YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**GEMARA GITTIN 5779**

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In loving memory of Rabbi Dr. Barrett (Chaim Dov) Broyde ztz"l

הוֹלֵךְ תָּמִים וּפֹעֵל צֶדֶק וְדֹבֵר אֱמֶת בִּלְבָבוֹ

Steven Weiner & Lisa Wise

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**Shiur #04**

**Gittin Chapter 9**

**(83b) Divorce and Marriage for a Specified Time**

**by Rav Yishai Admanit**

Sources:

1. Gittin 83b "*ba'a minei Rava... paska paska*", Rashi s.v. "*paska*", Tosafot s.v. "*Mistabra*"

2. Rama 83b s.v. "*Tiba'ee*", Rasba s.v. "*Tiba'ee*", Ritva s.v. "*ve-sham'eenan*"

3. Rasba Nedarim 29b a.v. "*ela*"

4. Responsa Rosh 35,2 (citing R. Avigdor Kohen Tzedek)

5. Nedarim 28b "*harei netiot ha-elu.... pak'a bichdi* (29a)", Tosafot 29a s.v. "*hayom*", Ran s.v. "*amar lei Abaye*"

6. Yerushalmi Kiddushin 3,1 (pg. 32a) "harei at mekudeshet li sheloshim.... ein zeh get kritut"

[**Click here to download source sheets.**](https://etzion.org.il/he/download/file/fid/227183)

**I. A Kinyan for a Specified Time**

The Rambam writes in *Hilkhot Mekhira*:

When a person sells landed property for a specified time, the sale is binding. The purchaser may use the body of the land as he desires and derive benefit from it throughout the duration of the sale. At the end of the specified time period, the property returns to its original owner. (23:5)

Is a *kinyan* for a specified time possible also in the cases of betrothal and divorce? Can a man betroth a woman, and establish from the outset that she will be his wife only for a specific period of time, or can he decide to divorce his wife for a limited period of time, at the end of which she will once again be his wife without a second act of betrothal?

**II. Divorce for a Specified Time**

In addition to the dispute whether a residual connection constitutes a deficiency when we come to define a bill of divorce as severing the relationship between husband and wife, another question arises in the Gemara:

Rava asked Rav Nachman: [If a man says:] Today you are not my wife, but tomorrow you will be my wife, what is the law? The question may be raised both according to Rabbi Eliezer and according to the Sages. The question may be raised according to Rabbi Eliezer: Perhaps Rabbi Eliezer stated his position only there (in the case of *chutz*), because as he permitted her she is permitted in perpetuity, but here not, or perhaps there is no difference. The question may be raised according to the Sages: Perhaps the Sages stated their position only there, because she is not entirely separated from him, but here they would say that once she is separated she is separated?

Having asked the question he himself answered it: It is reasonable to suppose that both according to Rabbi Eliezer and according to the Sages, once she is separated from him she is separated. (*Gittin* 83b-84a)

We see that the Gemara initially thought that a residual connection concerning time similar to a residual connection concerning certain people, and therefore divorce for a specified time should be subject to the dispute between Rabbi Eliezer and the Sages. But the Gemara argues that it is possible to distinguish between the cases in both directions. A residual connection concerning time might constitute a defect which even Rabbi Eliezer would agree disqualifies the *get.* Alternatively, it is possible that this is a less critical residual connection, which even the Sages agree does not disqualify the *get.* The simple understanding is that according to the second distinction, all agree that the divorce takes effect for the specified time. This is stated explicitly by the Rama,[[1]](#footnote-1) but as we shall see, there are those who disagree.

The Gemara concludes that all agree that "once she is separated from him she is separated." The Rama proposes an exceptional explanation of this conclusion. According to him, once a woman is completely separated from her husband for one day, this suffices to validate the *get*, and the *get* will be valid for the specified time. In the context of the Talmudic passage, this understanding enjoys a certain advantage, for according to this the Gemara's uncertainty is symmetrical, and the Gemara decides in favor of one of the proposed distinctions. At the same time, it suffers from a striking interpretive disadvantage – this explanation is not the plain meaning of the words.

