

OVERVIEW of the Daf

1) Clarifying the dispute between R' Yehudah and R' Yosi (cont.)

The Gemara concludes its citation of a Baraisa that elaborates on the rulings of the Mishnah.

R' Yochanan explains the difference between the rulings of R' Meir and R' Yosi.

The Gemara identifies the difference between the rulings of Chachomim and R' Yosi.

2) **MISHNAH:** The Mishnah discusses additional cases involving a **טל** that is given with a condition.

3) Clarifying the effectiveness of a **טל** given with a condition

R' Huna and R' Yehudah disagree whether a **טל** that was given with a condition is effective retroactively or from the moment the condition is fulfilled.

A practical difference between these two cases is cited.

A similar debate applies to a case of a man who gave a woman a kiddushin with a condition.

A practical difference between these two positions is identified.

The necessity for presenting this dispute in two contexts is identified.

Two unsuccessful challenges to R' Yehudah's position are presented.

R' Zeira notes that according to R' Yochanan there is no dispute whether something done conditionally is meant to work retroactively and he maintains that the dispute relates to a different case.

A Baraisa is cited that supports R' Yochanan's understanding of the dispute.

The Gemara unsuccessfully challenges R' Yehudah's understanding of the dispute.

4) Clarifying the Mishnah

The novelty of the Mishnah's second ruling is explained.

The Gemara explains that the incident that was cited was intended to follow a ruling that was not cited in the Mishnah.

5) Forgiving a condition

R' Assi asked R' Yochanan about the law when a husband gave his wife a **טל** with a condition and then said that he is forgiving the condition, is she obligated to fulfill the condition.

R' Yochanan rules that if the condition is not fulfilled the divorce is not valid.

This ruling is unsuccessfully challenged.

A related dispute between Rabbah and R' Yosef is presented.

It is suggested that the dispute between Rabbah and R' Yosef parallels the dispute between Rabanan and R' Shimon ben Gamliel in the Mishnah.

This comparison is rejected and another explanation of the dispute between Rabbah and R' Yosef is offered.

(Overview...Continued on page 2)

Distinctive INSIGHT

A last-minute emergency

התקין הלל שיהא חולש מעותיו ללשכה

When the halacha of **בתי ערי חומה** was in effect, a person who sold a house in a walled city had the right to redeem it any time during the first year after its sale. When this one-year deadline expired, the seller could no longer insist on redeeming his house from the buyer. On the last day of the year, the buyer would sometimes hide, in order to prevent the seller from finding him and buying back his house. Hillel therefore enacted a rule whereby the seller could redeem his house by coming to Beis din and placing his money down. The buyer would lose the house.

In this case, the seller had all year to redeem the house, but he waited until the last day. Suddenly, he was confronted with a crisis, as the buyer was no where to be found. Why did Hillel have to establish a special rule to save him? Would he not be able to claim that his inaction was due to **אונס** and therefore absolve him of the consequences of losing his house? Beis Yosef writes in the name of the **אגודה** that we see that this is not considered an excuse. Waiting until the last day is negligence, and a last-minute crisis is not excusable. Beis Yosef considers the case of someone who promised to do a certain mitzvah or to perform some commitment to be completed by a specific date. The person certainly could have fulfilled his pledge within that time framework if he had applied himself, but, instead, he waited until the last day. Then, suddenly, unforeseen circumstances presented themselves, and the person was prevented from completing the task on that day due to these uncontrolled events. We see from our Gemara that this is inexcusable, even though the last minute was beyond his control. We hold him accountable in consideration of his neglect in not taking care of things earlier, when he still had time. This is why Hillel had to make a special dispensation in this case for the seller.

(Insight...Continued on page 2)

REVIEW and Remember

1. What is the dispute between R' Huna and R' Yehudah?
2. According to R' Huna, what is included in a condition of **על מנת**?
3. What happens when the husband decides to forgive a stipulation he made when he gave his wife a **טל**?
4. What is the point of dispute between R' Yosef and Rabbah?

HALACHAH Highlight

Receiving payment for work that is no longer necessary

את דלי ארבעה ואכול תילתא

You should water the field four times and you will take one-third of the produce

Shulchan Aruch¹ rules that if a farm owner stipulates with his sharecropper that he will give half of the produce of the field to the sharecropper if the sharecropper will water the field four times over the course of the year and rain fell making it unnecessary for the sharecropper to water the field the sharecropper still retains the right to half of the produce. The reason for this ruling is that when the agreement is made between the farm owner and the sharecropper the sharecropper becomes a partner in the produce rather than a worker.

