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לע"נ הרב יחיאל מיכל בן ר' משה אהרן אורליאן

CASE FILE

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לע"נ הרב אהרן בן הרב גדליהו ע"ה

REDEMPTION OF HERITAGE FIELD

The yeshivah was full Shavuos morning. In addition to all the *talmidm* who stayed for Shavuos, there were many guests who had come to be part of the powerful holiday experience.

Shlomi was still tired from staying up all night learning Torah. As the *baal kriah,* he read *Megillas Rus* and he strained to pay attention. He was inspired by the dedication of Rus and the concern of Naomi and Boaz for her. He anticipated the happy ending of the birth of David, destined to found the kingly dynasty of *Am Yisrael*.

However Shlomi was confused by the interchange between Boaz and Ploni Almoni – Mr. So-and-so – and by the shoe. Who was this Ploni Almoni? More significantly, the words *go'el* – redeemer – and *ge'ulah* – redemption – were repeated in various grammatical forms over ten times! What redemption was being discussed? It seemed that there was some transaction going on between Boaz and Ploni Almoni regarding Elimelech's former property, but Naomi had already sold the field, as the *passuk* (4:3) says.

The purpose of the shoe, and the seeming allusions to *yibum* added to the confusion, although clearly this was not *yibum* or *chalitzah*, since Boaz was not a brother of Machlon and Kilyon.

Shlomi decided that this year he would try to understand more clearly what was happening in the *Megillah*.

After *davening*, he went to wish Rabbi Dayan, who was *davening* in the yeshivah, a *gut Yom Tov.*

"I have a question," Shlomi said:

"What is happening in *Megillas Rus* between Boaz and Ploni Almoni about *ge'ulah*?"

"At the time of *Megillas Rus*, the Yovel – Jubilee year – was in force," replied Rabbi Dayan. "If a person sold a field that was his *sedei achuzah* – ancestral heritage from when the Land of Israel was first divided – it would return to him in Yovel. The price of the field was thus dependent on the number of years until Yovel" (*Vayikra* 25:13-17).

"The seller also had the legal right of *ge'ulah* – redemption – to reclaim the heritage field

BHI HOTLINE

לע"נ ר' שלמה ב"ר ברוך וזוג' מרת רייכלה בת החבר יעקב הלוי ע"ה ווייל

DOUBLE TROUBLE

Q: Our father passed away, and he left a will stating that he wanted his house to be split up among all his heirs, in accordance with the halachos of inheritance, including the halachah that the bechor (firstborn son) receives pi shnayim (a double portion). We all agree to sell the house — which was rented out while our father was still alive — and split the profit, but we can't do that until the will is probated. For the meantime, we would like to continue renting out the house.

Is the bechor entitled to a double portion of the rent that will accrue until the house is sold? And does he receive a double portion of the rent that was owed to our father when he was alive?

A: There are several details of the *halachos* of inheritance, and specifically those governing the rights of a *bechor* to a double portion, that are relevant to your *she'eilos*.

A *bechor* is only entitled to a double portion of assets in his father's estate that were in his father's possession **(***muchzak***) a**t the time of his passing. He is not entitled to a double portion of assets that were not in the father's possession at the time of his death, even if they were destined to enter his father's possession at a future point *(ra'uy) (Shulchan Aruch C.M. 278:3, 7)*. According to many poskim, this applies even to money that was in the father's bank accounts at the time of his passing *(see Shu"t Shevet Halevi 4:215; Pischei Choshen, Yerushah 2:36).*

It follows that the rental money that was owed to your father before he passed away was certainly *ra'uy***,** not *muchzak***,** and the *bechor* is not entitled to a double portion of it **(***Ketzos Hachoshen* 278:2; *Nesivos* ibid. 1; *Shu"t Shevet Halevi* 6:236. Cf. *Lechem Mishneh*, *Hilchos Nachalos* 3:2 and *Pischei Choshen, Yerushah* ch. 2, fn. 84).

CASE FILE

before the Yovel, by returning to the buyer the proportional amount of the sales price. For example, if he sold the field 20 years before Yovel for $200,000, and wants to redeem it fifteen years later, he returns $50,000, since the cost of each year is $10,000.

"This enabled a person who sold his heritage due to financial need, to reclaim it, should his financial situation improve. For this reason, the Torah grants the right of *ge'ulah* only with assets that the seller gained later. However, he cannot redeem the field with assets that he initially had or that he borrowed now, unless the buyer willingly consents to sell the property back" (*Kiddushin* 21a; *Hil. Shemitah V'Yovel* 11:17-18).