Most of the commentaries explain like Rashi - once the woman is separated from her husband for one day, she is separated from him and does not return to him without a second betrothal. The Rashba[[2]](#footnote-2) explains the Gemara's asymmetry according to this explanation. According to him, the Gemara never thought, even initially, that the Sages agree with Rabbi Eliezer that a residual connection concerning the time period during which the *get* is valid is not a critical problem. The Gemara merely suggested that in such a situation the Sages would agree that the *get* is valid, **because** it would remain valid in perpetuity, because once the woman is separated from her husband, she is separated. After the Gemara reaches this possibility, it goes back and argues that according to all opinions this is the order of events in the case of a *get* which was meant to be valid for a specified time. Even Rabbi Eliezer, and even if we say that Rabbi Eliezer sees a residual connection concerning time as a legitimate residual connection in a *get*, would agree that in actual practice the *get* will remain valid in perpetuity.

Thus it follows that there are two separate issues under discussion here:

1. The problem of the severance (*keritut*)that is achieved with a *get* that is meant to be valid only for a specified time. This issue is a direct continuation of the discussion between Rabbi Eliezer and the Sages in the first passage in the chapter and of the passage on p. 85a. These passages discuss what residual connection can the husband maintain with his wife in the *get* and the *get* still be valid. This issue is, of course, unique to *ishut*, and is not connected to the matter of a *kinyan* for a specified time.

2. The actual order of events in a *get* for a specified time. These laws are connected to a person's capacity to control halakhic statuses, to impose and to remove them, by way of verbal statements made at the time when those statuses are created.

The Rashba implies that it would be possible for a Tanna to maintain that a *get* for a specified time is not disqualified for failing to meet the level of severance that is necessary for a valid *get*, but it could not actually apply in that manner.

Why can't the husband actually control the validity of the *get* he gives his wife, and limit it to a specific time? What is the difference between divorce and *kinyanim*, the validity of which can be limited in time?

In order to understand the difference between divorce and *kinyan* regarding this matter, we must first understand how it is possible to give someone a gift for a specified time. The relatively simple solution of an implied condition (*tnai*) that is attached to the gift[[3]](#footnote-3) does not seem to suit the phenomenon, for we do not find that a return *kinyan* must be made at the end of that period, nor do we find that if the recipient refuses to return the article, the transfer is nullified retroactively. It seems that the correct understanding of a transfer of property for a specified time is based on the modern understanding of the dimension of time. In such a transfer, the donor exits, as it were, the dimension of time, and "looks upon it from above," and sees the future laid out before him. The transfer is not of the article as is, but of the article in units of time. An ordinary transfer involves an article in all of its time units, until it no longer exists; a transfer for a specified period of time involves the transfer of certain units of time from all of the time spread out before us. According to this, we understand how the donor can regain control of the article at the end of the time period. The article at the end of that period remains his, and he never gave up his ownership of it. The donor transferred only the days in the interval.

Why is such an action impossible in divorce? For now, let us content ourselves with two answers:

1. The Re'a[[4]](#footnote-4) concludes from the Gemara's conclusion ("once she is separated from him she is separated"), that if a person sells a field both body (*guf*) and produce (*peirot*) for a specific time, the sale is valid, and the field **does not** return to the original owner at the end of the time period. The Gemara in *Bava Batra*, in its discussion of a *kinyan* for a specified time (136b) relates to this as a *kinyan* –*peirot*, but here the Re'a says that if the seller insists on selling the *guf* and its fruit for a specified time, the sale is valid in perpetuity. What is the difference between the two transactions?

