

OVERVIEW of the Daf

1) Invalidating a contract (cont.)

After one unsuccessful attempt to explain R' Meir's position the Gemara concludes that his position is based on a ruling of R' Huna in the name of Rav that once there is an admission that a contract was written with authorization of the parties involved it is unnecessary to confirm its validity.

2) One who concedes a contract was properly drafted

The Gemara cites this ruling of R' Huna in the name of Rav.

R' Nachman questions why R' Huna doesn't simply state that he rules in accordance with R' Meir.

Upon inquiry, R' Nachman indicated that he rules like Chachamim.

3) שטר אמנה

R' Yehudah in the name of Rav rules that one is not believed to claim that a contract was a שטר אמנה.

The Gemara wonders which party (i.e. lender, borrower or the witnesses) Rav was referring to when he issued this halacha.

Abaye, Rava and R' Ashi offer alternative explanations to Rav's ruling.

On a side note the Gemara records two expositions of the pasuk ואל תשכן באהליך עולה ואל.

4) Invalidating a contract

R' Nachman maintains that witnesses are not believed to claim that their words were אמנה or מודעה whereas Mar bar R' Ashi maintains that they are believed to claim that their words were מודעה.

Rava inquired of R' Nachman whether a claim that their words were a תנאי is believed.

R' Nachman answered that the witnesses are believed.

R' Pappa ruled that when one witness claims that there was a תנאי and the other denies that there was a תנאי the contract is validated and the claim that there was a תנאי is ignored.

R' Huna the son of R' Yehoshua objects to this ruling and the Gemara rules in favor of the position of R' Huna the son of R' Yehoshua.

5) Authenticating a document from witness testimony

A Baraisa rules that two witnesses who testify regarding the validity of signatures on a document but add that the signatures are invalid are believed unless there is independent confirmation of the validity of the signatures.

The latter ruling of the Baraisa is challenged.

R' Sheishes begins a resolution to this matter. ■

Distinctive INSIGHT

The opinion of Rabbi Meir regarding signing on a fraudulent document

אמר רב חסדא קסבר רבי מאיר עדים שאמרו להם "חתמו שקר ואל תהרגו" יהרגו ואל יחתמו שקר

The Baraisa taught a dispute in a case where witnesses who signed a document come and confirm that they indeed signed it, but they inform us that their signatures were not valid due to their being disqualified at that time. Rabbanan accept their words, based upon the מנינו of הפה שאסר וכו'. Rabbi Meir rejects their claim that they were ineligible to sign, and he treats the document as completely valid. As far as the claim of the witnesses that they were in a state of being disqualified or underage, we rely upon the assumption (חזקה) that the lender would not have had a document improperly signed, and the lender verified their being completely qualified before having them sign. However, asks the Gemara, why does Rabbi Meir not recognize the validity of the מנינו to believe the witnesses?

Rav Chisda explains that Rabbi Meir's opinion is that a person must resist to the death if he is threatened to sign improperly upon a document, where he did not actually see the loan. Therefore, when the signatories claim that they signed without witnessing the loan, they are, in effect, admitting that they committed a crime. The law is that a person is not believed to testify that he himself performed an illegal act (thus rendering himself a רשע).

The Rishonim explain that it is clear that a person is not supposed to forfeit his life to avoid perpetrating a sin except in three cases (murder, adultery and idolatry). However, to resist signing falsely upon a document is a מידת מידת, an act of piety. Rav Chisda holds Rabbi Meir holds that a person cannot testify about himself that he is not pious.

Rashi, however, writes that the words of Rav Chisda are to be understood literally, and that falsely signing on a document must be resisted to the death. Where is the source for this halacha?

Ramban cites a Baraisa which he found which quotes a dispute in this regard. "For three things a person should be prepared to forfeit his life: Idolatry, adultery and murder. Rabbi Meir adds theft to the list." We see that Rabbi Meir is of the opinion that one must give his life rather than be involved in theft, and this may be why he says that witnesses must resist to the death rather than sign a fraudulent loan document. ■

HALACHAH Highlight

Retaining a corrupted text in one's possession

ספר שאינו מוגה אמר ר' אמי עד שלשים יום מותר לשהותו מכאן ואילך אסור לשהותו

A sefer that has not been corrected, R' Ami said that one is permitted to retain it for thirty days but beyond that it is prohibited.

