

A בס"ד

Intro

Today we will learn בע"ה of בבא בתרא דף קלא
Some of the topics we will learn about include.

A continuation of רבי יוחנן בן ברוקה's opinion regarding האומר איש פלוני יירשני במקום שיש בת בתי תירשני במקום שיש בן
If a שכיב מרע, a dying person, assigned all his assets to a distant relative as an inheritance and excluded the closer relative, such as the assets should go only to his brother and not to his daughter, or only to his daughter and not to his son;
רבי יוחנן בן ברוקה says
אם אמר על מי שראוי ליורשו דבריו קיימין
If he assigned the assets to an eligible heir, the צוואה is effective.

The question of בבריא היאך
What would the Halachah be regarding a healthy person who assigned his assets to an eligible heir?

כתובת בנין דכרין
If a person's wife dies before her husband, he inherits all her assets and her Kesubah. When he subsequently dies, the Chachamim initiated that the sons of each wife inherit their mother's assets and כתובה, and it is not be divided equally among all his children.

B

הכותב כל נכסיו לאשתו לא עשאה אלא אפוטרופא
If a dying person assigned all his assets to his wife, she becomes the manager of the estate, but she does not receive these assets, because there is an assumption that a person would not exclude his children from their inheritance. Therefore we must say לא נתכוין אלא לעשותה אפוטרופא כדי שיחלקו לה בניו כבוד
His intention was merely to appoint his wife to manage the estate, so that his sons will fulfill their obligation and give her proper respect.

All agree regarding אשתו ארוסה ואשתו גרושה במתנה
If he assigned his assets to a wife who was only engaged to him but not yet married, or to his divorcee, she receives all the assets, and does not become an אפוטרופוס.

The Machlokes regarding בת אצל הבנים
If he wrote all his assets to his daughter and excluded his sons from their ירושה, is this a מתנה or she merely becomes an אפוטרופוס?

A

האומר
איש פלוני יירשני במקום שיש בת
בתי תירשני במקום שיש בן

רבי יוחנן בן ברוקה
אם אמר על מי שראוי ליורשו
דבריו קיימין

בבריא היאך

כתובת בנין דכרין

B

הכותב כל נכסיו לאשתו
לא עשאה אלא אפוטרופא

לא נתכוין אלא לעשותה אפוטרופא
כדי שיחלקו לה בניו כבוד

אשתו ארוסה
ואשתו גרושה
במתנה

בת אצל הבנים

1 So let's review ...

The Gemara in the previous Daf discussed רבי יוחנן בן ברוקה's opinion regarding האומר איש פלוני יירשני במקום שיש בת בתי תירשני במקום שיש בן If a מרע a dying person, assigned all his assets to a distant relative as an inheritance but excluded the closer relative, such as the assets should go only to his brother and not to his daughter, or only to his daughter and not to his son;

אם אמר על מי שראוי לירשו דבריו קיימין If he assigned the assets to an eligible heir, the צוואה is effective, because the Pasuk states והיה ביום הנחילו את בניו The word הנחילו implies that the father has the authority over inheritance, and this teaches התורה נתנה רשות לאב להנחיל לכל מי שירצה The father has the right to bequeath his assets to any heir of his choice.

The Gemara inquires בעי רבא בבריא היאך What would the Halachah be regarding a healthy person who assigned his assets to an eligible heir? Do we say כי קאמר רבי יוחנן בן ברוקה בשכיב מרע דבר אורותי הוא אבל בבריא לא Perhaps this Halachah applies only to a dying person, because since the ירושה is imminent, this can be considered ביום הנחילו. However, this Halachah does not apply to a healthy person, because since the ירושה is not imminent, this cannot be considered ביום הנחילו.

OR

אפילו בבריא נמי This Halachah applies even to a healthy person.

