

OVERVIEW of the Daf

1) **MISHNAH:** The Mishnah discusses how a woman demonstrates that she may collect her kesubah.

2) Receipts

The Gemara infers from the Mishnah's first ruling (that a woman can collect her kesubah if she produces only a גט) that we write receipts.

Rav rejects this conclusion and explains that the Mishnah refers to a place where they do not write kesubos, therefore there is no alternative to writing a receipt.

Shmuel disagrees with the assertion that the Mishnah refers to a case where they do not write kesubos and explains how the Mishnah can refer to all locations but nonetheless one cannot infer that as a general matter receipts are written.

It is noted that Rav subsequently changed his position and did not limit the Mishnah to a case where they do not write kesubos.

Rav's position is unsuccessfully challenged.

R' Kahana and R' Assi unsuccessfully challenge Rav's position.

In the course of their discussion Rav admits that a receipt is written when there is no alternative and cites a proof to that position.

The proof that Rav cited to his position is successfully challenged.

In the course of this discussion the Gemara attempts but fails to find a source that allows an arusah to collect a kesubah even without a kesubah document.

R' Nachman asks why, according to Rav, there is no fear that a woman who collects her kesubah with a get will produce the גט in another court to collect a second time.

R' Huna explains the procedure that the first Beis Din takes to prevent this occurrence.

3) **MISHNAH:** The Mishnah continues to discuss different halachos related to the evidence for a woman to collect her kesubah.

4) Two kesubos

The Mishnah that allows a woman to collect one of her two kesubos seemingly refutes R' Nachman who maintains that when there are two contracts pertaining to the same obligation the second one nullifies the first.

R' Nachman's position is defended. ■

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By Mr. and Mrs. Boruch Weinberg
in loving memory of their grandmother
Gella bas Zalman Shevach ע"ה

Today's Daf Digest is dedicated
in honor of the Pidyon Haben of our grandson,
Chaim Avrohom Schwartz
by the proud grandparents Madeline & Justin Schwartz
and entire Bennett, Schwartz and Fried families, Monsey, NY

Distinctive INSIGHT

He causes his own loss

איהו דאפסיד אנפשיה

Rav taught that a woman who comes and produces her גט may collect her kesubah, but only the principal amount of two hundred (if this was her first marriage) or one hundred (if she married as a widow or divorcée). If the woman produces the kesubah document itself, she can also collect the תוספת, the additional amount promised her by the husband. When the woman uses her גט to collect, the Beis Din takes her divorce document and tears it up, so that she will not be able to come and fraudulently attempt to collect her kesubah a second time. If she would come to now collect without her גט we would not honor her request. The Gemara asks how a widow can collect her kesubah, being that there is no גט. It does not seem that witnesses to the death of the husband would be sufficient, because she would then be able to come a second time and collect again, with a different set of witnesses and from a different court. How can we assure the system to protect her and her husband's family?

Rav answers that she must bring witnesses to testify that the husband died, and she will produce the kesubah. Upon collecting it, we will destroy the kesubah document.

The Gemara then asks, there is a risk in a case where the husband divorces her just before he dies. Here, she might collect her kesubah with the testimony of the witnesses that her husband died, and then again with her גט. The Gemara answers that there is no solution to this case, and if a man divorces his wife just before his death, he has caused his own loss, and she might collect twice.

In קובץ שיעורים R' Elchonon notes that the husband is not causing a loss to himself, but rather to the heirs. Sefer Ayeles Hashachar notes that in this case, the heirs of the father would have to accept a receipt from the wife, due to the risk of her collecting twice. ■

REVIEW and Remember

1. Under what conditions can a creditor collect his debt without a פרוזבול?
2. Was the enactment to write a kesubah universally practiced?
3. How does a widow from אירוסין collect her kesubah if a kesubah was never written?
4. Does a ripped גט automatically indicate that the גט is invalid?

HALACHAH Highlight

Collecting a debt after Shemittah when the פרוזבול is lost

בעל חוב שהוציא שטר חוב ואין עמו פרוזבול וכי

A creditor who produces a loan document without an accompanying פרוזבול etc.

