Mishnah Bava Batra

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Mishnah Bava Batra / ???? ??? ????

1:1 Partners who wished to make a partition [mehitza] in a jointly owned courtyard build the wall for the partition in the middle of the courtyard. What is this wall fashioned from? In a place where it is customary to build such a wall with non-chiseled stone [gevil], or chiseled stone [gazit], or small bricks [kefisin], or large bricks [leveinim], they must build the wall with that material. Everything is in accordance with the regional custom. If they build the wall with non-chiseled stone, this partner provides three handbreadths of his portion of the courtyard and that partner provides three handbreadths, since the thickness of such a wall is six handbreadths. If they build the wall with chiseled stone, this partner provides two and a half handbreadths and that partner provides two and a half handbreadths, since such a wall is five handbreadths thick. If they build the wall with small bricks, this one provides two handbreadths and that one provides two handbreadths, since the thickness of such a wall is four handbreadths. If they build with large bricks, this one provides one and a half handbreadths and that one provides one and a half handbreadths, since the thickness of such a wall is three handbreadths. Therefore, if the wall later falls, the assumption is that the space where the wall stood and the stones belong to both of them, to be divided equally.
1:2 And similarly with regard to a garden, in a place where it is customary to build a partition in the middle of a garden jointly owned by two people, and one of them wishes to build such a partition, the court obligates his neighbor to join in building the partition. But with regard to an expanse of fields [babbika], in a place where it is customary not to build a partition between two people’s fields, and one person wishes to build a partition between his field and that of his neighbor, the court does not obligate his neighbor to build such a partition. Rather, if one person wishes to erect a partition, he must withdraw into his own field and build the partition there. And he makes a border mark on the outer side of the barrier facing his neighbor’s property, indicating that he built the entire structure of his own materials and on his own land. Therefore, if the wall later falls, the assumption is that the space where the wall stood and the stones belong only to him, as is indicated by the mark on the wall. Nevertheless, in a place where it is not customary to build a partition between two people’s fields, if they made such a partition with the agreement of the two of them, they build it in the middle, i.e., on the

property line, and make a border mark on the one side and on the other side. Therefore, if the wall later falls, the assumption is that the space where the wall stood and the stones belong to both of them, to be divided equally.
1:3 With regard to one who surrounds another on three sides, that is, he owns parcels of land on three sides of the other person’s field, and he built a partition on the first, the second, and the third sides, the court does not obligate the neighbor who owns the inner field to contribute to the construction of the partition if he does not wish to do so. Rabbi Yosei says: If he arose and built a partition on the fourth side of the field, the court imposes upon the owner of the inner field the responsibility to pay his share for all of the partitions.
1:4 In the case of a dividing wall in a jointly owned courtyard that fell, if one of the owners wishes to rebuild the wall, the court obligates the other owner to build the wall with him up to a height of four cubits. If after the wall was built one of the neighbors claims he alone constructed it and the other did not participate in its building, the latter is nevertheless presumed to have given his share of the money, unless the claimant brings proof that the other did not give his part. The court does not obligate the reluctant neighbor to contribute to the building of the wall higher than four cubits. But if the reluctant neighbor built another wall close to the wall that had been built higher than four cubits, in order to set a roof over the room that was thereby created, the court imposes upon him the responsibility to pay his share for all of the rebuilt wall, even though he has not yet set a roof over it. Since he has demonstrated his desire to make use of what his neighbor built, he must participate in the cost of its construction. If the builder of the first wall later claims that he did not receive payment from his neighbor, the neighbor is presumed not to have given his share of the money, unless he brings proof that he did in fact give money for the building of the wall.
1:5 The residents of a courtyard can compel each inhabitant of that courtyard to financially participate in the building of a gatehouse and a door to the jointly owned courtyard. Rabban Shimon ben Gamliel disagrees and says: Not all courtyards require a gatehouse, and each courtyard must be considered on its own in accordance with its specific needs. Similarly, the residents of a city can compel each inhabitant of that city to contribute to the building of a wall, double doors, and a crossbar for the city. Rabban Shimon ben Gamliel disagrees and says: Not all towns require a wall. With regard to this latter obligation, the mishna asks: How long must one live in the city to be considered like one of the people of the city and therefore obligated to contribute to these expenses? Twelve months. But if he bought himself a residence in the city, he is immediately considered like one of the people of the city.
1:6 The court does not divide a courtyard at the request of one of the joint owners unless there will be in it four by four cubits for this one and four by four cubits for that one, i.e., this minimum area for each of the joint owners. And the court does not divide a jointly owned field unless there is space in it to plant nine kav of seed for this one and nine kav of seed for that one. Rabbi Yehuda says: The court does not divide a field unless there is space in it to

plant nine half-kav of seed for this one and nine half-kav of seed for that one. And the court does not divide a jointly owned garden unless there is space in it to plant a half-kav of seed for this one and a half-kav of seed for that one. Rabbi Akiva says that half that amount is sufficient, i.e., the area required for sowing a quarter-kav of seed [beit rova]. Similarly, the court does not divide a hall [hateraklin], a drawing room, a dovecote, a cloak, a bathhouse, an olive press, and an irrigated field unless there is enough for this one to use the property in the usual manner and enough for that one to use the property in the usual manner. This is the principle: Anything for which when it is divided, each of the parts is large enough to retain the name of the original item, the court divides it. But if the parts will not retain the original name, the court does not divide it. When does this rule apply? It applies when the joint owners do not both wish to divide the item; when only one of the owners wishes to divide the property, he cannot force the other to do so. But when both of them wish to divide the item, they may divide it, even if each of the owners will receive less than the amounts specified above. But in the case of sacred writings, i.e., a scroll of any of the twenty-four books of the Bible, that were inherited by two people, they may not divide them, even if both of them wish to do so, because it would be a show of disrespect to cut the scroll in half.
2:1 A person may not dig a pit close to the pit of another, in order to avoid damaging the latter's pit. And similarly, one may not dig a ditch, nor a cave, i.e., a covered pit, nor a water channel, nor a launderer's pond, which is a pit used for washing clothes, unless he distanced all of these three handbreadths from the wall of another and he plasters lime on the place where there is water. And one must distance the solid residue of produce that has been pressed free of its oil, e.g., the refuse of olives from which oil has been squeezed, and animal manure, and salt, and lime, and rocks three handbreadths from the wall of another, as all these items produce heat and can damage the wall. Or, alternatively, he may plaster the wall with lime to prevent damage. One must likewise distance seeds, i.e., one may not plant seeds, and one may not operate the plow, and one must eliminate urine, three handbreadths from the wall of another. The mishna continues: And one must distance a mill from a neighbor's wall by three handbreadths from the lower stone of the mill, which is four handbreadths from the smaller upper stone of the mill. And there must be a distance of three handbreadths from the protruding base [hakalya] of an oven until the wall, which is four handbreadths from the narrow upper rim [hassafa] of the oven.
2:2 A person may not set up an oven inside a house unless there is a space four cubits high above it, i.e., between the top of the oven and the ceiling, to avoid burning the ceiling, which serves as the floor of the residence above. If one was setting up an oven in the upper story, there must be a plaster floor beneath it, which serves as the ceiling of the lower story, at least three handbreadths thick, so that the ceiling below does not burn. And in the case of a stove the plaster floor must be at least one handbreadth thick. And if he causes damage in any case, he pays compensation for that which he damaged. Rabbi Shimon says: They said all of these measurements to teach only that if he

causes damage he is exempt from paying, as he took all reasonable precautions.
2:3 A person may not open a bakery or a dye shop beneath the storeroom of another, and he may not establish a cattle barn there, as these produce heat, smoke, and odors, which rise and damage the items in the storeroom. The mishna comments: In truth, the halakha is that in the case of a storeroom of wine the Sages rendered it permitted to set up a bakery and a dye shop beneath, as the heat that rises does not damage the wine. But they did not render it permitted to establish a cattle barn, because its odor damages the wine. If a resident wants to open a store in his courtyard, his neighbor can protest to prevent him from doing so and say to him: I am unable to sleep due to the sound of people entering the store and the sound of people exiting. But one may fashion utensils in his house and go out and sell them in the market, despite the fact that he is not allowed to set up a store in the courtyard, and the neighbor cannot protest against him doing so and say to him: I am unable to sleep due to the sound of the hammer you use to fashion utensils, nor can he say: I cannot sleep due to the sound of the mill that you use to grind, nor can he say: I cannot sleep due to the sound of the children. It is permitted for one to make reasonable use of his own home.
2:4 One whose wall was close to the wall of another may not build another wall close to the neighbor's wall unless he distances it four cubits from the wall of the neighbor. And one who desires to build a wall opposite the windows of a neighbor's house must distance the wall four cubits from the windows, whether above, below, or opposite.
2:5 One must distance his ladder four cubits from a neighbor's dovecote so that a mongoose will not be able to jump from the ladder to the dovecote and devour the birds. And one must distance his wall four cubits from a roof gutter, so that the neighbor can lean a ladder in the empty space to clean and repair the gutter. One must distance a dovecote fifty cubits from the city to prevent doves from eating seeds in the town. And a person should not establish a dovecote within his own property unless he has fifty cubits in each direction between the dovecote and the edge of his property. Rabbi Yehuda says that one must have surrounding the dovecote the area required for sowing four kor of seed on each side, which generally extends as far as a dove flies in a single flight. And if one bought the dovecote with the land, he has the acquired privilege of its use even if it has surrounding it only the area required for sowing a quarter-kav of seed [beit rova] around it, and he need not remove it from there.
2:6 With regard to a dove chick [nippul] that was found within fifty cubits of a dovecote, it belongs to the owner of the dovecote. If it was found beyond fifty cubits from a dovecote, it belongs to its finder. In a case where it was found between two dovecotes, if it was close to this one, it belongs to the owner of this dovecote; if it was close to that one, it belongs to the owner of that dovecote. If it was half and half, i.e., equidistant from the two dovecotes, the two owners divide the value of the chick.
2:7 One must distance a tree twenty-five cubits from the city, and in the cases of a carob tree and of a sycamore tree, which have a great many branches, they must be distanced fifty cubits. Abba Shaul says: Every barren tree must be

