

OVERVIEW of the Daf

1) Guarantors (cont.)

The Gemara teaches that a guarantor of a kesubah is not obligated to honor his commitment and a kablán for a loan is obligated to honor his commitment and there is a dispute regarding a guarantor for a loan and a kablán for a kesubah.

After elaborating on the matter the Gemara issues a final ruling on these matters.

2) A woman's kesubah (cont.)

Ravina refutes Mar Zutra's earlier ruling that a woman collecting her kesubah from her husband collects an average parcel of land.

3) Collecting from orphans

R' Nachman is cited as ruling that when collecting from orphans a creditor may only collect from inferior land.

Abaye suggests a proof to this ruling.

Rava challenges this ruling.

Rava's approach is unsuccessfully challenged.

A second unsuccessful challenge to Rava's ruling is presented.

R' Achdavoí bar Ami inquires whether the orphans mentioned in the Mishnah are minors or perhaps they can even be adults.

The Gemara elaborates on the inquiry.

An unsuccessful attempt is made to resolve the inquiry and the Gemara issues a final ruling on the matter.

4) Encumbered property

R' Achdavoí bar Ami inquired whether a creditor must collect inferior land that is still in the possession of the debtor before collecting average quality land that the debtor gave away as a gift.

The Gemara elaborates on the inquiry.

An attempt to resolve the inquiry is presented and two reasons are given why the attempt is rejected.

5) Collecting for the consumption of produce

Ulla in the name of Reish Lakish suggests an explanation why the purchaser of stolen land cannot collect for the consumption of produce from property the thief sold legally.

R' Abba unsuccessfully challenges this explanation.

A second version of this exchange, with different names, is recorded.

R' Chanina offers an alternative explanation why the purchaser of stolen land cannot collect for the consumption of produce from property the thief sold legally.

The Gemara begins to explore R' Chanina's exact position on this matter. ■

Distinctive INSIGHT

Collecting from orphans to pay for their father's debts

והלכתא יתומין שאמרו גדולים ואין צריך לומר קטנים, בין לשבועה בין לזיבורית

The Mishnah (48b) taught that collection made from the property of orphans may be taken only from the lowest quality land (זיבורית). This is regardless whether their father owed money due to payment for damages he caused, paying back a loan he borrowed, or to pay the kesubah of his wife. The Gemara inquired whether this rule applies only when collection is made from orphans who are minors, or if it also applies to collection from adults. The conclusion of the Gemara is whether the orphans are minors or whether they are adults, the only land which may be collected is that of the lowest quality. In addition, the law is when this collection is made, it can only be facilitated if the creditor takes an oath that he has not yet received payment for his claim.

In general, the rabbis increased the collection power of a creditor from זיבורית up to עידיית, from the worst quality land to the middle grade quality. This was done so that lenders not be discouraged from lending money—שלא תנעול שלא. Why, then, in this case do we not protect the lender and permit him to receive better land? Pnei Yehoshua explains that when a person lends money, he knows that he is eligible to receive decent quality land in case the borrower cannot pay the money. The lender does not consider the possibility that the borrower might die and what might occur when he has to contend with the orphans. Even if he would know that in this case he will be forced to receive poor quality land from these heirs, the lender will still get his loan paid back, albeit with lesser quality property. The death of the borrower is a remote consideration, and even then does not threaten his ability to collect his loan, so it does not cause the lender any reluctance to lend.

