



בס"ד

Intro

Today we will בע"ט learn מסכת בבא בתרא of דף מ"ט learn מסכת בבא בתרא Some of the topics we will learn about include.

The incident of

חתם רבה בר בר חנה

אמודעא ואאשקלתא

חנה בר חבה signed as a witness, on both, the שטר מודטא

The document in which the seller declared that he was coerced to make the sale; and then on the

אשקלתא

The sale document

The Machlokes regarding

העדים שאמרו מודעא היו דברינו

If witnesses were signed on a שטר, and they later authenticated the שטר, but added that the שטר is invalid, because it was a מודעה, do we accept their testimony or not?



All agree regarding עדים שאמרו אמנה היו דברינו

איו נאמניו

If witnesses were signed on a שטר, and they later authenticated the שטר, but added that the שטר is invalid, because it's a

שטר אמנה

A שטר written with trust for a potential loan, but no actual loan took place;

Their testimony is not accepted.

כיון שהגיד שוב אינו חוזר ומגיד

Once עדים present their testimony, they cannot retract and change their testimony.

אין אדם משים עצמו רשע

A witness is not believed to say that he committed a עבירה









The previous Mishnah's Halachah of לא לאיש חזקה בנכסי אשתו

If a husband ate all the produce of his wife's field for three years, this is not a proof that he bought the field from her, as the Gemara explains

דכתב לה דין ודברים אין לי בנכסייך

The Mishnah refers to a husband who wrote a declaration saying that he is מטלק זכותו; he relinquishes his rights to the profits of his wife's assets; and even so אין לאיש חזקה

Because

אין אשתו מקפדת אם יאכל הפירות שלא כדין

A wife generally does not object to her husband eating her produce even those that he is not entitled to.

האומר אי אפשי בתקנת חכמים שומעין לו

A person can reject an upcoming privilege awarded him by the ארכמים, because it was only enacted for his benefit. Similarly,

יכולה אשה לומר לבעלה

איני ניזונת

ואיני עושה

A woman can tell her husband I will not accept support, and in return I will keep my earnings.

However regarding

נחלה דאורייתא

לא אמר כלום

A person cannot reject an upcoming privilege awarded him by the תורה, such as an inheritance.









So let's review ...

The Gemara continues the discussion of תליוהו וזבין זביניה זביני

And proceeds with the following incident;

טאבי תלא לפאפי אכינרא

וזבין

טאבי hung פאפי on a tree, and coerced him to sell his field;

חתם רבה בר בר חנה

אמודעא ואאשקלתא

רבה בר חנה signed as a witness, on both the

The document in which פאפי, the seller, declared that he was coerced to make the sale, and then also signed on the אשקלתא

The sale document

רב הונא commented on this incident;

מאן דחתים אמודעא

שפיר חתים

The שטר מודעא is effective in nullifying the sale.

And,

אי לאו מודעא

מאן דחתים אאשקלתא שפיר חתים

Had there not been a שטר מודעא the sale would have been effective, even though it was through coercion, because תליוהו וזבין זביניה זביני

תליוהו וזבין זביניה זביני

טאבי תלא לפאפי אכינרא וזבין

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תתם רבה בר בר חנה אמודעא ואאשקלתא

רבה בר בר חנה signed as a witness, on both the

אשקלתא The sale document

The document
in which פאפי, the seller,
declared that he was
coerced to make the sale



KID 27 commented on this incident;

מאן דחתים אמודעא שפיר חתים

The שטר מודעא is effective in nullifying the sale And,

אי לאו מודעא מאן דחתים אאשקלתא שפיר חתים

Had there not been a **שטר מודעא** the sale would have been effective, even though it was through coercion

> Because איופו וזבין זביקידי זביקי



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However, the Gemara asks, why is the שטר מודעא effective?

והאמר רב נחמן

העדים שאמרו מודעא היו דברינו

אין נאמנין

If witnesses were signed on a שטר, and they later authenticated the שטר, but then added that the שטר is invalid, because there was a מודעה, their testimony is not accepted, because as the רשב"ם explains

תרוייהו מודו דשטרא מעליא הוא

ועכשיו באין לבטלו ע"י עדות מודעא

The עדים first admitted to the authenticity of the שטר, and now wish to disqualify it. This is not accepted, because כיון שהגיד שוב אינו חוזר ומגיד

Once עדים present their testimony, they cannot retract and change their testimony?

The Gemara answers with the following distinction: ה"מ על פה

אין נאמנין

Only where the witnesses first signed the שטר, and then gave oral testimony of מודעא;

Their testimony is not accepted, because

דלא אתי על פה ומרעא לשטרא

As the רשב"ם explains אין עדות אחרון מבטל את הראשון

דאינו חוזר ומגיד

The later testimony of מודעא cannot disqualify the earlier testimony of the שטר which they admitted was written appropriately, because עדים cannot retract and change their testimony.

אבל בשטרא

נאמנין

But where the witness first signed a שטר מודעא, and then signed the שטר מכירה, as דבר בר בר בר did;

Their testimony is accepted, because

אתי שטרא ומרעא לשטרא

An earlier testimony of מודעא can disqualify a later testimony of the שטר, because it was written beforehand.

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The Gemara proceeds with a Machlokes רב נחמן ומר בר רב אשי They both agree in a case of

עדים שאמרו אמנה היו דברינו

אין נאמנין

If witnesses were signed on a שטר, and they later authenticated the שטר, but added that the שטר is invalid, because it's a שטר אטנה

A wortten with trust for a potential loan, but no actual loan took place;

Their testimony is NOT accepted.

However they disagree in a case of

עדים שאמרו מודעא היו דברינו

In which the witnesses added that the שטר is invalid, because the מוכר, the seller, was מוסר מודעא, he declared that he was coerced to make the sale.