"Moreover, the Torah extends the right of *ge'ulah* to the seller's relatives, with priority given to the closest relative, as it says: "If your brother becomes impoverished and sells part of his ancestral heritage, his redeemer who is closest to him shall come and redeem his brother's sale" (*Vayikra* 25:25).

"Thus, when the impoverished Naomi sold the field of Elimelech, the close relatives had the right to redeem it. Boaz told Rus that another person was a closer relative and had priority; *Chazal* explain that Ploni Almoni was Elimelech's brother, whereas Boaz was a nephew. Ploni Almoni was willing to redeem the field, but balked at the "package deal" that Boaz proposed to also take Rus as his wife. He therefore transferred his right to redeem the field to Boaz through a kinyan *sudar*, which was then typically done with a shoe. That is what is being described in the *Megillah*.

"I should mention," concluded Rabbi Dayan, "that the *Midrash* (*Tanchuma Yashan* #25) interprets the aforementioned verse in *Vayikra* allegorically to mean the redemption of *Am Yisrael* by Hashem, Who is the Redeemer closest to us!"

Verdict: When Yovel was in force, a person or his close relatives had the legal right to redeem an ancestral heritage by returning the proportional amount of the sale price to the buyer.

MONEY MATTERS

Based on writings of Harav Chaim Kohn, shlita

MONEY MATTERS
***Dayanim* (Judges) #47**
Interpretation or Reiteration of Ruling

לע"נ ר' יחיאל מיכל ב"ר חיים וזוג' חי' בת ר' שמואל חיים ע"ה

Q: When are Dayanim believed to interpret their written ruling, or reiterate one given orally?

A: When the written ruling is unclear, *beis din* is believed if it later interprets its intention. A single *Dayan* is believed only when he provides a cogent interpretation, whereas three *Dayanim* are believed even when they provide a somewhat difficult interpretation (*Pischei Teshuvah* 23:4).

If *beis din* was asked to rule a compromise whose simple reading is clear, the *Dayan(im)* cannot later add or subtract, even when stating that this was the initial intention (*C.M.* 23:1).

If an oral ruling was issued by three *Dayanim*, they are believed when they reiterate it later, even if witnesses state that they ruled otherwise. We presume that those other witnesses misheard or misunderstood the ruling, and the *Dayanim* are not required to validate the ruling (*Sma* 21:7; *Shach* 23:8; *Nesivos* 23:8).

However, if a single *Dayan* ruled orally, he is not believed if he reiterated his ruling when a litigant claims that he ruled otherwise, without the *Dayan* validating his ruling based on the initial claims (*Sma* 23:3).

BHI HOTLINE

The question is whether the same *halachah* applies to the rent that will accrue from the time of your father's passing.

When the value of an asset in a person's estate rises after his death, there are certain cases in which the *bechor* has a right to a double portion, and others in which he doesn't (this is derived from *pesukim*; see *Bava Bas*ra 124a and *Nesivos* 278:1).

If the rise in value happened on its own — for instance, if a small tree grew larger, or a property rose in value due to market changes, then the *bechor* is entitled to a double portion (*C.M.* 278:6 and *Shach* 115:32).

But if the asset rose in value because the heirs invested either work or money into it, or due to a factor that is not inherently part of the asset — e.g., a previously barren tree grew fruit, or an empty apartment was rented out — then the *bechor* is not entitled to a double portion (*C.M.* 278:6 with *Nesivos* 1).

It follows, then, that in your case, before the house is sold, it is owned jointly by the sons and the *bechor* does not have the right to a double portion of the rent accrued after your father's passing, despite his clear entitlement to a double portion once you sell the house.

Some *Rishonim* argue that rental money from a property belonging to a deceased person is considered in his possession (*muchzak*), and the *bechor* is therefore entitled to a double portion (*Meiri, B.B.* 123b).

To avoid the uncertainty that arises from this dispute, the *bechor* can indicate to his siblings, upon their father's passing, that he wishes to collect his double portion of the inheritance. He is then considered the owner of that portion and is therefore entitled to a double portion of any increase in value that is realized from the assets, even from money accrued from the rental of the house going forward (*Ketzos* 278:4; *Nesivos* ibid. 1. Cf. *Kovetz Shiurim, B.B.* 400 and *Kehillos Yaakov, B.B.* 9 who write that according to many *Rishonim*, that declaration is not enough; in order to qualify for a double portion, the *bechor* must demand that they split the inheritance).

We must point out, however, that a *bechor* is only entitled to a double portion of the inheritance from his father, not his mother, and if they owned a house jointly, it might make a difference which parent passed away first, as we will discuss in the coming issue *iy"H*.

For questions on monetary matters, arbitrations, legal documents, wills, ribbis, & Shabbos, Please contact our confidential hotline at 877.845.8455 or ask@businesshalacha.com