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CHAZZAKA

LAWS:

POSSESSION
Jewish Israel

GOD'S

LAWS

3400 years

Moshe Sender
1915

1 / Tenancy (Chumaka) of Personal
and Real Property
Throughout history
men have devised
legal tests to use as
standards to demonstrate
possession of personal
and real property.

The Jew depends on
the encyclopedic
laws enunciated by
G-d at Sinai and
embodying one of the
six orders of the
Mishna - ~~the~~ Nezikim.

(A) A/H
C/H/M

140:1

and
A/H/C/H

140:1

(B)

A/H C/H/M

140:2,5

141:1

~~140~~
The one not
in possession
has the
burden of
bringing proof
regarding any
questions of
ownership or
amount of
sale or title of
personal goods

It is a general
principle of law that
~~It is a general~~ such goods
found in one's possession
are deemed
his. (A) This is true of
personal goods. (A)

This is not necessarily
true of real property.
There if requires
three years of
uninterrupted
tenancy to establish
title. (B)

During this period of
the object of any
parents real

between real and personal
between the two substances
parents real

~~9~~ 20
Possession

(A)
AH CH

179:1

When a ~~man~~ ^{person} claims that ~~property~~ ^{personal property} ~~is~~ ^{is} his possession
of ~~it~~ ^{it} belongs to
him; he is

believed. (A) Anyone
disputing his
claim is legally
obliged to produce
proof. This is true,
if the ~~one~~ adversary
produce no proof at
all. Then the one ~~is~~

in possession need not even swear Rabbimically.

~~ATTN 14012~~
173: read
When the Rabbimical Court by circumstantial evidence deduces that the plaintiff's has no merit they will not force real the defendant to swear that the personal property is his.

Otherwise the unscrupulous will be harassing property owners forcing them arbitrarily to be liable for a ~~Rabbinical~~ Rabbinical oath. the adversary has proof that this property at one time belonged to him or his parents and the possessor counters

ATTN 14012
where the use in possession has no merit. This is true. has no merit.

otherwise
the instrument
shall be null and
void as to the
part of the
land

34

that he purchased the
property or his parents
purchased it, then
the following laws
apply.

If he alleges
that he has the
contract of sale,
he must produce
this instrument
as evidence (A)

(A) AH CHM
140:3
Even if he
wants he
believes
without the
contract of
sale - if he
has witnessed
that he has three

If he does not
make such claim,
but has been in
possession for
three years ^{admittedly}

years of tenancy ⁵ ~~of~~ ~~the~~ ~~land~~ ~~estate~~ he
 wintered ~~was~~ ~~of~~ ~~the~~ ~~land~~ ~~estate~~ he
 ted to ~~swear~~ ~~his~~ ~~title~~.
 however, ~~if~~ ~~his~~ ~~parents~~ had
 once he ~~had~~ ~~three~~ ~~years~~ ~~of~~
 opened his mouth and ~~three~~ ~~years~~ ~~of~~
 revealed he ~~unhindered~~ ~~possession~~
 had a ~~They~~ ~~perfect~~ ~~their~~
 contract of ~~title~~ ~~nevertheless~~ ~~he~~ ~~has~~
 sale, he ~~to~~ ~~swear~~ ~~Rabbinically~~ ~~if~~ ~~his~~
 must produce ~~adversary~~ ~~has~~ ~~proof~~ ~~that~~ ~~the~~ ~~land~~
 inspection of ~~some~~ ~~for~~
 produce the ~~of~~ ~~he~~ ~~fails~~ ~~to~~
 sale, the ~~of~~ ~~contract~~ ~~of~~
 can prove ~~the~~ ~~fact~~ ~~that~~ ~~the~~
~~the~~ ~~tenancy~~ ~~is~~ ~~worthless~~. ~~all~~
 that the ~~three~~ ~~years~~ ~~tenancy~~
 accomplishes is that the following:

He swears that he said
 was purchased. It is
 not stated. Time to him 140:1
 Acknowledged at one time to him 140:1