The Rashba (*Nedarim* 29b, s.v. *ela*) and the Ran (29a, s.v. *amar*) write that every *kinyan* for a specified time is essentially a *kinyan* of "fruit." Why is this so? It seems that if an article must be returned to the seller, the buyer never has absolute ownership of it. An article that will not remain in the buyer's possession in perpetuity is not fully his even while the article is in his possession, and the focus of his *kinyan* is limited to the possibility to use the article during that period, and the profits that may be made from it. In this sense a *kinyan* for a specified time is a *kinyan* *peirot* meaning the right to derive all benefit from the object. It is not exactly the same thing as a declared *kinyan peirot*, as in the case of one who sells a palm tree for its fruit, but it is certainly not a full *kinyan* of the article itself. If so, we can understand the Re'a as follows: It is indeed possible to sell units of time of a particular article. That is to say, it is possible to relate to an article in four dimensions, including the dimension of time, and to sell units of time of that article. But when an article is sold in this way, this will always be a sale of the use ("fruit") of the article. One who sells the article itself and its fruit for a specified time, is trying to do two contradictory things, and therefore the sale of the article itself is valid, but it is not limited in time.[[5]](#footnote-5)

Now let us consider marriage in this context. The Rashba in *Nedarim* (ibid.) argues that regarding the husband's *kinyan* with respect to his wife, we cannot separate between the *kinyan* of the woman herself and the *kinyan peirot*. His first proof is from the Gemara (*Yevamot* 66a) that establishes that the wife of a *kohen* may eat *teruma*, because she is considered "the purchase of his money."[[6]](#footnote-6)His second proof is from the *Yerushalmi* in *Bava Batra* (8:8), which states that if a person gives his son property "from today and after his death," the son acquires the property itself *guf* from today, and the fruit after his death. If, however, a person says to his wife: "This is your *get* from now and after your death," it is not a valid *get*, and we do not say that he gave his wife her body today and her fruit (= her handiwork) after his death, because we do not find that a woman can belong to one person and her handiwork to another. The Rashba concludes from this that we cannot separate the *kinyan* in the woman herself from the *kinyan* in the fruit that the husband has in his wife, and therefore divorce for a specified time and betrothal for a specified time are not possible. If so, according to the Re'a, the Rashba, and the Ran, the idea of "divorce for a specified time" involves an internal contradiction.

2. The aforementioned explanation is based on the assumption that a *kinyan* for a specified time cannot be a *kinyan* in the article itself. Rabbeinu Avigdor Kohen Tzedek,[[7]](#footnote-7) however, is of the opinion that a *kinyan* for a specified time is a full-fledged *kinyan* in the article itself. If so, the question returns: Why is it not possible to control and limit the time during which a divorce will be valid, when this is possible with regard to a monetary *kinyan*?

The Rashba (83b, s.v. *ad*) writes: "To forbid that which is permitted is impossible" – it is impossible to change halakhic statuses without a causative act, and marriage cannot be created without *kiddushin*.[[8]](#footnote-8) We must, however, sharpen the question. The assumption underlying the capacity to sell property for a specified time is that one is selling a section of time of ownership of that property. The seller's ownership after the period for which the property was sold is a continuation of his original ownership, only that in the meantime it was sold to another person. If so, why can't this happen in marriage? Why can't we say that the marriage after the period of divorce is the same marriage as that before the period of divorce? The man who divorces his wife should not have to create a new marriage; he only has to give his wife a period of time when she belongs to herself, and at the completion of this period, the woman returns to her earlier state.

It seems that according to the Rashba, the *kinyan* of marriage cannot be broken down into units of time, for the concept of marriage is binary: either it exists, in which case it exists forever, or it does not exist at all. If a man divorces his wife, he imposes upon her an absolute status, and to forbid that which is permitted is impossible. It may be added that marriage is fundamentally an interpersonal relationship, and not a matter of *kinyanim*, and in such a system the dimension of time is not taken into account, because the relationship is not measured in quantitative units.

