

OVERVIEW of the Daf

1) Two kesubos (cont.)

A Baraisa is cited that discusses more details concerning collecting a kesubah.

2) **MISHNAH:** The Mishnah discusses the effect of a kesubah written for a minor or non-Jew who subsequently matures or converts.

3) Clarifying the Mishnah

R' Huna and R' Yehudah disagree whether the minor or convert will collect the additional amount of the kesubah.

R' Yehudah's view that even the additional amount is collected is successfully challenged.

The Gemara explains how the Mishnah misled R' Yehudah.

הדרן עלך הכותב לאשתו

4) **MISHNAH:** The Mishnah presents some parameters of determining how to prioritize kesubah payments of different wives.

5) Prioritizing

It is inferred from the language of the Mishnah that if the second wife seizes property first, she will be permitted to keep that property. Similarly, one can infer that if a later creditor collected before an earlier creditor he will be permitted to keep that property.

This inference is rejected and the Gemara cites another example of this use of the term קודם.

A second, opposite version of this exchange is presented.

6) Clarifying the Mishnah's second case

The Gemara infers three principles from the Mishnah's second case (A man's first wife died, he married a second wife and he dies. The heirs of the second wife collect before the heirs of the first wife).

R' Ashi challenges the first two inferences.

7) Collecting the כתובת בנין דכרין

The Gemara suggests that the first inference, i.e. whether the sons of the first wife will collect the כתובת בנין דכרין, is a matter of Tannaic dispute.

Rabbah refutes this inference and explains the dispute in the Baraisa in a different way.

R' Yosef rejects this explanation and maintains that it is indeed a Tannaic dispute.

The Gemara proceeds to connect this Tannaic dispute with another Tannaic dispute.

The Gemara begins to reject the assertion that the Tannaic of the second Baraisa dispute this point. ■

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Distinctive INSIGHT

A later creditor may collect before an earlier creditor

שמע מינה בעל חוב מאוחר שקדם וגבה מה שגבה גבה

If someone borrowed money from two different lenders at two different occasions the first lender has precedence to collect from the assets of the borrower before the second lender. If the borrower has limited resources, the first lender might be able to collect, and the second one may lose. The wording of the Mishnah indicates that if a later creditor acts out of turn and takes from the property of the borrower before the first lender, he may keep that which he took. Tosafos asks what the rationale for this could be. After all, we know that if the assets of the borrower were sold, the lender may later come and collect from the buyer of the property, as it was earlier encumbered due to the loan he had offered. Why, then, does a later lender have the privilege of being able to collect ahead of the one who lent money before him, and that we do not take the land away to satisfy the debt of the one who came before him?

Ramban explains that the opinion which holds that a later creditor may come and collect before an earlier lender is also of the opinion that שיעבודא לאו דאורייתא—the fact that a creditor may establish a lien against the property of the debtor is only rabbinic, and on a Torah level we do not allow an oral loan nor a recorded loan to collect from lands which were sold by the borrower subsequent to the loan. Only lands that are “free and clear” can be used for collection. The rabbis established that a lender may establish a lien and collect from land which the borrower sold because of “שלא תנעול דלת בפני לויך”—we do not want to slam the door in front of borrowers.” This means that if lenders had no recourse to establish a claim and arrange collateral, they would cease to lend money. This reason, however, only applies to land which the borrower sells after having borrowed the money. However, if he borrows other sums, and a later lender comes to collect, this second lender should not be discouraged or deferred. Both lenders deserve to not have the door shut before them.

Ritva adds that a sale of a land is not necessarily done publicly, but collection of land by a creditor is done in front of Beis Din, and people hear about it. When the second lender comes to collect land, the first lender, who has priority, will expect to hear about it, and he will then come and collect his loan first. If he does not exercise his right, the second lender will collect and be able to keep what he takes.