distanced fifty cubits. And if the city preceded the tree, as one later planted the tree alongside the city, he cuts down the tree, and the city does not give money to the tree's owner in compensation. And if the tree preceded the city, which expanded after one planted the tree until it reached the tree, he cuts down the tree and the city gives money to its owner. If it is uncertain whether this one was first or that one was first, he cuts down the tree and the city does not give money.
2:8 One must distance a permanent threshing floor fifty cubits from the city, so that the chaff will not harm the city's residents. Furthermore, a person should not establish a permanent threshing floor even on his own property unless he has fifty cubits of open space in every direction. And one must distance a threshing floor from the plantings of another and from another's plowed field far enough that it does not cause damage.
2:9 One must distance animal carcasses, and graves, and a tannery [haburseki], a place where hides are processed, fifty cubits from the city. One may establish a tannery only on the east side of the city, because winds usually blow from the west and the foul smells would therefore be blown away from the residential area. Rabbi Akiva says: One may establish a tannery on any side of a city except for the west, as the winds blowing from that direction will bring the odors into the city, and one must distance it fifty cubits from the city.
2:10 One must distance from vegetables water in which flax is steeped, because this water ruins them; and likewise one must distance leeks from onions, and mustard from bees. And Rabbi Yosei permits one not to do so in the case of mustard.
2:11 One must distance a tree twenty-five cubits from a cistern, and in the case of a carob and of a sycamore tree, whose roots extend farther, one must distance the tree fifty cubits. This is the halakha whether the cistern or tree is located above or to the side of the other. If the digging of the cistern preceded the tree, the owner of the tree cuts down the tree and the owner of the cistern pays him money. And if the tree preceded the cistern the owner of the tree need not cut down the tree. If it is uncertain whether this came first or that came first, the owner of the tree need not cut down the tree. Rabbi Yosei says: Even if the cistern preceded the tree, the owner of the tree need not cut down the tree. This is due to the fact that this one digs in his own property, and that one plants in his own property.
2:12 A person may not plant a tree near the field of another unless he distances it four cubits from the field. This is the case whether he is planting grapevines or any kind of tree. If there was a fence between them, this one may place, i.e., plant, his grapevines or trees close to the fence from here, and that one may place, i.e., plant, his produce close to the fence from there. If the roots were spreading into the field of another, the owner of the field may dig to a depth of three handbreadths even if he severs those roots, so that they do not impede his plow. If he was digging a cistern in that spot, or a ditch, or a cave, and he came upon the roots of his neighbor's tree, he may cut downward normally, and the wood from the roots is his.
2:13 With regard to a tree that leans into the field of another, the neighbor may cut the branches to the height of an ox goad raised over the plow, in

places where the land is to be plowed, so that the branches do not impede the use of the plow. And in the case of a carob tree and the case of a sycamore tree, whose abundance of branches cast shade that is harmful to plants, all the branches overhanging one's property may be removed along the plumb line, i.e., along a line perpendicular to the boundary separating the fields. And if the neighbor's field is an irrigated field, all branches of the tree are removed along the plumb line. Abba Shaul says: All barren trees are cut along the plumb line.
2:14 With regard to a tree that extends into the public domain, one cuts its branches so that a camel can pass beneath the tree with its rider sitting on it. Rabbi Yehuda says: One cuts enough branches that a camel loaded with flax or bundles of branches can pass beneath it. Rabbi Shimon says: One cuts all branches of the tree that extend into the public domain along the plumb line, so that they do not hang over the public area at all, due to ritual impurity.
3:1 With regard to the presumptive ownership of houses; and of pits; and of ditches; and of caves, which are used to collect water; and of dovecotes; and of bathhouses; and of olive presses; and of irrigated fields, which must be watered by people; and of slaves; and all similar property that constantly, i.e., throughout the year, generates profits, their presumptive ownership is established by working and profiting from them for a duration of three years from day to day. If the one in possession of the property can prove that he worked and profited from it for the previous three full years, there is a presumption that it belongs to him, and would remain in his possession if another were to claim that the property belonged to him or to his ancestors. With regard to a non-irrigated field, i.e., one that is watered by rain, in which produce grows during certain seasons during the year, its presumption of ownership is established in three years, but they are not from day to day, since the fields are not worked and harvested continually throughout the three-year period. Rabbi Yishmael says: Three months of possession in the first year, three months of possession in the last year, and twelve months of possession in the middle, which are eighteen months, suffice to establish the presumption of ownership with regard to a non-irrigated field. Rabbi Akiva says: A month of possession in the first year, and a month of possession in the last year, and twelve months of possession in the middle, which are fourteen months, suffice to establish the presumption of ownership with regard to a non-irrigated field. Rabbi Yishmael said: In what case is this statement, that eighteen months are required for a non-irrigated field, said? It is said with regard to a white field [bisdeh lavan], i.e., a grain field. But with regard to a field of trees, once he gathered his produce, and then harvested his olives, and then gathered his figs, these three harvests are the equivalent of three years. Since he harvested three types of produce, this is equivalent to having possessed the field for three years.
3:2 There are three independent lands in Eretz Yisrael with regard to establishing presumptive ownership: Judea, and Transjordan, and the Galilee. If the prior owner of the field was in Judea and another took possession of his field in the Galilee, or if he was in the Galilee and another took possession of his field in Judea, the possessor does not establish presumptive ownership

until the one possessing the field will be with the prior owner in one province. Rabbi Yehuda says: The Sages said that establishing presumptive ownership requires three years only in order that if the owner will be in Spain [Aspamya], and another possesses his field for a year, people will go and inform the owner by the end of the next year, and the owner will come back in the following year and take the possessor to court.

3:3 Any possession that is not accompanied by a claim explaining how the possessor became the owner is not sufficient to establish the presumption of ownership. How so? If the prior owner said to the possessor: What are you doing in my land? And the possessor said to him in response: I am in possession of the land because no person ever said anything to me about my being here, i.e., he states no valid claim as to why he would be the owner of the land, his mere use is not sufficient to establish the presumption of ownership. But if the possessor claimed: I am in possession of the land because you sold it to me, or: Because you gave it to me as a gift, or: Because your father sold it to me, or: Because your father gave it to me as a gift, these are valid claims to ownership. In these cases, his possession is sufficient to establish the presumption of ownership. And one who comes to claim the land based on inheritance does not need a claim explaining why his ancestors had a right to the land. Craftsmen who are in possession of items that they are repairing, and partners, and sharecroppers, and stewards [veha'apotropin] do not have the ability to establish the presumption of ownership with regard to property in their possession, as their possession is not indicative of ownership. Similarly, a man does not have the ability to establish the presumption of ownership with regard to his wife's property, and a wife does not have the ability to establish the presumption of ownership with regard to her husband's property. And a father similarly does not have the ability to establish the presumption of ownership with regard to a son's property, and a son does not have the ability to establish the presumption of ownership with regard to a father's property. A husband and wife, or son and father, use each other's property freely. Possession is therefore not indicative of ownership. The mishna continues: In what case is this statement, that one establishes the presumption of ownership after profiting from the property for a certain duration, with the exception of the above people, said? It is said in a case of one who has mere possession of the property, which does, in some cases, serve as proof of ownership. But in a case where another person gives one a gift, or there are brothers who divided their inheritance, or there is one who takes possession of the property of a convert who died without heirs and his property is now ownerless, as soon as one locked the door of the property, or fenced it or breached its fence even a bit, this is considered taking possession of the property, and it effects acquisition.

