the prohibition remains in effect after the item is no longer in his possession, it was in a case where he said: **This property.** And they do not disagree, as each pair of *amora'im* addressed a different situation.

We learned in the mishna: **And during the Sabbatical Year he may not enter his field**; however, he eats from the produce that leans out of the field. The Gemara asks: **What is different** about the Sabbatical Year **that he is permitted to eat of the produce that leans out of the field?** It is **due to the fact that the produce is ownerless.** With regard to **land as well**, the Torah rendered it ownerless, as during the Sabbatical Year, it is permitted for everyone to enter the field and eat the produce.

Ulla said: The mishna is referring to a case **where the fruit trees are standing on the borders** of the field.^N Since it is possible to eat the produce without entering the field, it is not permitted for him to enter it. **Rabbi Shimon ben Elyakim said:** Even in a case where the fruit trees are standing in the middle of the field, it is also prohibited for him to enter the field, due to a rabbinic **decree lest he remain standing**^{HN} there longer than necessary for purposes of eating, which is prohibited even during the Sabbatical Year.

MISHNA In the case of **one for whom benefit from another is forbidden by vow**, that other person may neither lend an item to him^H nor borrow an item from him. Similarly, he may neither lend money to him nor borrow money from him. And he may neither sell an item to him^N nor purchase an item from him.

NOTES

כי אמרי רבי – When Rabbi Yohanan and Reish Lakish said – יוחנן וריש לקיש: Some explain that according to the Gemara's conclusion, Rav and Shmuel and Rabbi Yohanan and Reish Lakish do not relate to the mishna at all. Rather, they discuss general *halakha* with no direct connection to the mishna (see *Meromei Sadeh*). However, the Rosh holds that the dispute is not with regard to the general *halakha*, but with regard to the interpretation of the mishna. Rav and Shmuel who hold that the mishna is referring to a case where the one who vowed said: This property, interpret that when the mishna said: During the Sabbatical Year, it means that he vowed during the Sabbatical Year. However, Rabbi Yohanan and Reish Lakish, who hold that the mishna is referring to a case where the one who vowed said: My property, interpret that when the mishna said: During the Sabbatical Year, it means when the Sabbatical Year arrives. The Ran explains that Rav and Shmuel explain the mishna and Rabbi Yohanan and Reish Lakish do not dispute that interpretation. They merely cite an additional *halakha*.

Where the fruit trees are standing on the borders of the field – בעומדין אילנות על הגבולים: As explained by Rashi and others, the land is considered ownerless only for purposes of eating. Therefore, it is not permitted for others to enter the field and use it for purposes other than eating.

שפמא ישהא בעמידה – Lest he remain standing – According to this, there is a halakhic difference between the opinions of Ulla and Rabbi Shimon ben Elyakim. Ulla says that this land in ownerless only in terms of facilitating eating the produce, and he may not enter the field for any other purpose. Therefore, it is permitted for him to enter the field to eat produce even in the middle of the field, as the Torah rendered the property ownerless for this purpose. However, according to Rabbi Shimon ben Elyakim, one for whom benefit from the owner of the field is forbidden may eat only the produce that leans out of the field while he remains outside the field; he may not enter the field due to the prohibition (Rashi; Ran).

לא ימכור לו – *Tosafot* explain that the reference here is to an equitable sale where both parties benefit; therefore, the one for whom benefit is forbidden may neither buy nor sell. However, if only one of the parties benefits, e.g., the seller overcharges or the buyer underpays, it is permitted if the one for whom benefit is forbidden is the one who does not benefit. Rabbi Ovadya Bartenura explains that the reference here is to a case where one undercharges for an item that he sells; this is prohibited by rabbinic decree, lest the one for whom benefit is forbidden come to underpay when purchasing an item from the one from whom benefit is forbidden. However, if it is an equitable sale, neither party benefits (see *Tosefot Yom Tov*).