1

משנה

האומר איש פלוני יירשני במקום שיש בת בתי תירשני במקום שיש בן

If a מרע assigned all his assets to a distant relative as an inheritance but excluded the closer relative

רבי יוחנן בן ברוקה

אם אמר על מי שראוי לירשו

דבריו קיימין

If he assigned the assets to an eligible heir, the צוואה is effective,

והיה ביום הנחילו את בניו

The father has the authority over inheritance

פתורה נתנה רשות לאב אפילו לירשו

?

בעי רבא

בבריא היאך

What would the Halachah be regarding a healthy person who assigned his assets to an eligible heir?

Do we say

כי קאמר רבי יוחנן בן ברוקה

בשכיב מרע – דבר אורותי הוא

אבל בבריא לא

Perhaps this Halachah applies only to a dying person, because since the ירושה is imminent, this can be considered ביום הנחילו.

However, this Halachah does not apply to a healthy person, because since the ירושה is not imminent, this cannot be considered ביום הנחילו.

OR

אפילו בבריא נמי

This Halachah applies even to a healthy person.

2 The Gemara brings proof that this Halachah applies even to a בריא from a Braisa regarding כתובת בנין דכרין
 If a person's wife dies before him, he inherits all her assets and her Kesubah. When he subsequently dies, the Chachamim initiated that the sons of each wife inherit their mother's assets and כתובה, and it is not divided equally among all his children.

The Braisa states

תא שמע דאמר לו רבי נתן לרבי שניתם משנתכם כרבי יוחנן בן ברוקה רבי נתן said to רבי

Your ruling in the Mishnah in מסכת כתובות regarding בנין דכרין concurs only with רבי יוחנן בן ברוקה. The Mishnah there states

לא כתב לה בנין דיכרין וכו' חייב שתנאי ב"ד הוא

If the husband did not write the clause of בנין דכרין into the Kesubah, this stipulation is still in effect and the sons receive their mother's Kesubah, because it is an obligation imposed by the Chachamim upon all.

2 **אפילו בבריא נמי**
This Halachah applies even to a healthy person.

כתובת בנין דכרין
If a person's wife dies before him, he inherits all her assets and her Kesubah.
When he subsequently dies, the Chachamim initiated that the sons of each wife inherit their mother's assets and כתובה, and it is not divided equally among all his children.

תא שמע

דאמר לו רבי נתן לרבי שניתם משנתכם כרבי יוחנן בן ברוקה
 רבי נתן said to רבי
 Your ruling regarding בנין דכרין concurs only with רבי יוחנן בן ברוקה.

The Mishnah there states

לא כתב לה בנין דיכרין ... אינון ירתון כסף כתובתיך ... חייב

שתנאי ב"ד הוא
If the husband did not write the clause of בנין דכרין into the Kesubah, this stipulation is still in effect and the sons receive their mother's Kesubah, because it is an obligation imposed by the Chachamim upon all.

3 As the Gemara explains, רב נתן holds

ירתון נתן

The Kesubah wording for this clause is ירתון, an inheritance, in which the sons of the wife with the larger Kesubah receive a larger inheritance than the sons of the wife with the smaller Kesubah.

Now, this stipulation can take effect only according to רבי ברוקה, because he holds a father has the authority to give one son a larger ירושה than another.

However, this stipulation cannot take effect according to the חכמים, because

שהתנה על מה שכתוב בתורה

This stipulation contradicts the Hilchos ירושה in the Torah that the inheritance must be divided equally among all sons.

The above discussion proves that רבי יוחנן בן ברוקה's Halachah applies even to a בריא because he compares כתובת בנין דכרין to the Halachah of ברוקה בן רבי, and since בנין דכרין is part of the Kesubah at the time of the marriages when he is usually in good health, it must be that the Halachah of ברוקה בן רבי applies even to a בריא.

3

holds
ירתון נתן

The Kesubah wording for this clause is ירתון, an inheritance, in which the sons of the wife with the larger Kesubah receive a larger inheritance than the sons of the wife with the smaller Kesubah.

This stipulation can take effect only according to רבי יוחנן בן ברוקה, because he holds a father has the authority to give one son a larger ירושה than another.