3:4 If there were two witnesses testifying on his behalf that he, the possessor of the land, worked and profited from a field for three years, and therefore has presumptive ownership, and they were found to be conspiring witnesses, as it was proven that they were not present to witness the matter about which they had testified, they must pay the true owner of the field the full value of the field that they attempted, through their testimony, to remove from his

possession, as it is written in the Torah: “Then shall you do to him, as he had planned to do to his brother” (Deuteronomy 19:19). If two witnesses testify that he worked and profited from the field during the first year, another two testify that he worked and profited from it during the second year, and another two testify that he worked and profited from it during the third, and all were found to be conspiring witnesses, payment of the value of the field to the owner is divided among them. If the testimony was given by three brothers, each of whom testify about one year, and another unrelated individual joined with each of the brothers as the second witness, these are three distinct testimonies and they are accepted by the court. If they were to be considered one testimony, it would not be accepted, as brothers may not testify together. But they are one testimony for the purpose of rendering them as conspiring witnesses, and the payment is divided among them.
3:5 These are uses of property that have the means to establish the presumption of ownership, and these are uses of property that do not have the means to establish the presumption of ownership: If one would stand an animal in a courtyard; or if one would place an oven, a millstone, or a stove there; or if one raises chickens in a courtyard, or places his fertilizer in a courtyard, these actions are not sufficient to establish the presumption of ownership. But if one constructed a partition ten handbreadths high to contain his animal, and similarly if he constructed a partition for his oven, and similarly if he constructed a partition for his stove, and similarly if he constructed a partition for his millstone; or if one brought chickens into the house, or if he fashioned a place in the ground for his fertilizer that is three handbreadths deep or three handbreadths high, these actions are sufficient to establish the presumption of ownership.
3:6 With regard to a spout protruding from one’s roof gutter draining water into another’s property, its owner has no means to establish an acquired privilege for its use, but he does have the means to establish an acquired privilege with regard to its place, as the Gemara will explain. With regard to a gutter pipe that traverses the length of the roof, one does have the means to establish an acquired privilege for its use. With regard to an Egyptian ladder, which is small and portable, one has no means to establish an acquired privilege for its use. But with regard to a Tyrian ladder, which is large and fixed in place, one does have the means to establish an acquired privilege for its use. With regard to an Egyptian window, one has no means to establish an acquired privilege for its use; but with regard to a Tyrian window, one does have the means to establish an acquired privilege for its use. What is the defining feature of an Egyptian window? It is any window that is so small that a person’s head is not able to fit inside it. Rabbi Yehuda says: If a window has a frame, even though a person’s head is not able to fit inside it, one does have the means to establish an acquired privilege for its use. With regard to a projection emerging from the wall of one’s house, overhanging a courtyard, one has the means to establish an acquired privilege for its use if it protrudes at least as far as a handbreadth, and the owner of the courtyard can protest its construction. If it protrudes less than a handbreadth, the owner of the house has no means to establish an acquired privilege for its use,

and the owner of the courtyard cannot protest its construction.
3:7 A person may not open his windows, i.e., build an opening in a wall to use as a window, into a courtyard belonging to partners, i.e., a courtyard in which he is a partner. If he purchased a house in another, adjacent courtyard, he may not open the house into a courtyard belonging to partners. If he built a loft on top of his house, he may not open it into a courtyard belonging to partners. Rather, if he desired to build a loft, he may build a room within his house, or he may build a loft on top of his house, and open it into his house, not directly into the courtyard. A person may not open an entrance opposite another entrance or a window opposite another window toward a courtyard belonging to partners, so as to ensure that the residents will enjoy a measure of privacy. If there was a small entrance he may not enlarge it. If there was one entrance he may not fashion it into two. But one may open an entrance opposite another entrance or a window opposite another window toward the public domain. Similarly, if there was a small entrance he may enlarge it, and if there was one entrance he may fashion it into two.
3:8 One may not form an empty space be-neath the public domain by digging pits, ditches, or caves. Rabbi Eliezer deems it permitted for one to do so, provided that he places a covering strong enough that a wagon laden with stones would be able to tread on it without breaking it, therefore ensuring that the empty space will not cause any damage to those in the public domain. One may not extend projections or balconies [ugzuztraot] into the public domain. Rather, if he desired to build one he may draw back into his property by moving his wall, and extend the projection to the end of his property line. If one purchased a courtyard in which there are projections and balconies extending into the public domain, this courtyard retains its presumptive status, i.e., the owner has the acquired privilege of their use, and the court does not demand their removal.
4:1 One who sells a house without specifying what is included in the sale has not sold the gallery, an extension built above or alongside the main building, and this is so even if the gallery is attached to the house and opens into it. Nor has he sold the room behind the house, even if it is accessible only from inside the house. He has also not sold the roof when it has a parapet ten handbreadths high, as such a roof is considered a separate entity and is therefore not included in the sale of the house. Rabbi Yehuda says: If the parapet has the form of a doorway, that is, if it consists of two upright posts with a beam crossing over them, then even if the parapet is not ten handbreadths high, the roof is not sold together with the house, unless it is specifically included in the sale.
4:2 One who sells a house without specification has sold neither the pit nor the cistern [dut], even if he writes for the buyer in the bill of sale that he is selling him the depth and the height of the house, as anything that is not part of the house, like pits and cisterns, must be explicitly mentioned in the contract or else they remain in the seller's possession. And therefore the seller must purchase for himself a path through the buyer's domain to reach whatever remains his, because he has sold the area of the house along with the house itself, and he no longer has permission to walk there. This is the

statement of Rabbi Akiva. And the Rabbis say: The seller need not purchase for himself a path through the buyer's domain, as this is certainly included in what he has withheld for himself from the sale. And Rabbi Akiva concedes that when the seller says to the buyer in the bill of sale: I am selling you this house apart from the pit and the cistern, he need not purchase for himself a path through the buyer's domain. Since the seller unnecessarily emphasized that the pit and the cistern are not included in the sale, he presumably intended to reserve for himself the right of access to them. If the seller kept the house, but sold the pit and the cistern to another, Rabbi Akiva says: The buyer need not purchase for himself a path through the seller's domain to reach what he has bought. But the Rabbis say: He must purchase for himself a path through the seller's domain.
4:3 One who sells a house has, as part of the sale, sold also the door, but not the key. He has sold the mortar that is fixed in the ground, but not the portable one. He has sold the immovable lower millstone [ha'itzterobil], but not the portable upper stone [hakelet], the funnel into which one pours the grain to be ground. And he has sold neither the oven nor the double stove, as they are deemed movable. When the seller says to the buyer: I am selling you it, and everything that is in it, all these components are sold as part of the sale of the house.
4:4 One who sells a courtyard without specifying what is included in the sale has sold with it the houses, pits, ditches, and caves found in the courtyard, but he has not sold the movable property. When the seller says to the buyer: I am selling you it and everything that is in it, all these components are sold along with the courtyard, even the movable property. Both in this case, where he executes the sale without specification, and in that case, where he adds the phrase that includes the movable property, he has not sold the bathhouse, nor has he sold the olive press that is in the courtyard, as each is an entity with a discrete purpose and not an integral part of the courtyard. Rabbi Eliezer says: One who sells a courtyard without specifying what is included in the sale has sold only the airspace, i.e., the open space, of the courtyard, but nothing found in the courtyard, not even the houses.
4:5 One who sells an olive press without specifying what is included in the sale has sold with it the yam and the memel and the betulot, the immovable elements of the olive press. But he has not sold with it the avirim and the galgal and the kora, the movable utensils of the olive press. When the seller says to the buyer: I am selling you it and everything that is in it, all these components are sold along with the olive press, even the movable utensils. Rabbi Eliezer says: One who sells an olive press has sold the kora as well, as it is the most fundamental element of the olive press.
4:6 One who sells a bathhouse without specifying what is included in the sale has not sold with it the boards that are placed on the floor, nor has he sold the basins or the curtains [habilaniyot]. When the seller says to the buyer: I am selling you it and everything that is in it, all these components are sold along with the bathhouse. Both in this case, where he executes the sale without specification, and in that case, where he adds the phrase that he is selling everything that is in the bathhouse, he has not sold the tanks of water, nor

has he sold the storerooms for wood, as an explicit sales agreement is required for these matters.
4:7 One who sells a city without specifying what is included in the sale has sold with it the houses, the pits, the ditches and caves, the bathhouses and the dovecotes, and the olive presses and beit hashelahin, as will be explained in the Gemara, but he has not sold the movable property in the city. But when the seller says to the buyer: I am selling you it and everything that is in it, even if there were cattle and Canaanite slaves in the city, all these entities are sold. Rabban Shimon ben Gamliel says: One who sells a city has sold with it the santar, the meaning of which will be explained in the Gemara.
4:8 One who sells a field without specifying what is included in the sale has sold the stones in the field that are for its use, and the reeds in the vineyard that are for its use, and the produce that is still attached to the ground, and the cluster of reeds that occupy less than the area required for sowing a quarter-kav of seed [beit rova], and the watch station that is not plastered with clay, and the young carob tree that has not yet been grafted, and the untrimmed sycamore that is still young.
4:9 But he has not sold along with the field the stones that are not designated for use in the field, and not the reeds in the vineyard that are not designated for its use, and not the produce that is already detached from the ground. When the seller says to the buyer: I am selling you it and everything that is in it, all these components are sold along with the field. Both in this case, where he executes the sale without specification, and in that case, where he adds the phrase that he is selling everything that is in the field, he has not sold the cluster of reeds that occupy a beit rova or more, as they are considered a separate field, and he has not sold the watch station that is plastered with clay, and not the carob tree that has been grafted, and not the sycamore trunk. All of these entities are significant in their own right and have a status independent from that of the fields, and they are therefore not included in the sale of the field. In continuation of the previous mishna (68b) discussing one who sells a field, the mishna teaches that even if he says that he is selling it and everything that is in it, has sold neither the cistern, nor the winepress, nor the dovecote, whether it is abandoned or utilized, as these items are not part of the field itself. And the seller must purchase for himself a path through the buyer’s domain to reach whatever remains his. This is the statement of Rabbi Akiva, who holds that one who sells, sells generously; therefore, whatever is not explicitly excluded from the sale is assumed to be sold, and it is presumed that the seller did not retain for himself the right to the path that he requires to access his property. And the Rabbis say: The seller need not purchase a path through the buyer’s domain, as it is assumed that since the seller withholds these items for himself, he also reserves a path to reach them. And Rabbi Akiva concedes that when the seller says to the buyer in the bill of sale that he is selling the field apart from these things, i.e., the cistern and the winepress, he need not purchase for himself a path through the buyer’s domain. Since these items would have been excluded from the sale even if he had said nothing, it is assumed that he also meant to reserve for himself the right to access them. But if the seller

