

OVERVIEW of the Daf

1) Two kesubos

The Gemara earlier ruled that a woman who presents two kesubos has the choice of collecting either one.

This ruling seemingly conflicts with a ruling of R' Nachman who maintains that a second contract nullifies the first contract.

The contradiction is resolved.

R' Nachman's ruling is cited with R' Pappa's interpretation that if something is added into the second contract the first contract is not nullified.

Different applications of these rulings are presented.

Rafram and R' Acha offer different explanations why the second contract would nullify the first.

The practical difference between their explanations is identified.

2) Collecting from encumbered property (cont.)

Following a failed attempt to resolve the issue of when a husband's property is encumbered towards the kesubah the Gemara rules that the property is encumbered from the time of the marriage.

3) **MISHNAH:** The Mishnah elaborates on the law of executing a betrothed נערה who was convicted of having an extramarital affair when the נערה converted while she was younger. The Mishnah concludes with a general law related to executing a betrothed נערה who was convicted of having an extramarital affair.

4) Clarifying the Mishnah

Reish Lakish cites a source for the Mishnah's ruling that a betrothed נערה who was conceived as a non-Jew but was born as a Jew is punished with stoning for having an adulterous affair as a נערה.

This explanation is unsuccessfully challenged.

5) Defamation (מוציא שם רע)

R' Yosi bar Chanina rules that one who defames an orphan is exempt from payment.

This ruling is unsuccessfully challenged.

Rava disagrees with this ruling and presents the rationale behind his position.

Reish Lakish rules that one who defames a minor is exempt from payment.

R' Acha bar Abba challenges Reish Lakish's reasoning and subsequently refines the teaching.

6) Executing an adulterous נערה

A Beraisa begins to present the different ways an adulterous נערה may be executed depending on her circumstances. ■

Distinctive INSIGHT

Two documents and דינא דבר מצרא

פשיטא ראשון במכר ושני במתנה ליפות כחו הוא דכתב ליה משום דינא דבר מצרא.

The "law of the neighbor" is that we grant right of first refusal to an adjacent neighbor to buy land which is for sale. All other factors being equal, there is a great benefit for a person who already lives next door to acquire the land for sale, in order that his property be extended. It is clearly better for a person to have all his property in the same area, if he so wishes, rather than to own several separate lands. We recognize this, and we direct the seller, based upon "ועשית הישר והטוב—a person should do that which is good and right," to sell the land to the neighbor, if the neighbor is interested in buying it. This priority is only granted in a case where the owner is selling the land. If, however, the owner wishes to give it away as a gift, in such a case we cannot tell the owner to whom he must give a gift.

In our Gemara, a field was sold. Later, the original owner gave the buyer a second document of ownership to the same land, but this document indicated that the transfer was a gift, and not a sale. Here, the second document does not nullify the first document. We clearly understand that the original owner realized that merely with a sales document, the buyer might be subject to losing the land due to the "law of the neighbor." He therefore gave the buyer an additional document, this time indicating that it was a gift, in order to protect him from דינא דבר מצרא, which does not apply to a gift. Tosafos adds that in this case, the buyer should hide the first document, because if both documents would be seen, the buyer would be subject to the limitations of the first deal, which was a sale.

Tosafos also mentions that in a case of a sales document followed by a gift document, if the buyer himself is also a neighbor, the seller obviously did not write the second document for the benefit of the בר מצרא advantage. Here, the gift transaction cancels the sale. ■

REVIEW and Remember

1. When does a second contract add to the first existing contract?

2. What is the general punishment for adultery?

3. What is the transgression of מוציא שם רע?

4. How did Reish Lakish know that one who defames a minor girl is exempt from payment?

HALACHAH Highlight

The punishment for spreading false rumors

המוציא שם רע

One who defames

Shimon accused Reuven, the Sh'liach Tzibbur for the community, of being an adulterer and as a result of this accusation Reuven was fired from his position and another Sh'liach Tzibbur was hired in his place. Some time later it was discovered that Shimon, out of hatred, had made up the entire story and there was no truth to the accusation. Reuven sought to be reinstated to his position as Sh'liach Tzibbur now that his innocence was reestablished and his reputation restored. The community however did not want to rehire Reuven as Sh'liach Tzibbur because when they hired the replacement the terms were set up in such a way that he could not presently be dismissed and they could not afford to pay for two people to serve as Sh'liach Tzibbur. Although Reuven tried to find employment as a Sh'liach Tzibbur elsewhere there were no positions available and Reuven was left unemployed. He filed a case in Bais Din against Shimon to recover his losses and the damage he suffered as a result of the false accusation that Shimon made against him.

The case was presented to Rabbeinu Yisroel Isserlin¹, the Terumas Hadeshen for a decision. He responded that it is clear that Shimon's behavior is reprehensible and his transgression of making a false accusation against an upright and innocent Jew is very great. Furthermore, Shimon needs atonement for his behavior and if necessary, Shimon could be excommunicated until he sufficiently appeases Reuven for the pain and anguish he caused him. Additionally, if Reuven decided that he did not wish to forgive Shimon for what he did he would be categorized as one who is cruel by denying forgiveness when asked². Nonetheless, Bais Din does not have the authority to force Shimon to pay Reuven for the damage he caused since it was indirect and done only verbally. Terumas Hadeshen does, however, conclude that Bais Din could impose a fine on Shimon if they determine that it is necessary to punish Shimon for his transgression to serve as a deterrent to prevent people from lying and spreading false and harmful rumors about others. ■

1. שו"ת תרומת הדשן סי' ש"ז.

2. עי' סמ"ג בהלכות תשובה בשם הירושלמי דהמוציא שם רע אין לו מחילה עולמית. ■

STORIES Off the Daf

Judging Slander

"והוציאו את הנערה... וסקלוה..."

During the air raids and chaos of World War II, Rav Isser Zalman Meltzer, zt"l, approached the then young Rav Shach, zt"l, and requested that he stay in the Rosh Yeshiva's already crowded house. There was obviously a great element of danger at the time, and Rav Meltzer explained that he needed the protection of one who was truly toiling in Torah in his home. In later years, Rav Shach would always comment how much he learned about humility from his mentor. Imagine a gadol like Rav Isser Zalman telling a young bochur that he needed the merit

of his student's learning!

During this period, Rav Meltzer would examine the chiddushim that he had urged the young Rav Shach to write. One such piece that Rav Shach later recalled involved a concept from today's daf, the issue of **הוצאת שם רע** – false rumor-mongering.

Rav Shach cited the Rambam which states that we can only judge the case of a slanderer before a court of twenty-three judges, and only when the Beis Hamikdash stands, since a guilty verdict can lead to execution. **אונס** and **פיתוי** can be judged by a court of three. Rav Shach asked, "Why shouldn't we judge a case of **הוצאת שם רע** even when no Beis Hamikdash stands since there is no death penalty involved nowadays?"

In his writing, Rav Shach answered,

"The text of the Rambam here is unclear and ought to be corrected. It would have been better if it said that during the time of the Beis Hamikdash we only judged **הוצאת שם רע** before a court of twenty-three judges. Now that we are in exile and there is no possibility of execution, **הוצאת שם רע** is to be judged before a court of three, like **פיתוי** and **אונס**."

When Rav Isser Zalman saw this chiddush, he was clearly inspired. "This is **אמיתה של תורה** – the genuine Torah truth! This chiddush is your unique portion in Torah that even the Rishonim didn't reveal!" In later years, Rav Shach would always refer to this as a classic example of how a rebbi should express his confidence in his talmidim and encourage them to grow to greatness in Torah! ■