**The Position of the Rama**

As was noted earlier, the Rama maintains that according to the Gemara's conclusion, divorce can take effect for a specified period of time, even according to the Sages. This position must contend with the two explanations offered above as to why divorce for a specified time is impossible. To counter the argument that a *kinyan* for a specified time must be a *kinyan peirot*, and this does not suffice for divorce, the Rama can argue that he agrees with the majority of *Rishonim* in the passage of "after you, to So-and-So," that a *kinyan* for a specified time can be a *kinyan* in the article itself. Indeed, this is his position in his commentary to *Bava Batra*.[[9]](#footnote-9) To counter the argument of the Rashba, that a halakhic status does not disolve on its own, the Rama can argue that this explanation is based on the assumption that marriage does not divide into units of time, and it is precisely about this point that he disagrees. Therefore, the marriage following the period of divorce is the very marriage of before the divorce, as the woman only received a portion of time.

**III. Betrothal for a Specified Time**

As we saw in the first part of this article, the discussion concerning the issue of marriage for a specified time divides into two topics: 1) the laws of severance; 2) the capacity to control halakhic statuses. So too regarding betrothal for a specified time, the discussion can be divided into these two questions.

**The Problem of Severance**

Rabbi Abba discusses in *Gittin* (82b) the correspondence between the laws of divorce and the laws of betrothal regarding the need for severance: Do the Sages disqualify a betrothal that forbids a woman to any man "except for So-and-so," in the same way that they disqualify a divorce that permits her to any man "except for So-and-so"? If we assume that such a correspondence exists, as he concludes, we can inquire about the positions of Rabbi Eliezer and the Sages regarding betrothal for a specified time: Do they disagree on this question, as they disagree about betrothal that leaves out certain people, in which case we would say that if Rabbi Eliezer validates a *get* for a specified time, he also validates betrothal for a specified time, and if the Sages disqualify a *get* for a specified time, because it involves a problem of severance (a woman must be entirely cut off from her husband when she is divorced), then also in the case of betrothal for a specified time, there is a problem that parallels the problem of severance – that is to say, that in betrothal a woman must connect herself entirely to her husband and cut herself off entirely from the rest of the world. Or can we make a distinction in both directions, as the Gemara did in *Gittin* (83b) regarding divorce. In other words, the Sages who say that a betrothal that excludes a certain person ("Be betrothed to me so as to be forbidden to any man except So-and-so") is not a valid betrothal, might agree with Rabbi Eliezer regarding betrothal for a specified time, because at least for one day she is entirely betrothed and forbidden to every man in the world; and Rabbi Eliezer, who says that a betrothal that excludes a certain person is a valid betrothal, might agree that a betrothal for a specified time does not take effect, because there is a critical problem of "severance" – the betrothal must be designed to take effect with no limitation of time.

**The Capacity to Control Halakhic Status**

The discussion regarding the capacity to control halakhic status appears in the Gemara in *Nedarim.* The Mishna there states:

[If one says:] Let these saplings be *korban* [i.e., consecrated] if they are not cut down; or, Let this garment be *korban* if it is not burnt, they can be redeemed. [If he says:] Let these saplings be *korban* until they are cut down; or, Let this garment be *korban* until it is burnt, they cannot be redeemed. (28a)

A person who consecrates his saplings "until they are cut down" has in mind that even after they are redeemed from their sanctity, they should remain sanctified, that is to say, his consecration should renew itself each time he redeems them. This understanding is accepted by the Amoraim who explain the Mishna, but they disagree about the sanctity of the saplings after they are cut down:

Let these saplings be *korban*, etc. Can they never be redeemed? Bar Pada said: If he redeems them, they revert to their sanctity; if he redeems them again, they again revert to their sanctity, until they are cut down. When cut down, he redeems them once, and that suffices. Ulla said: Having been cut down, they require no further redemption. (*Nedarim* 28b)

The Amoraim disagree whether in this case there is consecration for a specified time. Ulla maintains that the consecrator limited the time of consecration to the period that would end with the cutting down of the saplings. At the end of this period, the sanctity disappears. Bar Pada disagrees, and says that even though the consecrator limited the time of the consecration, the sanctity continues to rest on the saplings until they are redeemed.