kept the field but sold the cistern and winepress to another person, Rabbi Akiva says: The buyer need not purchase for himself a path through the seller's domain to reach what he has bought, since a seller sells generously. But the Rabbis say: He must purchase for himself a path through the seller's domain. In what case is this statement, that these items are excluded, said? It is said with regard to one who sells a field, but with regard to one who gives it away as a gift, it is assumed that he gives all of it, including everything found in the field. Similarly, with regard to brothers who divide their father's estate among themselves, when they each acquire a field as part of their inheritance, they acquire all of it, including the items that would be excluded from a sale. So too, with regard to one who takes possession of the property of a convert, when he takes possession of a field, he takes possession of all of it. One who consecrates a field has consecrated all of it. Rabbi Shimon says: One who consecrates a field has not consecrated any of the items that are ordinarily excluded from a sale except for the grafted carob tree and the sycamore trunk.
5:1 One who sells a ship has sold along with it the toren, and the nes, and the ogin, and all of the equipment that is used for directing it. But he has not sold the slaves who serve as oarsmen, nor the packing bags that are used for transporting goods, nor the antikei on the ship. And when one said to the buyer: You are purchasing it, the ship, and all that it contains, all of these latter elements are also sold. One who sold a wagon [hakkaron] has not sold the mules that pull the wagon. Similarly, if one sold the mules, he has not sold the wagon. One who sold a yoke [hatzemed] has not sold the oxen, and one who sold the oxen has not sold the yoke. Rabbi Yehuda says: The sum of money indicates what one has sold. How so? If the buyer said to the seller: Sell me your yoke for two hundred dinars, since it is a known matter that a yoke is not sold for two hundred dinars he clearly intended to purchase the oxen as well. And the Rabbis say: The sum of money is not proof.
5:2 One who sells a donkey has not sold its vessels, i.e., its equipment, with it. Nahum the Mede says: He has sold its vessels. Rabbi Yehuda says: There are times when the vessels are sold, and there are times when they are not sold. How so? If the donkey was before him and its vessels were on it, and the buyer said to him: Sell me this donkey of yours, its vessels are sold. If the buyer said to him: Is the donkey yours; I wish to purchase it, its vessels are not sold.
5:3 One who sells a female donkey has sold its foal along with it. But one who sold a cow has not sold its young. One who sold a dunghill has sold its manure. One who sold a cistern has sold its water. One who sold a beehive has sold the bees in it, and likewise one who sold a dovecote has sold the doves. One who buys the produce of a dovecote from another, i.e., the doves that will hatch over the course of the year in a dovecote, must leave [mafriah] the first pair of doves from the brood for the seller. If one buys the produce of a beehive, i.e., all the bees produced from a beehive over the course of the year, the buyer takes three swarms and then the seller renders the bees impotent, so that they will stop producing offspring and instead produce only honey. One who buys honeycombs must leave two combs. If one buys olive trees

for felling, he must leave two shoots for the seller.
5:4 With regard to one who buys two trees in the field of another, this one has not acquired any ground, but only the trees. Rabbi Meir says: He has acquired the ground under them. The mishna states a halakha in accordance with the opinion of the first tanna: If the trees grew, the owner of the field may not cut down their branches, despite the fact that their shade damages his field. And that which grows out of the trunk is his, i.e., it belongs to the owner of the tree, but that which grows out of the roots belongs to the owner of the ground. And if the trees died, their owner has no rights to the ground where the trees had stood. If one bought three trees, he has acquired the ground along with them. If they grew, the owner of the field may cut down their branches, as he sold a specific piece of land along with the trees, not his entire field. And that which grows out of the trunk and out of the roots is his, i.e., it belongs to the owner of the trees. And if the trees died, the owner of the trees still has possession of the ground, as it was sold along with the trees.
5:5 One who sells the head of a large domesticated animal has not sold along with it the forelegs, as each part is considered important in its own right. All the more so, if one sold the forelegs he has not sold the head. Similarly, if one sold the windpipe and the lungs he has not sold the liver, despite the fact that they are sometimes attached, and if he sold the liver he has not sold the windpipe and lungs. But in the case of small domesticated animals, if one sold the head he has sold the forelegs, although if one sold the legs he has not sold the head. Likewise, if one sold the windpipe and lungs he has sold the liver, but if he sold the liver he has not sold the windpipe and lungs.
5:6 There are four basic cases with regard to sellers and buyers. If the seller sold him wheat and said that the wheat was good, and it is found to be bad, the buyer, but not the seller, can renege on the sale. If the seller sold him what he thought was bad wheat and it is found to be good, the seller can renege on the sale but the buyer cannot. If he sold bad wheat and it is found to be bad, or good wheat and it is found to be good, neither one of them can renege on the sale, as the condition of the sale was met. If the seller sold reddish-brown wheat and it is found to be white, or white wheat and it is found to be reddish-brown, and similarly, if he sold olive wood and it is found to be wood of a sycamore, or he sold wood of a sycamore and it is found to be wood of an olive tree, or if the seller sold him wine and it is found to be vinegar, or vinegar and it is found to be wine, in all of these cases both the seller and the buyer can renege on the sale. Since the sale was for a different item than that which was delivered, the transaction can be nullified even if there was no mistake with regard to the price.
5:7 This mishna discusses several methods of acquiring movable property. With regard to one who sells produce to another, if the buyer pulled the produce but did not measure it, he has acquired the produce through the act of acquisition of pulling. If he measured the produce but did not pull it, he has not acquired it, and either the seller or the buyer can decide to rescind the sale. If the buyer is perspicacious and wants to acquire the produce without having to pull it, and he wishes to do so before the seller could change his mind and decide

not to sell, he rents its place, where the produce is located, and his property immediately effects acquisition of the produce on his behalf. With regard to one who buys flax from another, because flax is usually carried around this purchaser has not acquired it until he carries it from place to place and acquires it by means of the act of acquisition of lifting. Pulling the flax is ineffective. And if it was attached to the ground, and he detached any amount, he has acquired it, as the Gemara will explain.
5:8 With regard to one who sells food or drink that has an established price, such as wine and oil, to another, and the price rises or falls and the buyer or the seller wishes to renege on the sale, if the price changed before the measuring vessel is filled, the merchandise still belongs to the seller and he can cancel the sale. Once the measuring vessel is filled the merchandise belongs to the buyer, and the seller can no longer cancel the sale. And if there was a middleman [sarsur] between them and the barrel belonging to the middleman, being used to measure the merchandise, broke during the transaction and the merchandise is ruined, it broke for the middleman, i.e., he is responsible for the ruined merchandise. The mishna teaches an additional halakha with regard to sales: And anyone who sells wine, oil, or similar liquids is obligated, after he transfers the liquid into the buyer's vessel, to drip for him three extra drops from the measure. After he drips those three drops, if he turned the barrel on its side and drained out the last bits of liquid that it contained, this belongs to the seller and he is not required to give these last drops to the buyer. And a storekeeper is not obligated to drip three drops, because he is too busy to do this constantly. Rabbi Yehuda says: If the sale occurs on Shabbat eve as nightfall arrives, one is exempt from dripping these three drops, as there is a need to complete the transaction before Shabbat begins.
5:9 With regard to one who sends his son to a storekeeper with a pundeyon, a coin worth two issar, in his hand, and the storekeeper measured oil for him for one issar and gave him the second issar as change, and the son broke the jug and lost the issar, the storekeeper must compensate the father, as he gave the jug and coin to one who is not halakhically competent. Rabbi Yehuda exempts him from liability, as he holds that the father sent his son in order to do this, i.e., to bring back the jug and coin. And the Rabbis concede to Rabbi Yehuda with regard to a case when the jug is in the hand of the child and the storekeeper measured the oil into it that the storekeeper is exempt if the child breaks the jug.
5:10 A wholesaler [hassiton] must clean his measuring vessels, which are used for measuring liquids such as oil and wine, once every thirty days, because the residue of the liquids sticks to the measure and reduces its capacity. And a homeowner who sells his goods must clean his measuring vessels only once every twelve months. Rabban Shimon ben Gamliel says: The matters are reversed. In the case of one who is constantly using his vessels for selling merchandise the residue does not adhere to the measuring vessel, and therefore a wholesaler must clean his measures only once a year. But in the case of a homeowner, who does not sell as often, the residue adheres to the measuring vessel; therefore, he must clean them every thirty days. A storekeeper, who constantly sells

