

OVERVIEW of the Daf

1) The east wind (cont.)

R' Yosef and R' Acha bar Yaakov offer alternative explanations of the first part of the verse just cited.

הדרן עלך כל הגט

2) **MISHNAH:** The Mishnah discusses different aspects of a husband's ability to nullify a גט.

3) Clarifying the Mishnah

The Gemara draws an inference from the Mishnah's use of the term הגיע rather than הגיעו.

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

The novelties of the subsequent rulings in the Mishnah are identified.

4) Expressions that nullify a גט

A Baraisa lists expressions that effectively nullify a גט.

The implication that the term בטל connotes that the גט will be void, in the future, is challenged.

Abaye answers that the term בטל can be understood as an expression related to its present state or its future state, depending upon its context.

Tangentially Abaye rules that an agent delivering a gift is the same as an agent delivering a גט in the sense that "take" is not the same as "acquire" – הולך לאו כזכי דמי.

R' Nachman bar Yitzchok questioned whether the expression בטל nullifies the גט and the inquiry is left unresolved.

R' Sheishes or a Baraisa records additional expressions and rules on whether they nullify a גט.

The Gemara inquires whether a declaration that the גט is like חרט nullifies the גט.

Ravina demonstrates that this is also a language that nullifies the גט.

5) A nullified גט

The Gemara inquires about the status of a nullified גט.

R' Nachman maintains that it could be used whereas R' Sheishes maintains that it may not be used.

The Gemara rules in accordance with R' Nachman that the גט may be used.

This ruling is unsuccessfully challenged.

R' Nachman and R' Sheishes disagree whether a גט must be nullified in front of two or three people.

Each Amora presents the rationale for his position.

R' Nachman begins to cite the source for his ruling.

■

Distinctive INSIGHT

Declaring that a גט or gift is בטל

מקבל מתנה שאמר וכו' מתנה זו מבוטלת תיבטל אי אפשר בה - לא אמר כלום, בטלה היא אינה מתנה דבריו קיימין

The Mishnah taught that after a man sends a גט to his wife with an agent, if the man catches up with the agent and retracts the גט by saying "it is בטל," the גט loses its validity and it may not be delivered. This means that the expression "בטל הוא" means "it shall be cancelled," and the husband has successfully declared that the גט shall no longer be valid (in the future). The Gemara contrasts this to a case in a Baraisa where a person who has received a gift says, "the gift I received is בטלה". The halacha is that the gift is null and void, as we interpret the word "בטל" to mean that he considers the gift as never have being valid. Once he has accepted the gift, the receiver's statement to undermine the gift can only be valid if he explains that he considers that it was cancelled before he ever took it (in the past). The Gemara resolves this issue by pointing out that the term "בטל" can refer either to the past or to the future, and in each case a person uses the term in the context that is effective.

Tosafos notes that the text in our Gemara referring to the receiver of a gift saying "אי אפשרי בה, בטלה וכו'" is the reverse of how it is found in the Gemara in Kereisos (24a). Here, if the person says this phrase, the term is deemed meaningless, while in Kereisos the statement is binding and the gift is cancelled. The Rishonim resolve this in several ways. Tosafos cites a text where both Gemaras have the same halacha, as the text reads in Kereisos. ר"י (in Tosafos מבוטלת) says that both texts should read "אי אפשרי" is binding, while "בטלה היא" is disregarded (the gift remains valid). Rashba explains that "בטלה היא" is not a valid declaration, as we do not believe him that he did not accept the gift willingly in the first place. ■

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HALACHAH Highlight

Nullifying a גט

גט שנתתי לך בטל הוא הרי זה בטל
 "The גט that I gave you is nullified," – it is nullified.