However, this stipulation cannot take effect according to the חכמים, because

שהתנה על מה שכתוב בתורה it contradicts the Hilchos ירושה in the Torah that the inheritance must be divided equally among all sons.

The above discussion proves that רבי יוחנן בן ברוקה's Halachah applies even to a בריא because he compares כתובת בנין דכרין to the Halachah of ברוקה בן רבי, and since בנין דכרין is part of the Kesubah at the time of the marriages when he is usually in good health, it must be that the Halachah of ברוקה בן רבי applies even to a בריא.

4 The Gemara proceeds with two other explanations of the Mishnah in כתובות and the Halachah of דכרין בנן דכרין כתובת בנין דכרין is considered a מתנה while he is alive, not an inheritance after he dies. Therefore, this תנאי does not contradict the Torah, because it takes effect before he dies.

רבי נתן answered רבי יסבון תנן

The Kesubah wording for this clause is יסבון, a gift, and כתובת בנין דכרין is considered a מתנה while he is alive, not an inheritance after he dies. Therefore, this תנאי does not contradict the Torah, because it takes effect before he dies.

רבי however rejected this explanation, because דקיימא לן בנין דכרין לא טרפא ממשעבדי

cannot be extracted from properties that the father sold to others after the Kesubah was written, and this can only be true if

ירתון תנן

This feature is considered a ירושה and since it takes effect only after he dies, it cannot be collected from משועבדים;

But this cannot be true if

יסבון תנן

That this feature is considered a מתנה, because since this takes effect immediately, this can be collected even from משועבדים.

4 The Halachah of דכרין בנן דכרין כתובת בנין דכרין can concur even with the חכמים

דאמר לו רבי נתן לרבי שניתם משנתכם כרבי יוחנן בן ברוקה

רבי נתן said to רבי יוחנן
Your ruling regarding דכרין בנן דכרין concurs only with ברוקה בן ברוקה.

רבי נתן answered רבי

... אינון יסבון כסף כתובתיך תנן

The Kesubah wording for this clause is "יסבון", a gift, and כתובת בנין דכרין is considered a מתנה while he is alive, not an inheritance after he dies.

Therefore, this תנאי does not contradict the Torah, because it takes effect before he dies.

However רבי himself rejected this explanation...

דקיימא לן

בנין דכרין לא טרפא ממשעבדי

cannot be extracted from properties that the father sold to others after the Kesubah was written.

This can only be true if

ירתון תנן

This feature is considered a ירושה and since it takes effect only after he dies, it cannot be collected from משועבדים;

But this cannot be true if

יסבון תנן

That this feature is considered a מתנה, since this takes effect immediately, this can be collected even from משועבדים.

5

2. בנין דכרין for בנין דכרין אביי IS ארושה , the חכמים would agree that it takes effect, because the Kesubah mentions both, בנין דכרין , sons who receive ארושה ; and מזונות , the unmarried daughters who are not eligible for ארושה will receive support from the father's estate;

And since מזונות is definitely a מתנה;

הוה לזה במתנה ולזה בירושה

We apply the Halachah of the previous Mishnah on דף קכ"ט that states

כתב בין בתחלה בין באמצע בין בסוף משום מתנה דבריו קיימין
If a person wrote a will for ארושה with different amounts and he also added the word מתנה either in the beginning, the middle or at the end, his מתנה is effective, because as Rashi in יבמות explains

דמדאדכר לשון מתנה בהאי שטר צוואה לחד מינייהו כוליהו נמי מתנה נינהו

Since the word מתנה was used in this צוואה, it applies to all the people and fields that are mentioned in the same צוואה. Therefore, even though the clause of בנין דכרין reads ארושה, it is also a מתנה, and it can take effect.

