

OVERVIEW of the Daf

1) Beitar

R' Yochanan is cited as illustrating the extent of the annihilation at Beitar.

2) Jewish Youth

The Gemara relates several examples of how Jewish children suffered at the time of the destruction of the Beis Hamikdash.

Another incident related to a woman's disgrace is recounted.

The Gemara concludes its account of the destruction of the Beis Hamikdash with an incident that sealed the decree of the destruction of the Beis Hamikdash.

3) Buying land from a סיקריקון and then the owner

Rav asserts that if one purchased the land with a contract from the owner after buying it from the סיקריקון the sale is valid.

Shmuel disagrees with this assertion.

A Baraisa that supports Shmuel's position is cited and the Gemara explains why this does not refute Rav.

A Baraisa teaches that if one purchased land from a סיקריקון, used the field for three years in the presence of the original owner and then sold the field to another person, the original owner has no claim to the land.

The Gemara wonders about the exact circumstances of the Baraisa's case.

R' Sheishes explains the Baraisa.

A Baraisa discusses the halacha of purchasing land that was confiscated without a threat to the original owner's life.

A contradiction within the Baraisa is clarified.

R' Yosef observes that in Bavel idolaters do not confiscate land without cause.

This assertion is successfully challenged and the Gemara revises its understanding of R' Yosef's statement.

A related incident is presented.

4) Paying one-quarter to the original owner

Rav and Shmuel disagree about how to calculate the one-quarter that the purchaser pays to the original owner.

The Gemara identifies the point of dispute.

Shmuel's view is unsuccessfully challenged. ■

Distinctive INSIGHT

Gidal bar Ri'ilai pays the tax

גידל בר רעילאי קביל ארעא בטסקא מבני באגא אקדים ויהיב זוזי דתלת שנין וכו'

The Gemara discusses various cases involving land taxes which were collected for the king. The rule was that the king set a sum to be collected from a particular area of farms. The residents generally divided the burden proportionally to the sizes of the lands each owned. The story is told of one place where the farmers made such an arrangement, but the owners of part of the land were absent. In order not to have to pay their share, the remaining farmers offered the land to Gidal bar Ri'ilai. He would pay the tax, and be rewarded with being permitted to farm the land and collect its yield. Gidal paid the taxes ahead of time for the next three years. The owner of the land then returned. He told Gidal that he could stay for one year, but after that the owner declared that he himself would pay the tax and work the land. Rav Pappa wanted to rule that Gidal could stay in the land, but R' Huna b. R' Yehoshua directed R' Pappa to rule that Gidal lost his money by paying too much too early.

Rashi explains that the neighbors of the ones who abandoned the fields had sold the land to Gidal in consideration for his paying the tax. R' Pappa wanted to grant Gidal the fruits of the coming two years, and that he would be able to collect from the neighbors, as it was they who had arranged the sale of the land to relieve themselves of the tax burden. Rav Pappa did not, however, intend to collect from the land's owner. The king was sure to collect from them again as they entered the land, and they would not benefit from the tax which Gidal had already paid ahead of time for those years.

Tosafos explains that Rav Pappa intended to have the original owners pay Gidal. Tosafos understands that the king would not collect again from the owners as they enter the land anew, and these owners were in line to benefit from Gidal's having paid ahead of time for the coming years. The neighbors, however, were not part of the deal at this point. Rav Huna, however, held that Gidal's payment did not have to be repaid, as this situation was similar to where someone unilaterally pays off a loan for his friend, where there is no obligation for the borrower to repay the one who made the payment. ■

HALACHAH Highlight

Is paying the kesubah a prerequisite for divorce?

אמר לו כתובתה מרובה

He answered: Her kesubah is worth a lot.

Beis Yosef¹ cites the opinion of Rashba who writes that a man is not permitted to divorce his wife if he is unable to pay her kesubah. Tashbatz² also mentions this halacha and cites our Gemara as proof to the principle. Our Gemara relates that one man said to his friend that he cannot divorce his wife since the value of her kesubah is great. This indicates that a husband who does not have the funds to pay his wife's kesubah may not divorce her. Beis Yosef disagrees with this conclusion noting that this position is not found in the writings of other Poskim. Be'er Heitev³ adds that our Gemara is not a proof to the principle since halacha is not derived from aggadata sections of the Gemara. Pischei Teshuvah⁴, however, asserts that if there is no Gemara that contradicts an inference from an aggadata it may be used as a source for halachos.