merchandise in small quantities, cleans his measuring vessels twice a week and cleans his weights once a week; and he cleans the pans of his scales after each and every weighing, to ensure that no merchandise has adhered to the pans, thereby increasing their weight.
5:11 Rabban Shimon ben Gamliel said: In what case is this statement, that it is necessary to clean a measuring vessel, said? With regard to moist items, which are likely to adhere to the measuring vessels. But with regard to dry goods, which do not adhere to the measuring vessels, one does not need to clean his measuring vessels. And before adding the weights and merchandise the seller is obligated to let the pans of the scale that will hold the merchandise tilt an extra handbreadth for the buyer by adding a weight to that side. If the seller weighed for him exactly, i.e., with the scales equally balanced initially, instead of allowing the scales to tilt an extra handbreadth, he must give the buyer additional amounts [geirumin], an additional one-tenth in the case of liquids sold by weight, and an additional one-twentieth in the case of dry goods. The mishna continues to discuss the correct method of weighing: In a place where they were accustomed to measure merchandise in several stages with a small measuring vessel, one may not measure all the items at once with a single large measuring vessel. In a place where they measure with one large measuring vessel, one may not measure with several small measuring vessels. In a place where the custom is to level the top of the measuring vessel to remove substances heaped above its edges, one may not heap it, and where the custom is to heap it, one may not level it.
6:1 With regard to one who sells produce to another that is sometimes purchased for consumption and sometimes for planting, and the buyer planted it and it did not sprout, and even if he had sold flaxseeds, which are only occasionally eaten, the seller does not bear financial responsibility for them, i.e., he is not required to compensate the buyer. Since the buyer did not specify that he purchased the produce in order to plant it, the seller can claim that he assumed the buyer intended to eat it. Rabban Shimon ben Gamliel says: If he had sold seeds for garden plants, which are not eaten at all, then the seller bears financial responsibility for them, as they were certainly purchased for planting.
6:2 When selling a significant quantity of produce or a number of items, there is a possibility that there will be a certain proportion of impurities in it or that some of the product will be of substandard quality. The mishna delineates what proportion is considered acceptable, for which a buyer may not demand compensation. With regard to one who sells produce, i.e., grain, to another, this buyer accepts upon himself that up to a quarter-kav of impurities may be present in each se’a of produce purchased. When purchasing figs, he accepts upon himself that up to ten infested figs may be present in each hundred figs purchased. When purchasing a cellar containing barrels of wine, he accepts upon himself that up to ten barrels of souring wine may be present in each hundred barrels purchased. When purchasing jugs of wine in the Sharon region, he accepts upon himself that up to ten inferior-quality jugs [pitasot] of wine may be present in each hundred jugs purchased.
6:3 If one sells wine to another and then it sours, the seller does not bear

financial responsibility for its loss. But if it is known of this seller that his wine always sours, then this sale is a mistaken transaction, i.e., one based upon false assumptions, as the buyer intended to purchase wine that would maintain its quality; therefore, the seller must reimburse the buyer. And if the seller said to the buyer: It is wine that is spiced, which is preserved and of lasting quality, that I am selling to you, then he bears financial responsibility to provide him with wine that will keep until the festival of Shavuot. And if the seller said: I am selling you old wine, he is responsible to provide wine from the previous year. And if he said: I am selling you aged wine, he is responsible to provide wine that is from three years earlier.
6:4 With regard to one who sells a plot of land to another, with the buyer intending to build a bridal house for his son or a widowhood home for his daughter on that plot, and similarly, with regard to a contractor who receives a plot of land from another under a commission to build for the owner on that land a bridal house for his son, or a widowhood home for his daughter, the terms of the transaction are a matter of dispute. The mishna presents the dispute: In the latter case, the contractor must build a building that is at least four cubits by six cubits in size, and similarly, in the case of the sale, the seller must provide a plot of land that can accommodate a building of that size; this is the statement of Rabbi Akiva. Rabbi Yishmael says: A structure of this size is a cowshed, and a bridal house or a widowhood home is larger than that. One who wants to construct a cowshed builds a structure at least four cubits by six cubits in size. The mishna delineates the standard dimensions for various other structures. A small house is six by eight cubits. A large house is eight by ten cubits. A banquet hall [teraklin] is ten by ten cubits. The standard height for each of these structures is equal to the sum of half its length and half its width. There is a proof of the matter; Rabban Shimon ben Gamliel says: The proportions are like the building of the Sanctuary; it was forty cubits wide and twenty cubits long and its height was thirty cubits, which is the sum of half the width and half the length.
6:5 One who has ownership of a cistern located beyond the house of another, i.e., the cistern can be accessed only by entering the property of the other, and also has access rights to that cistern, may enter the house to access his cistern only at a time when it is usual for people to enter, and may leave only at a time when it is usual for people to leave. And in addition, he may not bring his animal into the house and water it from his cistern; rather, he must fill a pail with water from the cistern and water his animal outside. And this one, the owner of the cistern, constructs for himself a lock on the entrance to the cistern to prevent the homeowner from drawing water from it, and that one, the homeowner, constructs for himself a lock.
6:6 One who has ownership of a garden located beyond the garden of another, and also has access rights to it, may enter his garden only at a time when it is usual for people to enter, and may leave only at a time when it is usual for people to leave. Furthermore, he may not bring merchants into his garden, and he may not enter the garden solely in order to use it as a passageway, to enter from it into another field. And the owner of the outer garden may sow the path leading to the inner garden. If the court gave him an access path from the side

of the outer garden, with the agreement of both of them, he may enter at any time he wants, and leave at any time he wants, and may bring merchants into the inner garden. But he may still not enter the garden solely in order to enter from it into another field. In such a case, neither this one, the owner of the inner garden, nor that one, the owner of the outer garden, is permitted to plant that side path.
6:7 In the case of one who had a public thoroughfare passing through his field, and he appropriated it and instead gave the public an alternative thoroughfare on the side of his property, the halakha is that the thoroughfare that he gave them, he gave them, and they may use it. But the original thoroughfare that he took for himself has not reached him, i.e., he cannot appropriate it for his personal use. The standard width of a private path is four cubits. If a field owner sells the right to pass through his field to an individual, without specifying the width of the path, he must provide him with a path four cubits wide. The standard width of a public thoroughfare is sixteen cubits. The width of a king's thoroughfare has no maximum measure, as the king may appropriate whatever width thoroughfare he wishes. The width of the path for the burial procession to a grave has no maximum measure. With regard to the practice of standing and comforting the mourners following a funeral, the judges of Tzippori said that the standard requisite size is the area required for sowing four kav of seed.
6:8 There is the case of one who sells a plot of land to another in order for him to construct for himself an underground catacomb, and similarly the case of a contractor who receives a plot of land from another under a commission to construct for him a catacomb. If the size of the catacomb was not specified, then he should make the inside of each burial chamber four cubits wide by six cubits long and open up into the chamber, by digging into its walls, eight burial niches [kukhin] in which the coffins will rest. Three niches should be opened up from the wall here, along the length of the chamber, and three from there, along the other side, and two niches from the wall facing the entrance. And these niches should be formed so that their length is four cubits and their height is seven handbreadths, and their width is six handbreadths. Rabbi Shimon says: He should construct the inside of each burial chamber six cubits wide by eight cubits long and open up into the chamber, by digging into its walls, thirteen burial niches. Four niches should be opened up from the wall here, along the length of the chamber, and four from there, along the other side, and three niches from the wall facing the entrance, and one from the right of the entrance and another one from the left. The mishna describes the general structure of the catacomb: And he must fashion a courtyard at the entrance of the burial chamber that should be six cubits by six cubits, which is equal to the combined length of the bier of the deceased and those who bury him, to ensure adequate room for the burial to take place. And he should open up two burial chambers into the courtyard, one from here and one from there, i.e., on opposite sides of the courtyard. Rabbi Shimon says: He should open up four burial chambers, one on each of the courtyard's four sides. Rabban Shimon ben Gamliel says: Everything is dependent on the nature of the bedrock. If the bedrock is hard and strong it will be able to accommodate more niches, which