The Gemara continues with a question raised against Ulla:

Rav Hamnuna said to him: Where then has their sanctity gone? What if one said to a woman: Be you my wife today, but tomorrow you are no longer my wife; would she be free without a divorce?

Rav Hamnuna assumes as self-evident that the betrothal of a woman cannot be limited in time, and that she remains betrothed forever. The Rosh[[10]](#footnote-10) and the *Tosafot[[11]](#footnote-11)* explain that this assumption is based on the Gemara's conclusion in *Gittin* (84a): "Once she is separated from him she is separated," with an analogy being made between divorce and betrothal.[[12]](#footnote-12)

Here the question rises once again: Why is there no control over betrothal, in light of the comparison to the realm of *kinyan*, regarding which it is evident from various passages in *Bava Batra*, that it can be limited to a specified time?

Let us briefly mention the two answers brought above, in the discussion regarding divorce for a specified time, which are relevant to this issue as well. According to the Rashba and the Ran (in *Nedarim*) the concept of marriage cannot be divided into a *kinyan* in the woman herself and a *kinyan* in the fruit, whereas a *kinyan* for a specified time, by its very nature, is a *kinyan* in the fruit. Hence, in a case of a betrothal for a specified time, the woman cannot leave the marriage without a *get,* since the betrothal is absolute.

The second answer involved a development of the words of the Rashba in *Gittin* (83b), which have a textual support in the Gemara in *Nedarim*, namely, that marriage does not become cancelled on its own (as Rava says later in the Gemara: "Bodily consecration cannot be cancelled on its own"). That is to say, the concept of marriage does not divide up into units of time. The *Tosafot Rid* writes in similar fashion: "A woman cannot become betrothed in part or for a limited number of days." That is to say, the marital bond is absolute.

**Inherent Sanctity Does Not Become Cancelled On Its Own**

The Gemara in *Nedarim* suggests another explanation of the difference between betrothal and *kinyanim*, but it applies only to betrothal and not to divorce.

In the continuation of the Gemara, Rava responds to the words of Rav Hamnuna:

Rava said to him: Can you compare monetary consecration (*kedushat* *damim*) to bodily consecration (*kedushat ha-gut*)? Monetary sanctity can be cancelled on its own, but bodily consecration cannot be cancelled on its own. (*Nedarim* 29a)

Rava maintains that a comparison cannot be drawn between the betrothal of a woman and bodily consecration for a specified period of time, on the one hand, and monetary consecration for a specified period of time, on the other. The betrothal of a woman and bodily consecration cannot be cancelled on their own, but monetary consecration, which is the subject of the dispute between Ulla and Bar Pada, can be cancelled on its own. Rava's comparison between bodily consecration (the consecration of sacrificial offerings and of the holy vessels) and betrothal gives rise to another consideration, which might explain why it is impossible to limit betrothal to a specified time.

Rava distinguishes between monetary consecration and bodily consecration. Why can the one be cancelled on its own, while the other cannot?