When a ^{5a} man has three
years of uninterrupted
tenancy, we constructively
assume that he had a
bona fide contract of
sale. For three years the

purchase ~~is~~ makes sure
that his contract of
sale is available to

(A)
AH AHM
140:5

prove that he purchases
the field or property

after three years people
no longer keep their
contracts. (A) Thus, ~~three~~
~~years~~ when one keeps
property for three years,

~~When the year of 56~~
it is 15 constructively
assumed that he has
a bona fide contract.
However when there
exists a flaw in the
contract or there exists
circumstantial evidence
that no ^{bona fide} contract ever
existed - since he
fails to produce it
after he ~~proves~~ reveals
its existence to
his ~~later~~ his
position - at ^{three} years
of possession the ^{years}
of possession do not

JC

help him. This is so,
since we no longer
are able to assume
that he has a
valid contract.

AH ~~140~~ CH/M 140:3,
4, 5.
—

6

ⓐ

AH CHM
140:6

but

ⓑ AH
CHM

140:11

If his
adversary
share a
portion of
common
property
that he
challenges
his adversary's
title and
right, he
must ~~prevent~~
use such property for his own needs. ~~Nothing~~

during this period of
time, the would be owner

must exercise all options of
ownership, ^{as a prudent owner} ~~publicly and~~
exercises ~~publicly~~ openly. ⓐ He is forbidden

to exercise any form of
restraint to flaunt

his undisputed title to
the property. If he does,

~~he~~ he fails to establish
title. ⓑ likewise he

must act like the
owner must jealously

guard his sole
ownership and take all

measures to prevent
anyone to usurp his

rights to the property. ^c

2
no area
Must be
of limits
to him
At 140:14
140:14
AH CHM
143:1
end
Pamban
This
chapter of
Bava
Batra
and
Kitzot
Hachoshen
at 140

one must
protest at
the very end
of the three
year period.
If he fails
to do so

Thus he must vigorously
protest any means
challenge to his title
by any manifestation
of ownership claimed by
anyone else. It is irrelevant
if his protest will have
any actual potency or
practical value. The
critical factor in transfer
of title is voluntary consent of
the original owner. (A)
If the original owner
manifests by his words
or deeds that he
acquiesces to, even reluctantly,
or out of desperation,

P

his
 adversary
 acquired
 title
 by
 142:2,
 1401
 1402
 1403
 1404
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 1412
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 1500

and
 to accept the nomination
 of his adversary, then
 he loses title - by
 abandonment. Obviously,
 if one is physically
 overpowered and his
 property taken and he
 privately recites his
 protest he does not
 lose title. As soon
 as he has an ~~option~~
 opportunity to protest
 take action to repossess
 the property and resist
 the wrong.
 Although taking place
 after 143:4

From the law of the
 I think the owner must
 protest the usurpation before
 people even if such
 do protest will not have
 any practical effect in
 deterring the ~~the~~ usurper.
 The owner must protest,
 even if the usurper
 will not hear of
 such protest because
 of a breakdown in
 communications, such
 as during wartime.
 Certainly the owner
must not assist the
 his adversary in any
 way that can be interpreted

9A

① AH
CHM
142:2

② AH
CHM
142:1

that he acquiesces
to his tenancy.
He must not
help him build
a fence or gather
his produce. ③

Failure to heed
This warning can
impute title to
his adversary.

Otherwise, if the
lessor surrenders Monetary
title to his adversary
to permit him to
remain on the land
for a limited period
of time, it is evident
that that he does not

9B

possess title. Other-
wise why ^{did he} reimburse
~~you~~ his adversary?
If he reimburses
him to quit his
claim - to eternity -
claim is a different
matter. Even though
he ~~is~~ has title,
it was worth to
him to spend
money to secure
an undisputed
claim. However when
he only has temporary
respite, giving of
money is counter
productive as far as
proof of his title. (A)

DAH
CHM
142:4

10

The would be owner, on the other hand must exercise all forms and expressions of unrestricted and unrestrained

(A) A14 CHM 140:11

(B) A14 CHM 140:16 prudent

141:2

He must benefit from the property. If he does not, he does not acquire title. A14 CHM 141:3

We must eat the fruit and settle there. And,

ownership - openly, as any possessor. He one is claiming possession to a house - he must live there by day and night. He can not sleep elsewhere. Otherwise, the original owner can claim, & did not protest since the owner did not