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5

2

אביי

Even if we assume that the wording for בנין דכרין IS ארושה , the חכמים would agree that it takes effect, because the Kesubah mentions both,

מזונות

Unmarried daughters who are not eligible for ארושה will receive support from the father's estate

בנין דכרין

Sons who receive ארושה

And since מזונות is definitely a מתנה;

הוה לזה במתנה ולזה בירושה

We apply the Halachah of the previous Mishnah that states

כתב בין בתחלה בין באמצע בין בסוף

משום מתנה - דבריו קיימין

If a person wrote a will for ארושה with different amounts and he also added the word מתנה either in the beginning, the middle or at the end, his מתנה is effective,

because as Rashi in יבמות explains

דמדאדכר לשון מתנה בהאי שטר צוואה לחד מינייהו כוליהו נמי מתנה נינהו

Since the word מתנה was used in this צוואה, it applies to all the people and fields that are mentioned in the same צוואה.

Therefore, even though the clause of בנין דכרין reads ארושה, it is also a מתנה, and it can take effect.

6 The Gemara continues:
אמר רב יהודה אמר שמואל
הכותב כל נכסיו לאשתו
לא עשאה אלא אפוטרופא
If a dying person assigned all his assets to his wife, she
becomes the manager of the estate, but she does not
receive these assets, because as the Rashbam explains
אומד הדעת הוא
דאין אדם מניח את בניו ונותן הכל לאשתו
There is an assumption that a person would not exclude
his children from their inheritance. Therefore we must say
לא נתכוין אלא לעשותה אפוטרופא
כדי שיחלקו לה בניו כבוד
His intention was merely to appoint his wife to manage
the estate, so that his sons will fulfill their obligations and
give her proper respect.

6

אמר רב יהודה אמר שמואל

**הכותב כל נכסיו לאשתו
לא עשאה אלא אפוטרופא**

*If a dying person assigned all his assets to his wife,
she becomes the manager of the estate,
but she does not receive these assets,
because as the Rashbam explains*

אומד הדעת הוא

דאין אדם מניח את בניו ונותן הכל לאשתו

*There is an assumption that a person would not exclude
his children from their inheritance.
Therefore we must say*

**לא נתכוין אלא לעשותה אפוטרופא
כדי שיחלקו לה בניו כבוד**

*His intention was merely
to appoint his wife to manage the estate,
so that his sons will fulfill their obligations
and give her proper respect.*

7 The Gemara continues with several other applications of this Halachah:

1.

פשיטא בנו הגדול

לא עשאו אלא אפוטרופוס

If he assigned all his assets to his oldest son, the same is true; the son becomes a אפוטרופוס but he does not inherit all the assets, because ®

רוצה הוא שיחלקו לו אחיו כבוד

שהרי חייבין בכבודו

The father wants his sons to give respect to their oldest brother.

2.

And even regarding

בנו קטן המוטל בעריסה

לא עשאו אלא אפוטרופוס

If he assigned all his assets to his youngest son lying in the cradle, he becomes an אפוטרופוס but he does not inherit all the assets, because

רוצה הוא בכבודו

3.

Regarding

אחר

במתנה

If a person assigned all his assets to a complete stranger he receives all the assets, and does not become an אפוטרופוס, because ®

לכבודו לא חייש

The father is not concerned for his honor, and if his intention was that he becomes an אפוטרופוס, he should have specified so.

7

Several applications of this Halachah

1

**פשיטא בנו הגדול
לא עשאו אלא אפוטרופוס**

If he assigned all his assets to his oldest son, the same is true - the son becomes a אפוטרופוס but he does not inherit all the assets,

because

רוצה הוא שיחלקו לו אחיו כבוד

שהרי חייבין בכבודו

The father wants his sons to give respect to their oldest brother.

2

**בנו קטן המוטל בעריסה
לא עשאו אלא אפוטרופוס**

If he assigned all his assets to his youngest son lying in the cradle, he becomes an אפוטרופוס but he does not inherit all the assets,

because

רוצה הוא בכבודו

3

**אחר
במתנה**

If a person assigned all his assets to a complete stranger he receives all the assets, and does not become an אפוטרופוס,

because

לכבודו לא חייש

The father is not concerned for his honor, and if his intention was that he becomes an אפוטרופוס, he should have specified so.

8

4.

