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Babylonian Talmud: Tractate Baba Bathra

Folio 54a

throws vegetable seeds into the crevices of a proselyte's land, this act does not confer a title of ownership. The reason is that at the time of his throwing [the seeds] no improvement is effected, and the subsequent improvement¹ comes automatically.

Samuel said: If a man strips the branches from a date tree, if his purpose is [to improve] the tree,² he acquires ownership [by so doing],³ but if his purpose is [to procure food] for his cattle, he does not acquire ownership. How can we tell [which is which]? If he takes the branches from all round, then [we know that] his purpose is [to improve] the tree, but if from one side only, then it is for the sake of his cattle.

Samuel further said: If a man clears a field [of sticks etc.], if his purpose is [to prepare] the soil [for ploughing], he thereby acquires ownership,³ but if it is to obtain firewood, he does not. How can we tell [which is which]? — If he picks up [all the sticks,] both big and small, then [we know] his purpose is to prepare the soil, but if he takes the big ones and leaves the little ones, then [we know that] he merely wants firewood.

Samuel further said: If a man levels a field,⁴ if his purpose is [to prepare] the soil [for ploughing] he thereby acquires ownership, but if he only wants to make threshing floors, he does not acquire ownership. How can we tell [which is which]? — If he has taken earth from the protuberances and thrown it into the depressions, then we know that his purpose is [to prepare] the soil,⁵ but if he merely smoothes out the protuberances or levels up the hollows, we know that he intended to make threshing floors.⁶

Samuel further said: If a man turns water into a field [from a stream], if he does so to irrigate the ground, he thereby acquires ownership, but if only to bring fish in, he does not acquire ownership. How can we know which is which? — If he makes two sluices, one to let the water in and one to let it out, we [know that] he is after the fish, but if one sluice⁷ then we know that his chief purpose is irrigate the field.

A certain woman had the usufruct of a date tree⁸ to the extent of lopping its branches for thirteen years [to give food to her cattle]. A man then came and hoed under it a little [and claimed ownership]. He applied to Levi [or as some say to Mar 'Ukba] who confirmed his title to the field. The woman came and complained bitterly to him, but he said: What can I do for you, seeing that you did not establish your title in the proper way?⁹

Rab said: If a man draws a figure [of an animal or bird]¹⁰ on the property of a [deceased] proselyte, he acquires ownership. [We ascribe this opinion to Rab] because Rab acquired the garden adjoining his *Beth Hamidrash* only by drawing a figure.¹¹

It has been stated: If a field¹² has a boundary marked all round R. Huna says in the name of Rab that as soon as a man digs up one spadeful he becomes the legal owner. Samuel, however, said that he becomes the owner only of as much as he turns up.

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1. When the vegetables grow.
2. By removing superfluous branches.
3. I.e., this is an act constituting *hazakah*.
4. Lit., removes obstacles'.
5. Because he levels the whole field.
6. Because he still leaves different parts of the field at different levels.
7. So that the water collects.
8. Belonging to the estate of a deceased proselyte.
9. I.e., you lopped off one side only, instead of all round.
10. Not necessarily of the size of a cubit, as would be required in the case of any other ornamental figure. V. *supra* 53b.
11. I.e., the garden adjoining his *Beth Hamidrash* belonged to a proselyte who died, and Rab acquired ownership by drawing the figure of an animal or bird on the wall of his house.
12. The reference is to a field belonging to a deceased proselyte. In a case of sale, the digging of one spadeful is effective.

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And if it is not bounded all round, how much does he acquire [by one stroke of the spade]?¹ R. Papa said: The length of a furrow made by a pair of oxen, there and back.²

Rab Judah said in the name of Samuel: The property of a heathen³ is on the same footing as desert land; whoever first occupies it acquires ownership. The reason is that as soon as the heathen receives the money he ceases to be the owner, whereas the Jew does not become the owner till he obtains the deed of sale.⁴ Hence [in the interval] the land is like desert land and the first occupier becomes the owner.⁵ Said Abaye to R. Joseph: Did Samuel really say this? Has not Samuel laid down that the law of the Government is law,⁶ and the king has ordained that land is not to be acquired save by means of a deed? R. Joseph replied: I know nothing of that.⁷ [I only know that] a case arose in Dura di-ra'awatha⁸ in which a Jew bought land from a heathen and another Jew came and dug up a little of it, and when the case came before Rab Judah he assigned the land to the latter. Abaye replied: You speak of Dura di-ra'awatha? There the fields belonged to people who hid themselves and did not pay the tax to the king, and the king had ordered that whoever paid the tax⁹ should have the usufruct of the field.¹⁰

R. Huna bought a field from a heathen, and a Jew came and dug up some of it. He then presented himself before R. Nahman, who confirmed his title to it. R. Huna said to him: You decide thus [do you not], because Samuel said that the property of a heathen is on the same footing as desert land and the first occupier becomes owner?

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Original footnotes renumbered. See [Structure of the Talmud Files](#)

1. This is the explanation of Tosaf. According to Rashb. the translation should be: 'If it is not bounded all round, how much must he dig up?' In either case we must supply the words 'according to Rab'.
2. According to Tosaf. this was a fixed measure of length.
3. The reference, as appears from what follows, is to property sold by a heathen to an Israelite who has paid the money but not yet received the deed of sale.
4. The rule was that if a Jew bought land from a Jew, it remained in the ownership of the seller until the purchaser had received the title-deed, and either could retract until that time. But if a heathen sold land to a Jew, neither could retract so soon as the money had been paid, though in this case too the Jew did not become owner till he had received the title-deed.
5. He must, however, reimburse the purchaser (v. Rashb. and R. Gersh.).
6. [On the scope of this dictum, v. Abrahams, I., *Pharisaism and the Gospels*, I, 62ff.]
7. As much as to say that he did not believe the king had ordained this.
8. The name of a village. According to others, 'a village of shepherds'. [Obermeyer, *op. cit.*, p. 142, identifies it with Dur on the Tigris, north of Bagdad.]
9. In that case the Jew who came and did the digging.
10. Hence we cannot infer from this that land bought from a heathen is not like desert land.

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