11
A AH CM
140:11

act as owner in the same
or conduct to himself
as an owner. A

9 AH
CM
142:1
The real
owner
is not
permitted to
accept a
present of
fruit of

likewise, the would
be answer must not
hesitate to exercise
all benefits from
the property. He
must cut and
must plant and
the fruit
grown on his and with produce

land by his of the land. D
adversary. He
must claim. He must build
all the fruit. Homes on his
This is true

12
only if he ^{Real estate} ^{or let others} ^{fine} ^{there} ^{with} ^{his} ^{permission}
does not ^{or} ^{let} ^{others} ^{fine} ^{there} ^{with} ^{his} ^{permission}
claim, I ^{or} ^{let} ^{others} ^{fine} ^{there} ^{with} ^{his} ^{permission}
leased the land to the ^{or} ^{let} ^{others} ^{fine} ^{there} ^{with} ^{his} ^{permission}
adventurer to cultivate it, ^{or} ^{let} ^{others} ^{fine} ^{there} ^{with} ^{his} ^{permission}
but I never ^{or} ^{let} ^{others} ^{fine} ^{there} ^{with} ^{his} ^{permission}
sold it. Then ^{or} ^{let} ^{others} ^{fine} ^{there} ^{with} ^{his} ^{permission}

~~142:2~~
he is
believed
AT & CHM 142:2

Ⓐ AT & CHM
192:9
He must ~~own~~
build and work
in a manner
that the land
is benefited ^{or}
have ^{or} ^{benefit} ^{AT & CHM} ^{192:8}
or have personal
benefit ^{AT & CHM} ^{192:18}

same, if the property
is ^{used} ^{and} ^{his}
business plans
warrant. In short,
he must act like
a prudent business
man in possession
of ^{assets}. Obviously
that every ^{trans-}
action that ^{is}
must be to gain
profit. However,
~~sell it out and take a small profit~~

AT & CHM 140:10
even if they remain
AT & CHM 141:2, 3
AT & CHM 141:2, 3
AT & CHM 141:2, 3

If he exercises his ownership and uses a portion of places food on a table and eats in the field, he acquires title.

The attitude displayed at all times must be of a prudent owner.

Also if he exercises ownership and use the land for the purpose

At CHM 141:2; 140:8; 11

he acquires title.

it can be used. On a rocky land, ~~he can~~ not suitable for farming, he can stretch or build stables for animals or coops for ~~animals~~ ^{horses} for people.

(A) Ramtam
(A) AH CHM 192:2, 3, 4
141:4

(C) Building coops or stables or harnessing meets the requirement

Some authorities insist that in order to gain title the land must be improved by work or building, it is not sufficient that he personally benefit. AH or CHM § 192: 8, 9 (C) end. Purkei Moshe - walking to the length and breadth is not a way to acquire title, unless that

192:8, 9, 10

139

12 The purpose of the land, like a park or amusement park

or natural resource

AH CHM 192:10

If he moves his belonging into a house and thus exercises ownership benefits, he acquires title to the house.

AH CHM 192:7.

likewise if he gathers his produce and places them in the field he

acquires title to the

field AH CHM 192:7

According to all

authorities if he plows and plants a field or excavates for improvements and builds there he acquires title to

A

AH CHM

192:9

176

Even if the person
exercising ownership is in so
doing is in violation of
religious law, like the
~~works plows the field~~
he still attains title.
Thus if he plows or
harvests the produce
during a period of time
that it is forbidden
to do so, he never takes
gets title. AH AH

141: 8.

If his adversary, the original owner in this case - elects to likewise, conduct himself as the owner, an other set of laws are put into operation.

In the case of personal property when two people are in equal possession, then the court and each

15

argues that the entire property is his, the court divides the property. Each retains half, after swearing that he has at least half.

AACHM
138:2

If one of the parties ~~only~~ only claims half, the court gives him only a quarter.

He swears that at least a quarter is his.

AACHM 138:3

16

His adversary swears
that at least
three quarters are his,
and he gets three
quarters of the
property. AH CHM 178:3

The

17

The same law applies to real estate.