Tosafos, in the name of Rashbam, also notes that a later creditor is different than a buyer in this regard, as we would usurp the land from the buyer who buys encumbered land, but not from the lender. The lender must be able to collect in order not to discourage him from lending in the future. ■

HALACHAH Highlight

Sheva Berachos for a married couple that converts

גר שנתגיירה אשתו עמו כתובתה קיימת

The kesubah of a convert whose wife converts with him remains in force

The Gemara Yevamos (22a) states that a person who converts is like a child who is born. Accordingly, if a husband and wife convert to Judaism it is logical to assume that kiddushin would be required in order for them to be halachically married. However, this is not so simple because when an orphan minor female is married her kiddushin is valid only Rabbinically, nonetheless, when she becomes an adult and continues to live with her husband it is considered as though they are now Biblically married¹. Furthermore, our Gemara indicates that in this case a new kesubah is not even required. Perhaps then, the couple that converts should not need a new marriage. Lechem Mishnah² writes that they do not require a new marriage but Noda B'Yehudah³ writes that if the converted couple want to remain together they must have a Jewish wedding consisting of chupah and kiddushin.

Atzei Arazim⁴ expresses uncertainty whether sheva berachos should be recited for this couple. Shevet Halevi⁵, however, writes that it is logical to assume that sheva berachos should be recited since there is no precedent for a ceremony including chupah and kiddushin that does not include sheva berachos. This ruling is limited to sheva berachos recited under the chupah but it would seem that there is no obligation to observe the seven days of simchah or to recite the sheva berachos at the meals during that week. The reason is that there is no stronger rationale to observe seven days of simchah together with sheva berachos in this case than a case of a man who remarries his wife where the authorities ruled that sheva berachos are only recited

REVIEW and Remember

1. Is there any validity to a kesubah written for a male minor?

2. What are the two interpretations for the word קודם?

3. Explain כתובה נעשית מותר לחברתה.

4. How does the Gemara initially understand the dispute between Tanna Kamma and R' Shimon?

under the chupah but not for the remainder of the week. However, it seems that according to Chasam Sofer, who rules that a couple who had a civil marriage before having a Jewish wedding celebrates for a full week since it is the first time they are halachically married, the week long celebration following the wedding is obligatory for this couple who converted. Nonetheless, one could argue that halacha recognizes the marriage of non-Jews as can be seen from the Gemara that rules that a couple who convert do not have to write a new kesubah. This seemingly indicates recognition of their marriage as non-Jews; consequently, there would be no obligation to observe the seven days of simchah or to recite the sheva berachos at the meals during that week. ■

1. גמי יבמות קט.
2. לחם משנה פי"א מה"ל אישות ה"ז.
3. עי' פתיש יו"ד סי' רס"ט סק"ג בשם דגול מרבבה.
4. עצי ערוזים סי' ל"ד.
5. שו"ת שבט הלוי ח"ד סי' קע"ג. ■

STORIES Off the Daf

The Disputed Contract

"אא"כ חדשו..."

The Chazan of the town was well respected by all. He davened very passionately and had an impressive voice. His chazanus inspired the people to higher devotion and joy in davening.

At the end of the second year, the town tax collector requested that he pay the מס הקהילה, like everyone else. "But I didn't pay last year because that was one of the conditions of my agreement with the kahal. Why should I have to pay this

year? I am still chazan here."

The Roshei Hakahal saw things differently. "That was our agreement for last year. Why is that binding this second year? In Kesuvos 90a we find that a convert is not obligated to give his wife the original תוספת כתובה, any additions on the kesubah originally agreed upon when they were not Jewish, unless this is explicitly agreed to. Why should our case be any different?"

This question was addressed by the Rivash, ז"ל, "The Chazan is definitely correct. The Gemara in Kesuvos 90 discusses when both converted and there was a new marriage. Naturally, any earlier agreement is not binding. In our case, the

original condition is still extant, so the chazan receives all rights agreed upon the first year.

He continued, "This is similar to someone who rents an apartment for a certain amount for a year. If he continued living in the same domicile for another year, he pays the same price as he did the first year provided there was no talk of a raise in the beginning of the second year."

This case demonstrates the words of the Chayei Adam: "In money matters one should always consult a competent halachic authority. The yetzer hara has many stratagems to convince one not to pay what is due!" ■