

# The Rashi Database Project

**GOALS:** \* Show that all Rashid comments are spontaneous, instant, effortless reactions of a native speaker to the biblical text.

\*This is accomplished by skillful English translations instantly suggesting, by their nuances, the Rashi comment to the reader

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**MAIN BIBLIOGRAPHY:** DT = Doctoral Thesis ([www.Rashiyomi.com/Rashibook.htm](http://www.Rashiyomi.com/Rashibook.htm),

MG=Modern Grammar with Applications to Rashid ([www.Rashiyomi.com/Rashibook2.htm](http://www.Rashiyomi.com/Rashibook2.htm) )}

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## VERSION NUMBER: Version 4

### **PESHAT: THE SPONTANEOUS REACTION OF NATIVE SPEAKERS FAMILIAR WITH WORD NUANCES**

#### **WHAT IS NEW IN THIS ISSUE**

- A very rare opportunity today. A critique of Ramban on Rashi leads to a comment on the meaning of the biblical text brought down by the Shulchan Aruch which usually does not opine of these matters. Malbim then summarizes the resolution.

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#### **Lv25-14a, Lv25x14a, Lv25-14b, Lv25-15a, Lv25x15a, Lv25-16a, Lv25-16b, Lv25-17a**

*In this Jubilee year, everyone returns, each person to this inheritance.*

*When you sell a sale to your colleague, or  
When you buy from the hand of(5) your colleague(6)*

*Don't abuse(2) each other:*

*By the number of years since the Jubilee (3) buy from your colleague  
By the number of years of harvest(3) he will sell to you  
According to the multitude of years sales should increase(1) and  
According to the smallness of years sales should decrease (1)  
since he sells to you the number of years [or produce] (3)*

*Don't abuse(2) each other and fear God*

#### **Rashi Rule: Paragraphs**

**Rashi Comment:** The paragraph is very complex prompting even the Shulchan Aruch, which usually does not opine on interpretation of the biblical text, to offer opinions. We will follow our usual practice explaining the text first and then noting the issues brought up by the biblical commentators.

The text just finished a paragraph stating that land reverts to the original owner in the Jubilee years. Now starts a paragraph stating that between Jubilees there are also laws showing respect for the owner's land. Since a sold land will revert to the owner in the Jubilee it immediately follows that a *sale* is in effect a *rental for produce* and therefore the sales price should reflect the number of years of produce.

Example: If there are 40 years till the next Jubilee, and a field's annual produce yield is \$1000, then the field should sell for \$40,000. Contrastively, if there are 5 years till the next Jubilee, the field should sell for \$5000. [Rashi explains the biblical idioms *increase sale* and *decrease sale* as meaning *increasing sale price*(1) and *decreasing sale price* (1)]

The violation of this principle, that sales price is determined by years of produce left, is considered to be a violation of the biblical *abuse* laws (2).

The abuse laws are mentioned twice (2). Parallelism interprets these climactically: Don't abuse monetarily by selling a 5 year produce field for the price of 40 yields; moreover, don't even verbally abuse someone (even though there is no direct monetary loss).(2)

From the contrasting parallel phrases

By the number of years(3) (4) since the Jubilee buy from your colleague

By the number of years of produce(3) (4) sell

because a number of produces(3) (4) are sold,

we infer that the sales price is not just determined by the number of years remaining till the Jubilee, but by the number of produce years. So, if there was a blight one year that doesn't count in years of consumption. The Rambam (Laws of Jubilee Chapter 11:5) gives the example of a sale right before harvest system in which the field is full of produce followed by a successive sale during a fallow time 2 years later. In this example of the Rambam there are 3 produces but two produce-years. This example of the Rambam points out that sales are based on actual produce-year combinations; you are selling both the produce of the field as well as the time to use the produce.

Finally, from the continual use of the plural (*number of years of produce*(4), *number of produce years* (4), *number of produces* (4)) the law is inferred that a sale should be for a minimum of two years (a one-year sale, that is, one year till Jubilee, is not allowed). As mentioned above, the two years have to be two produce years; if one of them was a blight year then there was only one produce year and the sale may not be made.

To understand the dialogue of the Ramban, Malbim, and the Shulchan Aruch, we point out that from the parallelism

*Buy from your colleague*(2)

*Buy from the hand of your colleague*(2)

The law is inferred (e.g. Rambam, Sales, 12) but not brought down by Rashi that the abuse laws, selling something for more than it is worth, applies equally to real estate and movable objects (sale items transferred by *hand*).

Although not relevant to the controversy and dialogue of Ramban, Malbim, and the Shulchan Aruch,

Rashi, from the repeated use of *from your colleague* instead of a pronoun *from him*

*When you sell a sale to your colleague (6), or*

*When you buy from the hand of your colleague (6)*

*By the number of years since the Jubilee buy from your colleague (6)*

infers that (other things being equal) it is preferred to do business with Jews (colleagues) rather than non-Jews.

**Ramban-Shulchan Aruch-Malbim:** We can now explain why various biblical commentators complained about the clash of *peshat* and *derash* here. We have already seen that from the parallelism *to your colleague* vs. *from your colleague's hand* that the Talmud inferred that the text is *not only* speaking about monetary abuse (i.e. overcharging) in selling of land but also about monetary abuse (overcharging in selling of movable objects.)

This is further complicated by the difference of the abuse laws in selling land and movables. If you overcharge excessively by selling movables the transaction is null and void (there is no transfer of ownership). If you overcharge only a minor amount, there is no transgression (as the buyer may be willing to pay a little extra). There is also a middle ground where the transaction is valid, but the excess overcharge has to be returned. However, none of these laws apply to selling land (the transaction is never nullified etc.).

This immediately led to the Ramban's quandary. *The simple straightforward meaning of the text is that it prohibits overcharge in selling of land. But the Talmud says it is talking about selling movables. Thus, the Talmud yanks the text from its simple meaning.*

The Ramban quickly resolves the dilemma. *It is biblically prohibited to overcharge whether selling land or movables. It is also biblically prohibited to falsify a product when selling. However, the law of annulling transactions with excessive overcharge applies to movables but not to real estate.*

The Malbim cites the Shulchan Aruch who asked his father, the Rosh, who was in great doubt whether this resolution is legally true (Is there indeed a biblical prohibition of overcharge for land). On the one hand the text certainly seems to say that. On the other hand, nowhere in the Talmud do we find any such prohibition.

Malbim cites all the above and points out that the Ramban's resolution makes a lot of sense (provided it is legally valid). Malbim explains the text we have as follows: *A unified prohibition against falsification of sold products or overcharge of sold products. The special laws about annulment of transactions applying to movables would then be simply add-ons to the biblical law.*

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