will be more closely packed together, with less bedrock between them. If the bedrock is softer, fewer and more sparsely spaced niches should be formed.
7:1 If one says to another: I am selling you a plot of earth of the size required for sowing one kor of seed [beit kor], and there on that plot there were crevices [neka'im] ten handbreadths deep or rocks ten handbreadths high, they are not measured together with the rest of the field. Rather, the buyer must be provided with land measuring a beit kor exclusive of those crevices or rocks. If the crevices or rocks measured less than ten handbreadths, they are measured together with the rest of the field. But if the seller said to the buyer: I am selling you a plot of earth that is about the size of a beit kor, then even if there on that plot there were crevices deeper than ten handbreadths or rocks higher than ten handbreadths, they are measured together with the rest of the field.
7:2 If one says to another: I am selling you a plot of earth the size of a beit kor, measured precisely with a rope, and he gave him even the slightest amount less than what was stipulated, the seller must deduct the difference from the purchase price of the field and return money to the buyer. If he gave him even the slightest amount more than what was stipulated, the buyer must return the difference to the seller. And if the seller said to the buyer that he is selling him a beit kor of land more or less, then even if he gave him a quarter-kav per se'a less than what was stipulated, or he gave him a quarter-kav per se'a more that what was stipulated, i.e., he gave him one twenty-fourth more or less than what was required, it is his. The sale is valid, since the seller told the buyer in advance that he was not committing himself to precise measurements. If the difference is greater than that amount, he must make a calculation, and the party that suffered a loss must be compensated. If the buyer received too much land, so that he must now compensate the seller, what does he return to him? He returns money, i.e., he pays the seller for the surplus land. And if the seller so wishes, the buyer returns the surplus land to him. Why then did the Sages say that he returns money to him? They said this in order to enhance the power of the seller, and enable him to demand payment for the surplus land, rather than accept its return. As, if the surplus in the field was an area required for sowing nine kav of seed, and in a garden an area required for sowing a half-kav of seed, or, according to the statement of Rabbi Akiva, an area required for sowing a quarter-kav of seed (see 11a), the buyer must return the land itself to the seller, and the seller cannot demand payment in money. And if the surplus is greater than a quarter-kav per se'a, it is not only the quarter-kav that he returns; rather, he returns all of the surplus. Since he is already required to make a refund, the refund must be made in the precise amount.
7:3 If the seller says to the buyer: I am selling you a plot of land of a certain size measured precisely with a rope more or less, thereby attaching to the sale two contradictory stipulations; in this case, the words: More or less, nullify the words: Measured precisely with a rope. Accordingly, if the surplus did not exceed a quarter-kav per se'a, the sale is valid as is. Similarly, if the seller says to the buyer: I am selling you a plot of land of a certain size more or less measured precisely with a rope, the words: Measured precisely with

a rope, nullify the words: More or less, since the principle is that in all cases, one should attend to the final expression; this is the statement of ben Nanas. If one sells a field to another, telling him that he is selling him a field measuring a beit kor, with its particular demarcations and borders that the seller specifies for the buyer, the field's measurement is not treated in as exacting a manner as in a standard sale. Therefore, if it later turns out that the field was not precisely a beit kor, but the difference is still less than one-sixth, the field is the buyer's, and the sale is valid as is. But if the difference is greater, e.g., one-quarter or one-fifth, then, until it is calculated at one-sixth, the seller must deduct the difference from the purchase price and return money to the buyer.

7:4 If one says to another: I am selling you half a field, without specifying which half he is selling, an assessment is made of the field, which is then divided between them, and the buyer takes half of the seller's field. If the seller says: I am selling you the half that is on the southern side of the field, an assessment is made of the northern and the southern sides of the field, which is then divided between them, and he takes the half on the southern side. And he accepts upon himself to provide the space for the fence between the two halves of the field out of his own property. He also accepts to provide out of his own property the space for the larger ditch and the smaller ditch, which are meant to keep animals out of the field. And how wide is the larger ditch? Six handbreadths. And how wide is the smaller ditch? Three handbreadths.

8:1 There are family members who both inherit from and bequeath to each other upon their respective deaths; and there are those who inherit from certain relatives but do not bequeath to them; and there are those who bequeath to certain relatives but do not inherit from them; and there are those who, despite being relatives, do not inherit from nor bequeath to one another. The mishna lists those referred to above. And these both inherit and bequeath: A father with regard to his sons, and sons with regard to their father, and paternal brothers; all inherit from one another and bequeath to each other. A man with regard to his mother, and a man with regard to his wife, and sons of sisters, i.e., nephews born to the sisters of the deceased, all inherit from their respective relatives but do not bequeath to them. A woman with regard to her sons, and a woman with regard to her husband, and maternal uncles, all bequeath to their respective relatives but do not inherit from them. And maternal brothers, despite being blood relatives, do not inherit from each other nor do they bequeath to one another, as they are not considered relatives for the purpose of inheritance.

8:2 The order of precedence with regard to inheritances is this: The verse states: "If a man dies, and has no son, then you shall pass his inheritance to his daughter" (Numbers 27:8). This teaches that a son precedes a daughter. Additionally, all descendants of a son precede a daughter. A daughter precedes the brothers of the deceased. Additionally, the descendants of a daughter precede the brothers of the deceased. Brothers of the deceased precede the uncles of the deceased. Additionally, the descendants of the brothers precede the uncles. This is the principle: Concerning anyone who precedes another with

regard to inheritance, his descendants precede the other as well, and a father who inherits precedes all of his descendants.
8:3 Zelophehad's daughters took three portions of land in the inheritance of Eretz Yisrael: Their father's portion that he received because he was among those who left Egypt; and his portion that he received with his brothers in the property of Hepher, their father; and an additional portion that he received from Hepher because he was a firstborn, and a firstborn takes two portions of inheritance from his father.
8:4 Both the son and the daughter of the deceased are included in the halakhot of inheritance. But the difference is that the firstborn son takes a double portion of the property of the father, and he does not take a double portion of the property of the mother. And another difference is that the daughters are sustained from the property of the father after he dies, as it is a mandatory condition of their mother's marriage contract that they are to be sustained even before the estate is disbursed to the children, but the daughters are not sustained from the property of the mother, which is all inherited by the sons.
8:5 In a case of one who says: So-and-so, my firstborn son, will not take a double portion of my estate; or one who says: So-and-so, my son, will not inherit my estate among his brothers, he has said nothing, as he has stipulated counter to that which is written in the Torah. With regard to one on his deathbed who apportions his property orally, granting it to his sons as a gift, and he increased the portion given to one of his sons and reduced the portion given to one son, or equated the portion of the firstborn to the portions of the other sons, his statement stands. But if he said that they will receive the property not as a gift but as inheritance, he has said nothing. If he wrote in his will, whether at the beginning, or in the middle, or at the end, that he is granting them the property as a gift, his statement stands. In a case of one who says: So-and-so will inherit from me, in a case where there is a daughter, or: My daughter will inherit from me, in a case where there is a son, he has said nothing, as he has stipulated counter to that which is written in the Torah concerning the order of inheritance. Rabbi Yohanan ben Beroka says: If he said this about one fit to inherit from him, his statement stands, but if it was about one for whom it was not fit to inherit from him, his statement does not stand. With regard to one who wrote a document granting his property to others as a gift and left his sons with nothing, what he did is done, i.e., it takes effect; but the Sages are displeased with him. Rabban Shimon ben Gamliel says: If he did so because his sons were not acting properly, he is remembered positively.
8:6 One who says: This is my son, is deemed credible. One who says: This is my brother, is not deemed credible with regard to his other brothers' obligation to share the inheritance with the subject of his statement. When one claims that this man is his brother, this claim is accepted with regard to the speaker's own portion, and the man in question takes a share of their father's inheritance with him, i.e., from his portion. If the man in question dies, the property he received from the father's inheritance shall return to its place, i.e., to the possession of the brother who testified on his behalf, from whose portion he received a share. If property came into the man in

question's possession from somewhere else, other than from the father, and the man in question died, all of the brothers of the one who testified shall inherit with the one who testified, as according to his claim they too are the heirs of the deceased. With regard to one who died, and a will written by a person on his deathbed [dayetikei] is found bound to his thigh, which clearly indicates that it was written by him and was not forged, this is nothing. The will is not valid, as he did not give it to anyone, and he may have reconsidered. If he transferred ownership of the will to the designated recipient through another person, whether one of the heirs or whether not one of the heirs, his statement stands.
8:7 A healthy person who writes a document granting his property to his sons in his lifetime, but wishes to continue to derive benefit from it until his death, must write: I give the property from today and after my death. This is the statement of Rabbi Yehuda. Rabbi Yosei says: He need not write: From today and after my death; it is sufficient for him to write that the transfer will take effect after he dies. If one writes a document granting his property to his son from today and after his death, the father cannot sell the property because it is written as granted to the son, and the son cannot sell it because it is still in the possession of the father with regard to using the property and consuming its produce. If the father sold the property, it is sold to the purchaser inasmuch as he may use it and consume its produce until the father dies, at which point it belongs to the son. If the son sold it during his father's lifetime, the purchaser has no right to use it until the father dies. In continuation of the case discussed in the previous mishna of a father who wrote a document granting his property to his son but reserved the rights to the produce during his lifetime, the mishna states that the father may detach produce from the land and feed the produce to whomever he wishes, and what he left detached at the time of his death belongs to all the father's heirs, not only to this son. If a person died and left adult and minor sons, the adults are not provided for by using funds of the minors, and the minors are not sustained, i.e., they do not receive food, by using funds of the adults. Rather, they receive a share of the inheritance equally, and each son sees to his needs from his own share. If the adults married, the minors marry, as the Gemara will explain. But if the minors say: We are marrying in the same manner that you adults married during our father's lifetime, the court does not listen to them. Rather, whatever their father gave the adults in his lifetime he gave them, and the minors do not have the right to receive more than their share of the inheritance.
8:8 Similarly, if the father left adult and minor daughters but no sons, in which case his daughters inherit the estate, the adults are not provided for by using funds of the minors, and the minors are not sustained by using funds of the adults. Rather, they receive a share of the inheritance equally, and each daughter sees to her needs from her share. If the adult daughters married, the minor daughters marry, as the Gemara will explain. But if the minors say: We are marrying in the same manner that you adults married during our father's lifetime, the court does not listen to them. This following halakha is a stringency with regard to daughters' inheritance vis-à-vis sons'

inheritance: The halakha is that the daughters are sustained by using funds of the sons, as stipulated in their mother's marriage contract, but they are not sustained by using funds of the other daughters.