AH CHM 138:5. If there exists no evidence -

no witnesses to any of the litigants - and

both physically ~~present~~ ^{are} on the land - ~~settled~~ ^{settled} ~~it~~ ^{it}

^{present} and work the land, then they should

divide it. If however,

if both are not on

the land, then

7PC P'159 10

The ~~to~~ one who is stronger

wins. Even if one is

stronger and begins to

17a

use the land - eat its
fruit, but his
adversary produces
evidence that he or
his relative owned this
land, then the land
and property revert
to him. likewise,
if he ~~pro~~ brings
testimony that he is
a closer blood relative
to the prior owner
of the land than
his adversary, the
property reverts to
him. ATT CM 129:5

18

If no one is in possession, the court lets the party ~~win~~ ~~the~~ who shows the greatest tenacity and effort and sacrifice to gain possession. This is done until ready time done only if no proof is produced by any of the litigants. Thus

19 if one of the litigants
~~later~~ later produces
proof he dispossesses
his adversary. FH
OHM 199:5, 2.

Once one of the
litigants obtains
possession by the
vigor of his claim,
a dispute exists if
his adversary can
dispossess him by
marshaling superior

2/0
1/0

strength.

Those who oppose such
action claim that
to say otherwise would
invite continuous
strife. ATT CH M 139:2

Those who are ~~in~~
~~favor~~ ~~concede~~ that
if such a test can
result in violence
~~then~~ such a test is
never used. 139:2
~~However~~ we are not
afraid of such ~~consequences~~.

20A

Those who are in favor admit that there ~~will~~ can result strife. However, the purpose of this law is to force the real owner to produce evidence and witnesses that attest to his ownership. Thus, the real owner in order to have peace will secure legal proof.

In areas where no proof is possible, we divide the property. We

Job

Do not ~~add~~ rule that
the stronger ~~will~~ was.

Thus in areas that
there exists a dispute
among arbiters, we
divide the property.

#H CH 139:6

If the item can't
be divided, the
court sells it,
and divides the
money. Quid.

This is true only
if ~~neither~~
party is in possession
of the item or land, other
wise ~~it~~ ~~is~~ ~~not~~ ~~divided~~.

20c

This is true ~~that~~ ^{when} both
are in equal possession.
However, if one is
not in possession
at all, the one in
possession retains the
object of dispute, if
it is personal
property. He must
have three years of
uninterrupted tenancy
for real estate, as
previously explained,
and elaborated.

Even in cases of
dispute among arbiters
if one grabs the object - ~~he post facto~~

red he is now in possession. He then can argue & rely on the arbiters who support my claim.

Lemsh, Shach. Dekudas
Dakesef C/M 139.

Art C/M to 139:6

Ab initio the court divides the disputed matter when no one is in possession.
Mid.

21

He cannot speak on outside
with no direct claim
to the property can
not assume possession
because he possesses
strength.

AT CUM 39:2

Only when he argues
that the object is his
legally. Can he retain
it, until the others
produce proof to the
contrary - Quid.

§ 90 Thus the Jewish people
regardless of their inferior
military weakness and
defeat by overwhelming
empires and powers - over
the past ^{2500 years} never
abandoned hope
or relinquished title
to anyone other - than
other Jews - for every
part of Eretz Yisrael - the
land of Israel given
us by G-d.

In every prayer and
benediction - Three times
a day in the ~~Shema~~
~~Amidah~~ Amidah prayer,
in the benediction
following meals, in the

least
and
of Av.
T. v. he
Be or.

Sabbath prayers in the
prayers of every holiday and
~~ceremonies~~ ~~marriage~~
~~as well as~~ in the marriage
ceremony as well as
the fasts ~~and~~ especially the 9th day
and in the study
of the rules of ~~the~~ the
sanctity of Eretz Yisrael
and the Holy temple,
Jews for the past 2000
years since the Roman
emperor ~~Jews~~ have reinforced
their will of maintaining
title to Eretz Yisrael.
even ~~manifests such a~~ desire
by the act of
non acquiescence to the
usurpation of strangers,
Eretz Yisrael remains to

The Jew
even when
~~in the~~
~~ceremony~~
~~of marriage,~~
~~and even~~
when he
builds a

92
new home or
paints his
house.
An area is
left
unfinished
as a
reminder
that we
do not
accept the
rule of
foreigners
over Eretz
Yisrael. any
part of Eretz
Yisrael.