Rema⁵ agrees with Beis Yosef and rules that a woman may not prevent her divorce proceedings from going forward because her husband will not be able to pay her kesubah; rather they should divorce and when she claims her kesubah Beis Din will sort out the matter. Chelkas M'chokeik⁶ suggests that Rema does not disagree with Rashba about this matter. Rema was referring to a circumstance in which the husband is authorized to divorce his wife. In such a circumstance the wife is obligated to accept the גט and the payment of the kesubah will become a debt. Rashba, on the other hand, was referring to a circumstance in which the husband was not authorized to divorce his wife; he just desires to do so.

REVIEW and Remember

1. What happened to the son and daughter of R' Yishmael ben Elisha?
2. What is the point of dispute between Rav and Shmuel concerning סיקריקון?
3. What is the halacha about land that was confiscated out of financial considerations?
4. What was the enactment instituted by Rabbi and his Beis Din?

Accordingly, if he does not have the money to pay the kesubah he may not divorce her. Chelkas M'chokeik also cites Rivash who seems to maintain that under all circumstances the wife should accept the גט and then file for collection of the kesubah and she may not refuse to accept the גט until the husband is prepared to pay the kesubah. The reason is that before they are divorced she has no claim to the kesubah and therefore may not use that as an excuse to not accept her גט. ■

¹ ב"י אה"ע סי' קי"ט.
² שו"ת התשב"ץ ח"ג סי' רכ"ג.
³ באר היטב שם סק"ו.
⁴ פת"ש שם סק"ד.
⁵ רמ"א שם סעי' ו'.
⁶ חלקת מחוקק שם סק"ה.
⁷ שו"ת הריב"ש סי' צ"א. ■

STORIES Off the Daf

The Letter of the Law

"ושוליא דנגרי הוה..."

In the town of Dvinsk, a certain member of the Ohr Someach's minyan arrived without a coat. Since the man always wore a fur in winter, Rav Meir Simcha inquired why he had none.

He replied, "Every year I take a loan from a certain wealthy man here in Dvinsk and use my overcoat as collateral. Until now I have always had enough business to repay my yearly loan before the advent of winter. Unfortunately, this year business was not as good and I can't yet afford to repay the entire sum. The gevir is not willing to relinquish my coat until every cent is repaid. So I am forced to go out in the cold without it..."

Rav Meir Simcha was clearly very upset. "Summon him to a din Torah before me," he recommended.

When the two arrived, Rav Meir Simcha asked the gevir, "Why haven't you returned his coat?"

"I gave him an interest free loan," the wealthy man replied. "Why should I relinquish the coat until it is repaid to the penny? I don't intend to compromise. According to the letter of the law I am right."

The poor man said, "I will repay it all when business picks up, G-d willing. At the moment, business is slow—but I am in dire need of my coat..."

Rav Meir Simcha turned to the wealthy man and said, "On Gittin 58 we find that Shulia the carpenter told his teacher slander about his wife. This teacher agreed to divorce her but couldn't afford her kesubah. Shulia offered to lend his teacher the re-

quired amount of money and the teacher accepted it and divorced his wife. The student immediately married her.

"When the time came to repay the loan, the teacher could not cover the sum. So the student took him as a worker to pay off the loan.

"Shulia would eat and drink with his teacher's former wife, while the poor man waited on them with tears rolling down his cheeks the entire time... The Gemara tells us that as a result of this cruelty, the Churban Beis Hamikdash was sealed."

The Rav concluded, "Do you see the result of insistence to follow the strict letter of the law without mercy: a tremendous gezar din!"

Rav Meir Simcha's heartfelt words made a deep impression on the gevir and he immediately returned the coat! ■

1. האור שמח, עמוד קצ"ח