Shulchan Aruch¹ rules that if a lender produces a loan document after Shemittah and does not have an accompanying פרוזבול the loan is cancelled. If, however, the lender claims that he had a פרוזבול but it was lost he is believed². The rationale behind this ruling, explains Rav Yehoshua Falk³, the Sma, is that there is a presumption (חזקה) that a person would not do something that is prohibited if he has the opportunity to accomplish the same goal in a permitted fashion. Therefore, we assume that he is telling the truth when he claims that he had a פרוזבול that was lost rather than assume he is lying and is trying to collect a debt that was cancelled by Shemittah. Furthermore⁴, if the lender comes to Beis Din for assistance in collecting a debt and doesn't mention anything about a פרוזבול, Beis Din will ask him whether he wrote a פרוזבול that was lost and if he answers that that is what occurred he is believed and is permitted to collect his debt. On the other hand⁵, if Beis Din did not inquire whether he wrote a פרוזבול that became lost and the lender left Beis Din and then returned with the claim that he had a פרוזבול he is believed as long as Beis Din has not yet issued

their ruling. Once Beis Din issues their ruling the lender may not claim that he had a פרוזבול that was lost because his silence when Beis Din initially issued their ruling is understood as an admission by the lender that he did not write a פרוזבול⁶.

Rav Moshe Sofer⁷, the Chasam Sofer, wrote that the issue of collecting a debt after the פרוזבול is lost or destroyed can be traced to a dispute found in the Tosefta and the point of dispute relates to how a פרוזבול works. One approach is that the פרוזבול serves as proof (שטר ראיה) that the loan is considered as if it was already paid to Beis Din. Accordingly, as long as there is reason to believe the lender wrote a פרוזבול, the loan could be collected since the פרוזבול only serves as evidence of that fact. A second approach is that the פרוזבול does not indicate that Beis Din already collected the loan but that they are authorized to collect the loan. Since this approach maintains that the loan is still outstanding, the פרוזבול must be in existence during Shemittah since the פרוזבול is what allows the debt to be collected. We follow the first approach, concludes Chasam Sofer, and thus we accept the claim that a פרוזבול was written and lost during the shemittah year. ■

1. שו"ע חו"מ סי' ס"ז סעי' ל"ז.

2. שם סעי' ל"ג.

3. סמ"ע שם ס"ק נ"ה.

4. שו"ע שם סעי' ל"ג.

5. רמ"א שם.

6. סמ"ע שם ס"ק נ"ו.

7. שו"ת חת"ם סופר קובץ תשובות סי' פ"ו. ■

STORIES Off the Daf

The Lost Receipt

"אבד שוברי"

Our daf discusses a person who paid the kesuvah and lost his receipt.

Once there were two friends who went shopping for electrical appliances together. Each purchased the exact same expensive printer. The machine had a year's warranty, but coverage would only be extended if the buyer could present the original copy of his warranty and the purchase receipt.

One month later, one of the printers broke. To the purchaser's chagrin, the warranty and receipt were nowhere to be found. Eventually, he realized that it had been inadvertently discarded but that

was no comfort. What was he to do? He knew that there was no way he would receive free service or a replacement without documentation.

Suddenly he was struck with an inspiration. Why not take the receipt and warranty of his good friend? A simple phone call was enough to verify that his friend had the warranty and receipt and would be happy to be of assistance by giving them to enable the repair or replacement of the faulty hardware.

At this point, the man with the broken printer realized that this might be a halachic question. Perhaps this was in the category of theft or lying. On the other hand, the printer itself was still under warranty. Maybe he had a right to use the documents to "prove" this fact since he knew it was true and even had a

witness to that effect.

He decided to ask Rav Yitzchak Zilberstein, shlit"a, if he was permitted to use his friend's documentation.

The Rav replied, "This is surely not theft since the machine is under warranty. This is clear from Tosafos in Gitin 27a (ד"ה הא אמרו). The only remaining question is that of avoiding falsehood. The חוט המשולש brings the opinion of the Tosfos Yom Tov that one is in violation of this prohibition only in Beis Din where one actively perverts justice. In any other case, one does not transgress this prohibition. This seems to be the opinion of the Rambam as well at the end of Chapter 16 of הלכות טוען. Since in our case he won't have to discuss the documentation, but merely present it, he may rely on this opinion." ■