There was once an incident in which Reuven had gold and silver utensils stolen from his home. It soon became known that the thief was Jewish and had fled to a distant city. Reuven asked friends and relatives who lived in the city where the thief fled to try and recover his stolen property. In order to assure that he would recover his property Reuven contacted Shimon and asked him to pursue the thief and agreed to give Shimon one-third of the value of any of the utensils that are recovered from the thief. By the time Shimon arrived at that distant city Reuven's other friends had already found the thief, had him imprisoned and had shipped the utensils back to Reuven. Shimon asked to receive his payment of one-third of the value of the utensils that were returned, since that was the agreement but Reuven refused to give

(Insight...Continued from page 1)

נימוקי יוסף (to Bava Kama 10b, in Rif) disagrees, as does Ketzos Hachoshen (55:1). A valid excuse, even if it be last minute, must be taken into consideration. They explain that the law of Hillel is not relevant to this discussion, as the sale of the home is actually final, and the inaction of the seller is not negligence. The Torah gives him a right to redeem it, and his inaction, even due to אונס just means that he has not exercised his right. Hillel enacted his rule to prevent the buyer from preventing the seller from exercising his right to buy back his house, and not to allow the seller to overcome the consequences of his procrastination. ■

anything to Shimon claiming that the agreement only included property that Shimon would recover. The question was sent to the author of Teshuvos Yoru Mishpatechah L'Yaakov who cited a Teshuvah of R' Yaakov Nayim who ruled in a similar case that the agreement between Reuven and Shimon is similar to the previously-cited case in Shulchan Aruch. Therefore, since Reuven made Shimon into a partner rather than a worker, by offering a percentage of the property that is recovered, he is obligated to pay Shimon his percentage even though Shimon was not the one who recovered the stolen property. Teshuvos Yoru Mishpatechah L'Yaakov disagreed with this analysis and maintained that Shimon could only collect the amount one would pay a worker to travel to and from that distant city but not a percentage of the recovered property. ■

1. שו"ע חו"מ סי' שלי"ד סעי' ג'.

2. שו"ת יורו משפטיך ליעקב סי' מ"ה.

3. שו"ת ר' יעקב נאיים סי' מ"א. ■

STORIES Off the Daf

A hasty vow

"הרי זה גיטך ע"מ שתנני לי איצטליתי..."

A pauper once came to the notice of a certain man. When he saw that the unfortunate didn't own an appropriate garment for Yom Tov, he was filled with compassion. He approached the poor man, who was about his size, pointed to his own Yom Tov garment and said, "I swear that by next Yom Tov you will own this garment."

The man figured that he would make a new garment for himself and give the poor man his present outfit. First thing after Yom Tov, he sent a messenger to the merchant who imported the fabric for such garments. This merchant was in a fairly distant city but had always responded in good time.

Unfortunately, this time he heard nothing back from the merchant and found that there was shortage of fabric for making fine garments. Presumably, he would not have a new garment by Yom Tov. He did not wish to give away his present Yom Tov finery since he had no wish to wear simple weekday clothes for Yom Tov. Why should he be as the pauper had been last Yom Tov?

But understandably his neder was weighing heavily on him. Eventually, he asked the Shvus Yaakov, zt"l, what he might do fulfill his obligation. "Can I give him the money for the outfit instead? I didn't mean to vow in a situation where I wouldn't have Yom Tov clothes myself..."

The Shvus Yaakov replied that money was a sufficient substitute. "We find in Gitin 74 that if someone said that he gave his wife a divorce on condition that she returns his garment and she lost it, she is not

divorced. However, Raban Shimon Ben Gamliel says that she can compensate him with the garment's value. The Gemara concludes that this argument is only regarding divorce, but in other matters it is enough to give the value at the outset.

He concluded, "So you see that if you pay him the cost of your garment you will have fulfilled your vow. This comes out of numerous sources and is the halachah."¹ ■

1. שבות יעקב, חלק ב', סימן פ"ג

(Overview...Continued from page 1)

6) Giving something to someone against his will

A Mishnah in Arachin is cited.

Rava infers that from the Mishnah in Arachin it seems that if a woman gives money to her husband in fulfillment of a condition without her husband's consent the גט is invalid. ■