9:1 In the case of one who died and left behind both sons and daughters, when the estate is large the sons inherit the estate and the daughters are provided with sustenance from it according to the stipulations of the deceased's marriage contract with their mother. With regard to a small estate, which is insufficient to provide for both the sons and the daughters, the daughters are provided with sustenance. And if the sons, who receive in this case neither inheritance nor sustenance, have no other means with which to support themselves, they go and request charity at the doors. Admon says, rhetorically: I lost out just because I am male? Rather, he holds that the sons also receive sustenance. Rabban Gamliel said: I see as correct the statement of Admon.

9:2 With regard to one who left behind sons and daughters and a tumtum, whose halakhic status as male or female is indeterminate, the halakha is as follows: When the estate is large the males direct the tumtum to the females and exclude him from the inheritance, claiming that perhaps the tumtum is female. When the estate is small, the females direct the tumtum to the males and exclude him from receiving sustenance, claiming that perhaps the tumtum is male. With regard to one who says: If my wife gives birth to a male the offspring shall receive a gift of one hundred dinars, if she in fact gave birth to a male, the offspring receives one hundred dinars. If he says: If my wife gives birth to a female the offspring shall receive a gift of two hundred dinars, if she in fact gave birth to a female, the offspring receives two hundred dinars. If he says: If my wife gives birth to a male the offspring shall receive a gift of one hundred dinars and if she gives birth to a female the offspring shall receive a gift of two hundred dinars, and in fact she gave birth to both a male and a female, the male offspring receives one hundred dinars and the female offspring receives two hundred dinars. If she gave birth to a tumtum, the tumtum does not receive anything. If he said: Whatever offspring my wife gives birth to shall receive a gift of a certain sum, and she gave birth to a tumtum, the tumtum receives it. And if there is no heir other than the tumtum, the tumtum inherits all of the estate.

9:3 In the case of one who died and left behind adult and minor sons, if the adult sons enhanced the property, they enhanced it so that the profit goes to the middle, i.e., it is distributed among all the heirs. If the adult sons said from the outset: See that which our father left behind; we are going to engage in business with our share of the property and profit from it, then they enhanced the property for themselves. And similarly, with regard to a wife who enhanced the property of her deceased husband, she enhanced it so that the profit goes to the middle, i.e., it is divided between her and the heirs. If she said: See that which my husband left me; I am going to engage in business with my share and profit from it, then she enhanced the property for herself.

9:4 With regard to brothers who were also partners, and it occurred that one of them was summoned to public service, which is assessed per family, he was summoned from the middle, i.e., the profits or expenses of his service are divided among them. If one of the brothers became sick and sought treatment,

the cost of the treatment is paid from his own resources. It was common practice for friends of a groom to give him gifts in order to help cover the expenses of the wedding feast. These gifts are known as gifts of groomsmen, and would be reciprocated in turn. While the groom and the groomsman were at times the recipient and the giver of the gifts, respectively, the gifts were at times provided by the father of the groomsman and received by the father of the groom. In the case of brothers, some of whom brought gifts of groomsmen in their father's lifetime, which were provided by their father, when the gifts of groomsmen are reciprocated after the father's death, when one of the brothers gets married, they are reciprocated to the middle, i.e., the gift is divided among the brothers. This is because gifts of groomsmen are a legal debt owed to the father, collectible in court. But with regard to one who sends his friend jugs of wine or jugs of oil, a reciprocal gift is not collectible in court, because they are considered acts of kindness.
9:5 With regard to one who sends presents [sivlonot] to his father-in-law's house following his betrothal, even if he sent there the sum of ten thousand dinars and subsequently ate there a groom's feast even worth the value of a single dinar, if for any reason the marriage is not effected, the presents are not collected in return by the formerly betrothed man. If he did not eat a groom's feast there, the presents are collected, as they were not an unconditional gift. If he sent many presents with the stipulation that they return with her to her husband's house, i.e., to his own house, after the wedding, these are collected if the marriage is not effected. If he sent a few presents for her to use while in her father's house, they are not collected.
9:6 With regard to a person on his death-bed who wrote a deed granting all of his property to others, and he reserved for himself any amount of land, his gift stands even if he subsequently recovers. If he did not reserve for himself any amount of land, and he recovered, his gift does not stand, as the gift was conditional upon his death, since is it evident that he did not intend to leave himself without means of support. If one did not write in the deed that he was on his deathbed, and he then recovered and wished to retract the gift, and he says: I was on my deathbed, and since I recovered, I can retract the gift, but the recipients say: You were healthy, and the gift cannot be retracted, the giver must bring proof that he was on his deathbed in order to retract the gift. This is the statement of Rabbi Meir. And the Rabbis say: The burden of proof rests upon the claimant, and since the property is in the possession of the giver, the recipients must bring proof that they have the right to receive it.
9:7 With regard to one who divides his property between various recipients by means of verbal instruction, Rabbi Elazar says: Both in the case of one who is healthy and in the case of one who is dangerously ill, the halakha is as follows: Property that serves as a guarantee, i.e., land, is acquired by means of money, by a deed of transfer, or by taking possession of it. And that which does not serve as a guarantee, i.e., movable property, can be acquired only by pulling. The Rabbis said to Rabbi Elazar: There was an incident involving the mother of the sons of Rokhel, who was sick, and who said: My brooch shall be given to my daughter, and it is valued at twelve hundred dinars. And this woman

subsequently died, and the Sages upheld her statement. This indicates that a person on his deathbed can gift property without an act of acquisition. Rabbi Elazar said to them: That case was different; the sons of Rokhel should be buried by their mother, i.e., he cursed them. It is not possible to bring a proof from this incident, as these sons were wicked people. Consequently, when ruling in this matter the Sages did not act in accordance with the halakha, but allowed the mother of the sons of Rokhel to give this valuable piece of jewelry to their sister without an act of acquisition having been performed. Rabbi Eliezer says: On Shabbat, the verbal statement of a person on his deathbed stands, as he cannot write, and the Sages instituted that he can effect the transaction verbally lest the inability to do so exacerbate his condition. But a verbal instruction does not stand if stated on a weekday. Rabbi Yehoshua says: With regard to Shabbat, the Sages stated that his verbal instruction is sufficient, even though writing is prohibited. One can infer a fortiori that the same applies with regard to a weekday, when writing is permitted. Similarly, one can acquire property on behalf of a minor, but one cannot acquire property on behalf of an adult, since he can perform the act of acquisition himself; this is the statement of Rabbi Eliezer. Rabbi Yehoshua says: The Sages stated this halakha with regard to a minor, and one may infer a fortiori that this also applies with regard to an adult, who is able to perform the act of acquisition himself.

9:8 A house collapsed on a son and upon his father, or upon a certain person and upon those from whom he stands to inherit, and it is unknown who died first. If the son bore the responsibility to pay the marriage contract of his wife and to pay a creditor, and the son had no money with which to pay them except that which he might inherit from his father, and the father's heirs say: The son died first and afterward the father died, and therefore the son did not inherit property from his father, and the creditors say: The father died first and afterward the son died, resulting in the son's inheriting his father's property, enabling the creditors to collect payment from the property even after the son's death, there is a dispute with regard to how to rule. Since it cannot be determined who died first, Beit Shammai say: They divide the property between them so that the father's heirs receive half of his property and the son's creditors receive the other half. And Beit Hillel say: The property retains its previous ownership status. Since the last known owner of the property was the father, the property is given to the father's heirs.

9:9 If the house collapsed upon a husband and upon his wife, and it is unknown who died first, if the wife did not have any children from her husband, then the following claims arise: The husband's heirs say: The wife died first and was inherited by her husband, and afterward the husband died, and therefore the husband's heirs inherit both his and her property. The wife's heirs say: The husband died first and afterward the wife died, and her heirs inherit the property that she brought with her to the marriage and the payment of her marriage contract. Beit Shammai say: They divide the property under dispute between them. And Beit Hillel say: The guaranteed property that the wife brought with her to the marriage retains its previous ownership status. The sum

of the marriage contract remains in the possession of the husband's heirs, since the marriage contract is collected from the husband's property. Property that is brought into and taken out of the marriage with her, i.e., usufruct property that remains in the wife's possession during her marriage, remains in the possession of the heirs of the woman's father.

9:10 If the house collapsed on a son and upon his mother, and it is unknown who died first, the following claims arise: The mother's paternal family claims that the son died first, and therefore they inherit from the mother, and the son's heirs claim that the mother died first and her son inherited from her, and therefore they inherit from the son. In this case, both these Sages and those Sages, Beit Shammai and Beit Hillel, concede that they divide the property between them. Rabbi Akiva said: In this case I concede that the property retains its previous ownership status. Ben Azzai said to Rabbi Akiva: We are already troubled by those cases where Beit Shammai and Beit Hillel are in disagreement. But do you come to bring upon us a disagreement with regard to the case where they agree?

10:1 In an ordinary document, its witnesses are to sign inside it, i.e., on the written side of the paper. In a folded and tied document, its witnesses are to sign on the back of it. With regard to an ordinary document whose witnesses wrote their signatures on the back of it, and a tied document whose witnesses wrote their signatures inside of it, both of these are not valid. Rabbi Hanina ben Gamliel says: A tied document whose witnesses wrote their signatures inside of it is valid, because one can transform it into an ordinary document by untying it. Rabban Shimon ben Gamliel says: Everything is in accordance with regional custom.