It may be suggested that monetary consecration stems from the monetary ownership enjoyed by the Temple treasury. The sanctity is not primary, but rather derived from a different status – ownership status. This being the case, with the removal of that ownership the sanctity is also cancelled (and we already know that ownership can be limited in time and cancelled on its own). In contrast, bodily consecration is primary, not derived from some status in the realm of ownership. It is an attribute of the object. The sanctity is inherent to the object, and as such it cannot be cancelled on its own. Monetary consecration is not inherent to the object, as it is only derived from its ownership, which is merely the relationship between the object and external factors, its owner. When the object is owned by an ordinary person, it is non-consecrated; when it is owned by the Temple treasury, it is consecrated.[[13]](#footnote-13)

Betrothal can be understood in similar fashion. Defining a woman as betrothed is similar to bodily consecration according to Rava. That is to say, her marital status is a primary definition, and not a derivative of some other status. It stands to reason that the impossibility of imposing this status for a specified time for this reason applies only to betrothal and not to divorce, because it is reasonable to assume that only regarding betrothal is there a positive status of sanctity, which cannot be cancelled on its own, whereas in divorce, the woman's status as a divorcee is not a positive status, and perhaps it can be cancelled on its own.

**IV. The Position of the Yerushalmi**

The *Yerushalmi* relates to the issue of betrothal and divorce for a specified time in tractate *Kiddushin*:

[If he says:] Be you betrothed to me for thirty days, she is betrothed. What is the difference between consecrated property and a woman? We find that consecrated property can go out without redemption, but we do not find that a woman can go out without a *get…* [If he says:] This is your *get* for thirty days, this is not a *get* that cuts her off. (3:1)

That is to say, there is a difference between divorce and betrothal in the case of a person who limits the new status to thirty days: Regarding divorce, "this is not a *get* that cuts her off," whereas regarding betrothal, she is permanently betrothed. The principle that emerges from the *Yerushalmi* is that when the planned action is problematic with respect to the laws of severance, the action does not take effect at all (in contrast to what we concluded above from the words of the Rashba, that even if the planned status is problematic with respect to the laws of severance, if in practice it will continue forever, it can come into being from the outset). If also follows from the *Yerushalmi* that regarding the laws of the absolute nature of betrothal (the problem of "severance") there is no problem with betrothal for a specified time. Only regarding divorce is there a need for severance, and therefore the divorce does not take effect, whereas the betrothal takes effect and does not become cancelled.

The *Yerushalmi* continues:

Rabbi Yitzchak b. Rabbi Elazar said: That which you said that she is betrothed applies where he betrothed her with money. But if he betrothed her with a bill of betrothal, since we learn a bill of betrothal from a bill of divorce, just as in a case of divorce, she is not divorced, so too in a case of betrothal, she is not betrothed.

Rabbi Yitzchak b. Rabbi Elazar maintains that in a case of betrothal by way of a bill of betrothal, as in a case of divorce, the betrothal does not take effect at all, as a bill of betrothal is derived from a *get.* That is to say, the validity of the betrothal depends upon the mechanism of betrothal. When we are dealing with a mechanism related to ownership, as in betrothal with money, the betrothal takes effect and cannot be cancelled. But when the betrothal is to take effect by way of a mechanism that relates directly to the woman's personal status, as with a bill of betrothal, there we must use the regular concepts of status, and therefore betrothal for a specified time does not take effect at all.

(Translated by David Strauss)

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**Sources for the next shiur:** **On Condition That You Marry *Ploni* (and on Conditional *Kinyan* in General)**

על מנת שתנשאי לפלוני בפרט (וגדרי תנאי על מנת בכלל)

*מלבד הבנת פשט הסוגיה, השאלה שתעמוד במרכז דיוננו תהיה מהו דינה של האשה כלפי הבעל שאיננו הפלוני - האם הנישואים לו מותרים או אסורים, מן התורה ומדרבנן; ולאור זאת, מה משמעותו של תנאי על מנת.*

1. **פשט סוגייתנו ודין 'שמא יאמרו'**

גיטין פד ע"א "ת"ר הרי זה גיטך על מנת שתינשאי לפלוני... לאחר תצא", רש"י ותוספות.

רמב"ן דברים כד,ד "וטעם הלאו הזה... על כך"

שו"ע אבן העזר קמג, טו עד "ואם נשאת לא תצא", ובפת"ש ס"ק י.