* title that our enemies ^{use} Jews
hypocritically denounce longest ^{for} as
eternity a legal ^{means to acquire} ^{the}

of G-d given to the
Jewish people. The
purpose is certainly the Jew, not
Jews from all the other
title ^{is} conquest. * the
Jew has as much
a right to a land of
his own as anyone
else. The Jew is not
any worse than anyone
else. Small men are
equal and loved by G-d.
Trust only by building settlements

in all of Eretz Yisrael to
reinforce our disputed
title. As long as
Jewish rights in Eretz Yisrael
we break a glass in the
marriage ceremony to reinforce
our ^{anguish} ^{דיל דיל דיל דיל דיל}
next year in Jerusalem is

93

The conclusion of the Passover seder and the fast of Yom Kippur. It means that ~~that~~ ~~away~~ we hope that all Jews will return to ~~Jerusalem~~ ~~and~~ ~~it~~ ~~will~~ ~~return~~ ~~to~~

Eretz Yisrael and celebrate the holidays in Jerusalem.
~~in~~
~~return~~

As previously mentioned, the content of the song is a number of blessings in part of the grace is a declaration of the Jew's prayer to live in Eretz Yisrael, and have Jerusalem as its

Capital. Let us hope that this aspiration be realized in all parts A-E

practice for all Jews, and peace come to Eretz Yisrael and all the world

are divinely authorized other parts are substituted. ~~Green~~ ~~the~~ ~~Divine~~

~~... Jews / refusal~~ 10
accept any limitation
of Jewish right to
every ~~function~~ expression
and ~~exercise~~ sovereignty over all
of Eretz Yisrael.

One The Jew realizes
and believes with deep
faith in the
10 articles of faith
~~the~~ codified by
Maimonides and
recited at the
conclusion of the daily
services. Only the
advent of the Messiah

9

10 will usher in the
era of peace and
unlimited ^{and} unchallenged right
and sovereignty of
the Jew in his
land.

11
Jews living in

Over one million Jews living for the past 2500 years in the Middle East, antedating all the Arab inhabitants ~~were~~ ~~uprooted~~ by thousands of years, were uprooted. Their wealth and property were confiscated as they were driven out by persecution when the State of Israel was established in 1948. The territory appropriated from Jews is larger than the entire State of Israel including Yehudah, Shomron, Daza and Galan.

In effect, an exchange of population and territory has occurred. Palestinian Jews now occupies 24%

12

of Western Palestine.
Palestinian Arabs occupy
76% of Palestine - Eastern
Palestine - East of the Jordan.
~~This~~ The entire area
in reality is Eretz
Yisrael, that will
revert to the Jews
only when the Messiah
comes. The Messiah will
be acknowledged by
Muslims, Christians, ~~and~~
as well as, Jews.
Until such time Jews
accept the division of
Eretz Yisrael, not
regarding the Arabs
what they have; though

13

~~never relinquishing hope~~
of having all of
Eretz Yisrael under
Jewish sovereignty.

Our hope is eternal
For our hope is in G-d.
וְיִשְׂרָאֵל יִשְׁמְרֵנוּ

When G-d sees fit ~~the~~
will send the Messiah
who will bring peace
to the world, gather
all Jews to Eretz
Yisrael and rebuild
the Holy Temple. ~~and~~
His will be done with
Until that time
the Jew - though
not relinquishing.

*
Certainly Jews
are no worse
than every

15 killed to satisfy human
appetite. However,
human life is more
sacred than any value
in the world. Place
for all of mankind
and of the brother-
hood of men will be
ushered in by this
epochal event.

Presently, Jews must
realize that having a land
of their own and asserting
their rights legally,
morally and historically
is more than a luxury.
It is the equivalent
of very life. No longer
can Jews rely on miracles and
the "humaneness" of a "civilized"

world.