אשתו ארוסה
ואשתו גרושה
במתנה

If he assigned his assets to a wife who was only engaged to him but not yet married, or to his divorcee, she acquires all the assets, and does not become an אפוטרופוס, because

כיון דלא גייס בהו
לא חשש בכבודן

Since they are not intimate, he is not concerned for her honor.

=====

8

4

**אשתו ארוסה
ואשתו גרושה
במתנה**

If he assigned his assets to a wife who was only engaged to him, or to his divorcee, she acquires all the assets, and does not become an אפוטרופוס,

because

כיון דלא גייס בהו
לא חשש בכבודן

Since they are not intimate, he is not concerned for her honor.

9

The Gemara inquires about the following:

1.

איבעיא להו
בת אצל הבנים מהו

What is the Halachah if he wrote all his assets to his daughter and excluded his sons from their ירושה?

Is this considered a מתנה, because

לא חש לכבודה

A father is not concerned for his daughter's honor.

OR

She becomes an אפוטרופוס, because

חש לכבודה

A father IS concerned for his daughter's honor;

As when the assets are not sufficient for both the daughter's מזונות and the son's ירושה, the daughter gets all the assets for מזונות to maintain her honor.

2.

אשה אצל בני הבעל מהו

What is the Halachah if he wrote all his assets to his wife, and excluded his sons from a different wife?

Is this considered a מתנה, because their obligation to respect her is secondary, and

לא חש לכבודה

OR

She becomes an אפוטרופוס, because

חש לכבודה

9

?

**איבעיא להו
בת אצל הבנים מהו**

What if he wrote all his assets to his daughter and excluded his sons from their ירושה?

She becomes an אפוטרופוס, because

חש לכבודה
A father

IS concerned for his daughter's honor.

Is this considered a מתנה, because

לא חש לכבודה
A father

is not concerned for his daughter's honor.

As when the assets are not sufficient for both the daughter's מזונות and the son's ירושה, the daughter gets all the assets for מזונות to maintain her honor.

?

אשה אצל בני הבעל מהו

If he wrote all his assets to his wife, and excluded his sons from a different wife?

She becomes an אפוטרופוס, because

חש לכבודה

Is this considered a מתנה, because

לא חש לכבודה
because their obligation to respect her is secondary.

10

3.
אשה אצל האחים מהו
If he had no sons or father, and he wrote all his assets to his wife, and excluded his brothers from their ירושה;
Is this considered a מתנה, because they have no obligation to give her respect; therefore
לא חש לכבודה
OR
She becomes an אפוטרופוס, because אשתו כגופו, he wants everyone to give his wife respect as they would for him; therefore
חש לכבודה

רבנא משמיה דרבא says
בכולהו לא קנה
In all these cases, she becomes an אפוטרופוס and does not acquire the assets, aside for
אשתו ארוסה ואשתו גרושה
And accordingly
בת אצל הבנים
לא קנה

While רב עורא משמיה דרבא says
בכולהו קני
In all these cases, she acquires the assets and does not become an אפוטרופוס, aside for
האשה אצל האחין
ואשה אצל בני הבעל
And accordingly
בת אצל הבנים
קנה

This discussion continues in the next Daf.

10

?

אשה אצל האחים מהו

If he had no sons or father, and he wrote all his assets to his wife, and excluded his brothers from their ירושה.

אפוטרופוס, because

חש לכבודה

אשתו כגופו, he wants everyone to give his wife respect as they would him.

מתנה, because

לא חש לכבודה

they have no obligation to give her respect.

רב עורא משמיה דרבא

בכולהו קני

In all these cases, she acquires the assets and does not become an אפוטרופוס, aside for

האשה אצל האחין ואשה אצל בני הבעל

And accordingly

בת אצל הבנים

קנה

רבנא משמיה דרבא

בכולהו לא קנה

In all these cases, she becomes an אפוטרופוס and does not acquire assets, aside for

אשתו ארוסה ואשתו גרושה

And accordingly

בת אצל הבנים

לא קנה