1. **חששות בעניין קיום התנאי**

בעל המאור מד ע"א ברי"ף, "והתנאין המתקיימין כך דיניהם... טפי עדיף", ובכתוב שם.

רשב"א גיטין פג ע"א "בכולהו תנאי דעלמא... כן כמו שכתבנו"

רמב"ם גירושין ח,א ובמגיד משנה שם

רא"ש פ"ט סימן ב עד "שמא יבא ויבטל הגירושין",

1. **תנאי על מנת בכלל – חלותו למפרע**

גיטין עד ע"א משנה וגמרא שעליה עד "דאמרי כרבנן"

ירושלמי גיטין ט,א "אמר רבי שמי ... הותר הגט למפרע"

רשב"א גיטין פד ע"א ד"ה על מנת שתבעלי עד "משום ערוה קאמר וצ"ע".

[אם יש זמן - חדושי ר' שמעון שקופ כתובות סימן א, "ועל כן נראה לי לפרש... שתיבעלי, יעוי"ש" – צילום בכונן; גר"ח על הרמב"ם אישות ב,ט ד"ה אכן מה שנראה לומר עוד בזה, דבאמת]

1. **שיטת הרמב"ם**

רמב"ם גירושין ח,יג, השגת הראב"ד ופירוש המגיד משנה

תורת גיטין קמג, כ (צילום בכונן)

אבני מילואים קמג, א

גר"ח גירושין ח,יג, בעיקר עד "לא אכפת לן זה"

רמב"ם אישות ו, יז-יח ומגיד משנה שנם

[אם יש זמן – כתובות נו ע"א תוד"ה הרי זו, עד: "שלא התנו על מה שכתוב בתורה"; כתובות יט ע"ב "בעא מיניה רבא מרב נחמן... וחותו לדינא"

1. 83b, s.v. *ve-tiba'i le-rabbanan*. [↑](#footnote-ref-1)
2. s.v. *tiba'i le-rabbanan.* [↑](#footnote-ref-2)
3. That is to say, this property is transferred to you for thirty days, and if you do not return it to me at the end of that period, the transfer will be nullified retroactively. [↑](#footnote-ref-3)
4. Ritva in the name of his teacher, s.v. *ve-sham'inan*; and similarly *Chiddushei ha-Ran* in the name of the Re'a. [↑](#footnote-ref-4)
5. Why does the Halakha choose to accept the seller's desire to sell the the object itself, and ignore his desire to limit the sale in time? This question arises also in connection with the issue of a condition that runs counter to what is written in the Torah. See *Chiddushei ha-Ramban*, *Bava Batra* 126n, s.v. *harei.* [↑](#footnote-ref-5)
6. In contrast to property in which he only has a *kinyan* in its fruit. [↑](#footnote-ref-6)
7. Cited in *Responsa ha-Rosh* 35, no. 3. The *Ketzot ha-Choshen* (241, no. 4) accepts this position, and discusses it at length. [↑](#footnote-ref-7)
8. The explanation offered here is supported by the Rashba's words in *Gittin*, though the Rashba himself does not need this, in light of his position in *Nedarim.* [↑](#footnote-ref-8)
9. *Yad Rama*, 136b, s.v. *amar lei.* [↑](#footnote-ref-9)
10. *Peirush ha-Rosh*, ad loc., s.v. *mi nafka.* [↑](#footnote-ref-10)
11. Ad loc., s.v. *hayom at ishti.* [↑](#footnote-ref-11)
12. *Kiddushin* 5a, and elsewhere. [↑](#footnote-ref-12)
13. In certain situations the Temple treasury might own an object, and yet there is no consecration. See *Bava Batra* 79a; Ramban, ad loc., s.v. *ve-ha de-amrinan*; Rabbeinu Yona, ad loc., s.v. *aval hikdish*. But as a rule, monetary ownership on the part of the Temple treasury creates monetary consecration. [↑](#footnote-ref-13)