Rambam¹ rules that if a husband nullifies a גט he may never use that גט and it is to be treated like a piece of broken earthenware. Even if the husband delivered this גט to his wife she would not be divorced. Magid Mishnah² cites other authorities who maintain that the husband may not nullify the גט and if the husband would like to use that גט in the future he has the option to do so. Shulchan Aruch³ rules that if a husband nullified a גט it should not be used but if the husband used the גט there is a doubt whether she is divorced. Beis Shmuel⁴ explains that Shulchan Aruch could not conclude whether a nullified גט may be used so he ruled that it is uncertain whether she is divorced.

Poskim discuss whether the husband's declaration that he will not give his wife this גט is a nullification of the גט or not. ספר משחא דרבנותא⁵ cites an opinion that maintains that this declaration is also considered a nullification of the גט and the גט may no longer be used. Rivash⁶ however, seems to adopt a different approach. There was once a man who had a גט written and signed and as he was about to deliver the גט to his wife he noticed his uncle was crying. The man told his uncle not to cry since he is only giving the גט because he is being forced to do so. Rivash commented that even Rambam who rules that a husband can nullify a גט would agree that a גט is nullified only when the

REVIEW and Remember

1. What was R' Gamliel's enactment concerning the nullification of gittin?
2. What is the progression of the different cases of the Mishnah?
3. What is the meaning of the word בטל?
4. What is the point of dispute between R' Nachman and R' Sheishes?

husband explicitly nullifies the גט. If the husband does not nullify the גט but merely states that he is being forced to give the גט to his wife, it does not constitute a nullification of the גט. Teshuvos Shoel Umeishiv⁷ issued a similar ruling in a case where a husband declared that he would not give the גט to his wife. Since he did not explicitly state that he wished to nullify the גט it remains valid and could be used if the husband decides he wants to give it to his wife. ■

1. רמב"ם פ"ו מהל' גירושין הל' כ"א.
2. מגיד משנה שם.
3. שו"ע אה"ע סי' קמ"א סעי' ס"ו.
4. ב"ש שם סי' ק"ג.
5. ספר משחא דרבנותא ח"א סי' קמ"א סס"ו.
6. שו"ת הריב"ש סי' קכ"ז ד"ה ועתה.
7. שו"ת שואל ומשיב מהדו"ב ח"ב סי' קנ"ה. ■

STORIES Off the Daf

The Belated Annulment

"בפני כמה הוא מבטלו..."

There was once an illiterate but wealthy man who was very argumentative. After provoking his wife on many occasions, she finally requested a divorce and he agreed to oblige her. He summoned the sofer to write the גט and witnesses to sign it. But after he received the גט he started having second thoughts. Eventually he decided to send it to his wife after all. He appointed a messenger to deliver it to his wife who was out of town at her parents' house. Shortly after the messenger left, the husband was again beset by doubts. He finally approached a local rabbi. He explained that he could not write and re-

quested that the Rav draft a document stating that he, as the husband, regretted the divorce and wished to nullify it. The Rav did so and wrote the time of his writing as well. The husband signed his name to the document. Feeling somewhat better, the husband returned home.

Imagine his surprise when he found that although his letter was definitely signed before the divorce reached his wife, his nullification would likely not be enough to actually nullify the גט! The rabbi explained that although he had done as instructed, the Gemara on Gittin 32 states that one must annul a divorce in front of at least two witnesses. This is the decisive opinion in Shulchan Aruch as well, and so it was probable that his wife was divorced despite his attempt to nullify the גט. This was not clear, however, since some authorities state that one should sus-

pect that the divorce does not take effect l'chumrah. Since no local halachic authority was able to take the weighty responsibility of validating this גט, they consulted with the posek hador, Rav Yitzchak Elchonon Spector, zt"l, who was certainly qualified to deal with the most complicated cases.

After hearing the entire case, Rav Spector ruled that the woman was definitely divorced and need not worry about the authorities who suspect that she is not divorced לחומרא. "We hold like the simple implication of Shulchan Aruch. We hold like the sevarah of Tosafos: if nullifying before one person works, then what practical benefit does the decree have that nullification of a גט must be before at least two?"¹ ■

¹שו"ת עין יצחק, חלק ב' אבה"ע, סי' ל"ח