10:2 An ordinary document is rendered valid by its having at least two witnesses, and a tied document is rendered valid by its having at least three witnesses. With regard to an ordinary document in which a single witness wrote his signature, and a tied document in which only two witnesses wrote their signatures, they are both not valid. If it is written in a document that someone owes: One hundred dinars, which are twenty sela, which is internally inconsistent since there are twenty-five sela in a hundred dinars, the holder of the document has the right to claim only twenty sela, the lower of the two amounts. If it is written that he owes: One hundred dinars, which are thirty sela, the holder of the document has the right to claim only one hundred dinars, again the lower of the two amounts. If it is written that someone owes: Silver dinars that are, and the remainder of the text, where the number of dinars should be specified, was erased, the amount must be no less than two dinars, the lowest amount to which the plural word dinars can be referring. That is what the creditor can claim. Similarly, if it is written: Silver sela that are, and the remainder of the text was erased, the amount must be no less than two sela. And if it is written: Darics that are, and the remainder of the text was erased, the amount must be no less than two darics. If it is written in the document above, in an earlier place in the document, that someone owes one hundred dinars, and below, toward the end of the document, it is written that the amount owed is two hundred dinars, or if above it is written two hundred dinars and below one hundred dinars, everything follows the bottom

amount. If so, why does one write the information in the upper part of the document at all? It is a safety measure, so that if one letter is erased from the lower part of the document, thereby rendering it illegible, the information can be learned from the upper part of the document.
10:3 A scribe may write a bill of divorce for a man who requests one, even if his wife is not with him to give her consent when he presents his request, as there is no possibility that he will misuse the document. And a scribe may write a receipt for a woman upon her request, attesting to the payment of her marriage contract, even if her husband is not with her to give his consent. This is true provided that the scribe recognizes the parties requesting the document, to prevent misrepresentation. And for both documents, the husband gives the scribe his wages. A scribe may write a promissory note for a debtor who requests one, even if the creditor is not with him when he requests the document, but a scribe may not write a promissory note for a creditor who requests it unless the debtor is with him and consents. And it is the debtor who gives the scribe his wages. A scribe may write a bill of sale for a seller of a field who requests one even if the purchaser is not with him when he presents his request, but a scribe may not write a bill of sale for a purchaser who requests it unless the seller is with him and consents. And it is the purchaser who gives the scribe his wages.
10:4 A scribe may not write documents of betrothal and documents of marriage except with the consent of both parties, the groom and the bride. And it is the groom who gives the scribe his wages. A scribe may not write contracts for sharecroppers and contractors except with the consent of both parties, i.e., the sharecropper or contractor and the one who hires him. And it is the sharecropper or contractor who gives the scribe his wages. A scribe may not write documents testifying to arbitration agreements or any other court enactment except with the consent of both parties to the litigation. And both parties give the scribe his wages. Rabban Shimon ben Gamliel says: The scribe writes two documents for the two parties, one for this one by himself, and one for that one by himself.
10:5 In the case of a debtor who repaid part of his debt and with the agreement of the creditor deposited the promissory note with a third party serving as a trustee to ensure that the creditor would not collect the full amount, and the debtor said to the trustee: If I have not given you the balance from now until such and such a day, give the creditor his promissory note, thereby enabling him to collect the full amount stated on the note, if the stipulated time arrived and the debtor did not give the balance to the trustee, Rabbi Yosei says: The trustee should give the promissory note to the creditor, in accordance with the debtor's stipulation. Rabbi Yehuda says: The trustee should not give it, as the stipulation is void.
10:6 In the case of a creditor whose promissory note has become erased, he should produce witnesses who remember the details of the document to testify about it. And they come before the court, and they ratify his promissory note for him, stating: The promissory note of so-and-so was erased, and it stated that a loan for such and such an amount took place on such and such a date, and so-and-so and so-and-so were its witnesses. The ratification document is

signed, and it may be used as a replacement for the erased document. In the case of a debtor who repaid part of his debt, Rabbi Yehuda says: The creditor should exchange the promissory note for a new one stating the current balance and tear up the first promissory note. Rabbi Yosei says: The creditor may keep the original promissory note, and he should write a receipt for the payment he has received and give it to the debtor as proof of his partial payment of the sum recorded in the old note. Rabbi Yehuda said with regard to this arrangement: It is found that this debtor must now guard his receipt against being destroyed by mice, as if he no longer has the receipt, he will have to pay the entire sum recorded in the promissory note. Rabbi Yosei said to him: This situation is fitting for him; it is better that this procedure be followed, and the strength of the claim of this creditor not be weakened.
10:7 In a case where there are two brothers, one poor and one rich, and their father left them a bathhouse or an olive press as an inheritance, if the father had built these facilities for profit, i.e., to charge others for using them, the profit that accrues after the father's death is shared equally by the two brothers. If the father had built them for himself and for the members of his household to use, the poor brother, who has little use for these amenities, cannot force the rich brother to convert the facilities to commercial use; rather, the rich brother can say to the poor brother: Go take servants for yourself, and they will bathe in the bathhouse. Or he can say: Go take olives for yourself, and come and make them into oil in the olive press. If there are two people who were living in one city, one named Yosef ben Shimon and the other also named Yosef ben Shimon, one cannot present a promissory note against the other, as the purported debtor can claim: On the contrary, it is you who owed me money; you repaid me and I returned this note to you upon payment. Nor can another, third person, present a promissory note against either of them, as each one can claim: It is not I but the other Yosef ben Shimon who owes you money. If a document is found among one's documents stating: The promissory note against Yosef ben Shimon is repaid, and both men named Yosef ben Shimon owed this man money, the promissory notes of both of them are considered repaid, as it cannot be determined which debt was repaid and which is outstanding. What should two people with the same name in a single city do in order to conduct their business? They should triple their names by writing three generations: Yosef ben Shimon ben so-and-so. And if they have identical triple names, i.e., not only their fathers but their grandfathers had identical names, they should write an indication as to which one is referred to, such as: The short Yosef ben Shimon or the dark Yosef ben Shimon. And if they have identical indications, they should write: Yosef ben Shimon the priest, if one of them is a priest. In the case of one who says to his son before dying: One promissory note among the promissory notes in my possession is repaid, but I do not know which one, the promissory notes of all of those who owe him money are considered repaid, i.e., they are not valid for collection, as it cannot be determined which debt was repaid and which are outstanding. If there were found among his papers two promissory notes owed by one person, the one for the greater amount is considered repaid, and the one for the smaller amount is not considered repaid and can be collected; the debtor is favored in the case of an

uncertainty. One who lends money to another with the assurance of a guarantor cannot collect the debt from the guarantor. But if the creditor said to the debtor: I am lending the money on the condition that I will collect the debt from whomever I wish, i.e., either the debtor or the guarantor, he can collect the debt from the guarantor. Rabban Shimon ben Gamliel says: If the debtor has property of his own, then whether in this case, where the creditor stipulated this condition, or that case, where he did not, he cannot collect the debt from the guarantor. And so Rabban Shimon ben Gamliel would say: If there is a guarantor for a woman for her marriage contract, from whom the woman can collect payment of her marriage contract instead of collecting it from the husband, and her husband was divorcing her, the husband must take a vow prohibiting himself from deriving any benefit from her, so that he can never remarry her. This precaution is taken lest the couple collude [kenunya] to divorce in order to collect payment of the marriage contract from this guarantor's property, and then the husband will remarry his wife.
10:8 One who lends money to another by means of a promissory note can collect the debt from liened property that had been sold to others by the debtor after the loan was granted. One who lends money by means of witnesses, without recording the loan in a promissory note, can collect the debt only from unsold property. If one presents to a debtor a document in the handwriting of the debtor stating that he owes money to him, but without witnesses signed on the document, the creditor can collect only from unsold property. In the case of a guarantor whose commitment emerged after the signing of the promissory note, the creditor can collect the sum only from unsold property of the guarantor. The mishna relates: An incident occurred where such a case came before Rabbi Yishmael, and he said: The creditor can collect the sum from unsold property of the guarantor, but not from liened property that he has sold to others. Ben Nannas said to Rabbi Yishmael: The creditor cannot collect the sum from the guarantor at all, not from liened property that has been sold, nor from unsold property. Rabbi Yishmael said to him: Why not? Ben Nannas said to him: If one was strangling someone in the marketplace, demanding repayment of a loan, and another person found him doing so and said to the attacker: Leave him alone and I will give you the money he owes, the person who intervened is exempt from paying, as the creditor did not loan the money in the first place based on his trust of the one who intervened. Rather, who is a guarantor who is obligated to repay the loan he has guaranteed? One who tells the creditor before the loan takes place: Lend money to him, and I will give you the repayment, as in that case the creditor did loan the money based on his trust of the guarantor. And Rabbi Yishmael thereupon said: One who wants to become wise should engage in the study of monetary law, as there is no greater discipline in the Torah, and it is like a flowing spring. And, he added, one who wants to engage in the study of monetary law should attend to, i.e., become a disciple of, Shimon ben Nannas.

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