16

our experience of the
twentieth century showed
the connection. The early

and for physically and
materially.

giving to anyone a
chance to destroy from
or harm him, spiritually

I see that users

more direct and
destroy from physically,
if given a chance

and moral. Others are

arrived purpose of others
along the left. Some
target the last spirit

have been with the
generators and service

your project that in each
version

17

Commemoration
~~memorial~~ to the memory
of the six million Jews
is the assurance that
the resurrected State of
^{3,500} 4,000 year old State of
Israel remain eternal
Jewish. We must
assure that the tradition
of Sinai and our
treasure of Torah - the
foundation of wisdom
and morality is legally
transmitted to future
generations. Thus the
memory and souls
of the six million
saints decimated by
the united efforts of
all who shared in this.

18

blood ~~be~~ ~~at~~ remaining
eternal. as part of
~~the~~ This can be
done by assuring that
the wellspring of our
faith - the entire
undiluted Torah be
faithfully transmitted.
Let us not let his courage
any Jew - regardless of
his degree of
cosmic commitment
from drinking from
the source and
well of life - the
Torah let us use
common sense in
attracting rather than
repelling Jews.

19

Let us have a panoramic view and employ and observe the Jews Shulchan Aruchs in all our dealings and relationships. Let us not have tunnel vision nor forget that we always have been and will be surrounded by sworn enemies.

We can rely in the final analysis only on God and other Jews.

The State of Israel is our insurance against any future persecutions of Jews and the physical survival of the Jew.
~~Let us~~

20

Let us remember that the same individuals and nations, who refused to assist Jews to save themselves from the Nazis, did everything to insure that the Nazis succeed in their extermination of the Jews. ^{by refusing to prevent the} These historical crimes are undisputed and documented in millions of documents in Yad Vashem and books in Holocaust libraries.

These individuals after the war physically assisted and brought the Aryan Nazis to safety in North and South America.

~~slaughter and starvation using all forms of brutality~~

21
x

their spiritual heirs and proteges are the proxies of all those who seek to exterminate Jews or weaken them.

Jews always faced the executioners and those who as their accessories. True there are many beautiful human beings and true friends of Jews.

Obviously they were impressed by the successful results of these ~~sub~~ animals and wished to ensure that the Nazis be available to continue in their work whenever needed. Thus the Nazis and the undisputed deeds of so called "friends." Thus the Jew is left to himself and his God. The hand of Israel and the Torah of Israel is the only bastion for our survival. Let us never forget this.

22 among the nations. These individuals must be encouraged to defend liberty and democracy and the rights of all men to life and its blessings. For those who defend Jews defend themselves. For ~~the~~ the antisemites really intends to destroy what the Jew stands for - humane life style. This means all Americans and members of the Western Democracies.

23
For the Jew to voluntarily
refrain from settling -
building settlements
and inhahit the
West Yehudah, Shomron
Goza and Golan is
to relinquish title
to all of Eretz Yisrael.
The ~~7~~ ^{4000 years} roots and
historical right to
Eretz Yisrael are
in Yehudah Shomron
and Jerusalem.

Not only in Jewish
Law this is true, but
this is accepted by
all the Nations of the
world. It is ~~not~~

24
If the Jew intends
to have peace without
Jews in Eretz Yisrael,
He can refrain from settling
there. ~~He~~ ^{He} can yield to

This machination
and cunning bit of
treachery given as
advice ^{under the guise of "encouraging peace"} by the same
"friendly" group who assisted
as were the accomplices
of the Nazis.

Not only legally does
he commit suicide,
but without the
Yehudah, Shomron, Gaza
and Galilee the rest of
Eretz Yisrael is defenseless.
Giving up settlements is

25 relinquishing his legal rights to remain in Yehuda Shomron, Gaza and Golan and the rest of Eretz Yisrael.

No one can insist on occupying a territory not legally his because it is necessary to defend his land. Thus

by delegitimizing the right of the Jew to Settlements, the Jew is eventually placed at the mercy of his enemies and losing all of Eretz Yisrael. ^{and for the d.} Jews will overcome

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God - in Jerusalem,
Sethemeter in Jericho
of Nazareth, Gaza and
Galilee and the rest of Eretz Yisrael
spirit of God - the
entire Torah.