Rosh, Rashba and Rabeinu Yona explain that the conclusion of the Gemara to collect only from זיבורית of the orphans, whether they are minors or adults, is only applicable in respect to a loan collection. The lender's right to middle quality land was a rabbinic courtesy, and it is suspended in this case. However, collection of payment for damages that the father caused is legislated by the Torah to be from the best land. Here, adult orphans must still pay from the best, while minors only have to give זיבורית. Tosafos, however, disagrees, and says that even payment for damages is paid from the worst quality land from any orphans, even adults. This is due to a לא פלוג ruling—we do not act inconsistently in our standards. ■

HALACHAH Highlight

Complying with a request made in a dream

אי לאו דאית ליה הנאה מינה לא יהיב ליה מתנה

If he had not received benefit from him he would not give a gift

There was once a man who died and was buried in the local cemetery. After a few days a relative of the deceased had a dream in which the deceased asked that his body should be exhumed so he could be buried in Eretz Yisroel. The relative ignored the dream and continued to ignore the dream the second time it occurred. The third time the dream occurred the deceased warned the relative of dire consequences if his request is not granted and the relative woke up in a panic and inquired about his responsibility. Teshuvos Chelkas Yaakov¹ addresses the issue of whether it is permitted to exhume a body for the purpose of reintering it in Eretz Yisroel and then addresses the issue of whether there is an obligation to heed to the request of the deceased that is communicated in a dream.

His conclusion regarding the second issue is that there is no obligation for the relative to comply with the wishes of the deceased that were never communicated before the deceased passed away since dreams are not a significant means of communication when it relates to monetary matters. He then cites an incident recorded in Sefer Chassidim² that relates to this matter. One time a coffin was prepared for the purpose of burying someone and there was left over wood. A person decided to take some of the extra wood to make a harp even though he was warned not to take the additional wood. The deceased came to this person in a dream a number of times to warn him against using the wood and then informed him that he would become ill if he retained the harp and he ignored all the warn-

REVIEW and Remember

1. Why is the guarantor to a kesubah exempt from responsibility?

2. Are the orphans mentioned in the Mishnah minors or adults?

3. Is a creditor authorized to collect land the debtor gave away as a gift?

4. Is it necessary for a husband to accept the obligation to support his wife and daughters in writing?

ings. After he became very ill his son took the harp and broke it into pieces over the grave of the deceased and the father then recovered. Chelkas Yaakov then writes that he copied this incident because it teaches an important lesson. Although regarding monetary matters one is not obligated to give credibility to information communicated in a dream, nevertheless, there are times where it is appropriate to do so. Thus, if the relative in our case knows that he received benefit from the deceased it is appropriate to comply with the request. He bases this on our Gemara that comments that people do not give gifts unless it was preceded by some sort of received benefit. Therefore, although the relative has the right to completely ignore the dream, if he is disturbed by it he should pay heed and comply with the deceased's request. ■

1. שו"ת חלקת יעקב יו"ד סי' ר"ן.
2. ספר חסידים סי' תשכ"ז. ■

STORIES Off the Daf

The Foundation of a Good Marriage

"יותר ממה שהאיש רוצה לישא אשה רוצה לינשא..."

On today's daf we find that a woman naturally wishes to marry more than a man wishes to get married. We can learn an important lesson from this: most failed marriages are either because the husband doesn't respect or communicate with his wife as is fitting.

Rav Shach, zt"l, even told of one couple who had a rocky relationship during their first three years of marriage,

"Although this person was a talmid chacham, it took him three years to learn how to properly relate to his wife. Since the time he finally figured it out, everything has been smooth sailing for them..."

On another occasion, a chasan requested guidance from Rav Shach. How should he act in his home? He answered, "If you honor your wife, she is certain to honor you twice as much! If you do not stand on your rights but instead give in to what she asks for her sake, you will have a very successful marriage. This is how one builds a proper foundation. She will also act as you have and be willing to give in or compromise for your

sake on issues that are important to you."

Once a couple begins to fight, there is no end to potential arguments. They can even fight about the placement of the table and chairs of the dining room!

Rav Shach continued, "In order to build your willingness to compromise and give in you must learn mussar. There is nothing like mussar to help correct defective character traits. Those who only learn mussar as bochorim are misguided fools. If one needed mussar seder before marriage, he needs it much more after marriage!"¹ ■

1. אורחות הבית, דף ע"ח- ע"ט