Rava¹ rules that one who corrects a “dalet” into a “reish” on Shabbos is liable for the melacha of writing. Rashi² explains that the reason for liability is that fixing this one letter is considered a significant constructive act since it is prohibited to retain a Sefer Torah that is not corrected. This indicates that the threshold for violating this prohibition is crossed when even one letter is incorrect. Rav Yechezkel Landau³, the Noda B'Yehudah, also seemingly subscribes to this opinion. At the end of a teshuvah that addresses the question of whether it is permitted to put an invalid Sefer Torah into the Aron Kodesh, he makes the following comment. “From all this it appears that there is no prohibition regarding the question of the sanctity of the Aron Kodesh. There is another prohibition involved in storing the invalid Sefer Torah in the Aron Kodesh. The concern is that someone may take the invalid Sefer Torah from the Aron Kodesh and will study from the uncorrected text. Therefore, a decision has to be made within the thirty days, the time allowed by the Gemara to retain the corrupted text, whether it will be corrected or buried.” This comment supports Rashi’s assertion that the prohibition against retaining a sefer that is not corrected applies even when one letter is incorrect.

Teshuvos Da’as Kohen⁴ cites this position of Rashi and Noda B’ehudah and adds that it is obvious that the concern for

REVIEW and Remember

1. Why did R' Nachman call R' Huna a thief?

2. What is R' Nossan's ruling?

3. How long is one permitted to keep an uncorrected sefer?

4. Are others believed to declare that the witnesses on a document signed under duress?

an uncorrected sefer applies specifically to the books of Tanach and only during those times that people use these sefarim for Torah study. Nowadays, when people no longer use Sifrei Tanach for the purpose of studying, the restrictions are relaxed. On the other hand Rav Yechezkel Michel Epstein⁵, the Aruch HaShulchan, writes that the prohibition includes Gemaras, halachic works and other commentaries that are corrupted. The reason is that since people study from these works there is a concern that a small error could lead to a major error when deciding a halachic matter. Rav Menashe Klein⁶, the Mishnah Halachos, however, suggests that with the abundance of printed sefarim it may be that this prohibition does not apply but does not fully explain the rationale for this ruling. ■

¹ גמי שבת קד :
² רש"י שם ד"ה רבא אמר.
³ שו"ת נוב"י מהד"ק או"ח סי' ט'
⁴ שו"ת דעת כהן עניני יו"ד סי' קע"ד.
⁵ ערוה"ש יו"ד סי' רע"ט סעי' א'
⁶ שו"ת משנה הלכות ח"ב סי' ר"ח. ■

STORIES Off the Daf

The Helpful Priest

”עבודה זרה...”

Once there was a woman from a poor family who married a wealthy man. From the outset it was clear that they were not suited to one another. Eventually, the wife requested a divorce but the husband fled to Brazil and sent his wife a devastating message, “I will never give you a divorce!”

The couple had lived in Ashdod and the unfortunate woman went to the Av Beis Din, Rav Sheinin, shlit”a. The Rav worked tirelessly to obtain a divorce for

the poor woman, but to no avail. Finally, the Rav decided to fly to Brazil and advertise the sad story in the papers in the hope of finding a way to convince the husband to stop being so cruel and finally divorce his wife.

A priest saw the article and was so moved that he contacted the Rav asking him to meet since he wished to use his formidable influence in the community to help the poor woman. The two met and shortly through the influence of the priest the woman was finally freed.

When the Rav returned he remembered that it is preferable to die than to admit to the power of idolatry, as we find in Kesuvos 19a. Perhaps having the priest deal with the problem was a tacit

admission on his part.

No one he asked could give him a clear answer and eventually this question was asked of the Gadol Hador, Rav Chaim Kanievsky, shlit”a. “Since the priest was not approached in order to recognize avodah zarah or to give him honor for his beliefs, you have done no wrong. He was approached because he had influence which could have helped with the problem, as indeed it did. This is not considered any sort of admission of the power of idolatry about which the Gemara says it is better to die. Quite the contrary! The man did a mitzvah by freeing the poor agunah!” ■