רב נחמן אמר

אין נאמנין

Their testimony is not accepted

While

מר בר רב אשי אמר

נאמנין

Their testimony is accepted.

And as the רשב"ם explains the Machlokes is as follows; holds, in both case אין נאמנין because in both cases there is an issue of

כיון שהגיד שוב אינו חוזר ומגיד

The עדים first admitted to the authenticity of the עדים first admitted to the authenticity of the עדים, and now they wish to disqualify the שטר, in which we say that עדים cannot retract and change their testimony.

While מר בר רב אשי holds that in both cases there is no issue of כיון שהגיד שוב אינו חוזר ומגיד כיון שהגיד שוב אינו חוזר ומ

Because

מילתא אחריתי קמסהדי

They only disqualify the שטר indirectly by stating אמנה and מודעא. This is not considered חוזר ומגיד.

However, according to אר בר רב אשי , there is another distinction between אמנה and אודעא as follows:

אמנה היו דברינו

אין נאמנין

Because,

זה לא ניתן ליכתב

As the רשב"ם explains

כיון דעולה הוא

אעולה לא חתמי

ואין אדם משים עצמו רשע

Since one is forbidden to write and hold on to a אטר אמנה, a witness is not believed to say that he signed a שטר אמנה, because there is an עשר involved.

However,

מודעא היו דברינו

נאמנין

Because

וה ניתן ליכתב

Since one is permitted to compose a שטר מודעא, a witness is believed to say that he signed a שטר מודעה, because there is no עבירה involved.

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The Gemara proceeds with the Mishnah on דף מב אחו דף לא לאיש חזקה בנכסי אשתו

If a husband ate all the produce of his wife's field for three years, this is not proof that he bought the field from her.

The Gemara asks, פשיטא, this Halachah is self-understood, because כיון דאית ליה לפירא

פירא הוא דקאכיל

Since it is well-known that the Kesubah entitles a husband to his wife's profits, his taking the produce or profits does not indicate ownership, and there was no need for her to make a מחאה?

The Gemara explains לא צריכא

דכתב לה דין ודברים אין לי בנכסייך

The Mishnah refers to a husband who wrote a declaration saying that he relinquishes his rights to his wife's assets; in which he is no longer entitled to her profits, and even so אין לאיש חזקה

Because

אין אשתו מקפדת אם יאכל הפירות שלא כדין

A wife generally does not object to her husband eating her produce even those that he is not entitled to.









The Gemara explains that although האומר לחבירו האומר לדבירו דין ודברים אין לי על שדה זו

ין ודברים אין כי על שדה זו ---- לי ייפר ב-

ואין לי עסק בה

וידי מסולקת הימנה

If a land owner states that he has no claim to a field; OR that he will not have any dealings with the field; OR that he relinquishes ownership of the field; לא אמר כלום

His statement is not effective and he still owns the field, because there is no such transaction as removing one's ownership. As the שרשב"ם writes;

עד שיאמר לחבירו

שדי נתונה לך שדי מכורה לך

שדי מופקרת לכל מי שירצה

He must say or write a term of gifting, selling, or declaring it ownerless, which is different than סילוק.

However, in the Mishnah's case, the term ידי מסולקת הימנה is effective, because it refers to where בכותב לה ועודה ארוסה

He wrote this statement before נשואין, while still in אירוסין, BEFORE he acquired the rights to her פירות; and האומר אי אפשי בתקנת חכמים שומעין לו

A person can reject an upcoming privilege awarded him by the חכמים. As the רשב"ם explains;

שאם אינו חושש בטובה שעשו לו חכמים

לא ניתן לו בעל כרחו

שלדעתו תקנוה חכמים

Since the initiative was only enacted for his benefit, he can reject it. ®

The Gemara explains that although האומר לחבירו

וידי מסולקת הימנה

He relinquishes ownership of the field ואין לי עסק בה

He will not have any dealings with the field דין ודברים אין לי על שדה זו He has no claim to a field

לא אמר כלום

His statement is not effective and he still owns the field

Because there is no such transaction as removing one's ownership

However, in the Mishnah's case,

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Similarly, יכולה אשה לומר לבעלה איני ניזונת ואיני עושה

A woman can tell her husband I will not accept support, and in return I will keep my earnings.

However regarding נחלה דאורייתא לא אמר כלום

A person cannot reject an upcoming privilege awarded him by the תורה, such as an inheritance, because בעל כרחו שלו יהא

The Torah gives him this benefit even against his will, therefore

יתננה לאחרים בלשון מתנה

He must say or write a term of gifting it to the other person. 8

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Regarding the Mishnah's statement לא לאיש חזקה בנכסי אשתו The Gemara points out that it implies לא לאיש חזקה הא ראיה יש

Only a חוקה is not a proof of ownership, but a שטר, a sale document IS a valid proof that his wife sold him her field.

And the Gemara asks:

Why is a שטר valid proof of ownership? תימא נחת רוח עשיתי לבעלי

The wife can claim, she only agreed to please her husband, but in reality she did not agree to the sale? As we find this in a Mishnah in מסכת גיטין לקח מן האיש וחזר ולקח מן האשה לקח מן האיש וחזר ולקח מן האשה

If a person bought a field that was designated for her Kesubah from the husband, and afterward he bought it from the wife, the sale is NOT effective to remove her lien from this field. Apparently, because דאמרה נחת רוח עשיתי לבעלי

The wife claims that she only agreed to please her husband, but in reality she did not agree to the sale. If so, here too,

תימא נחת רוח עשיתי לבעלי

The Gemara answers that it all depends on what kind of field was sold, as elaborated in the next Daf.





