

**A** <sup>נס"ד</sup>  
Intro

Today we will learn בע"ט of מסכת כתובות דף ע"ט  
Some of the topics we will learn about include.

A way that a wife is able to arrange that her properties should be לבעל נכסים שאינן ידועין לבעל so that they remain fully hers and don't become נכסי מלוג

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The דין for what is done with items that a wife inherits while she is married

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**A**

*A way that a wife is able to arrange that her properties should be*  
**נכסים שאינן ידועין לבעל**

*So that they remain fully hers and don't become נכסי מלוג*

Items that a wife

**INHERITS**

while she is married

**B**

The דין of what is done in a case where a wife owns old slaves or old trees that if they die the wife will lose her קרן and the husband will lose his פירות.

קרקע או מטלטלין נכסי מלוג, land or movable objects, which are NOT assessed and written into the כתובה. They remain in her possession, she owns the גוף, and the husband merely has the rights to its פירות, its produce or profits.

**B**

**OLD SLAVES**      **OLD TREES**

*If they die the wife will lose her קרן and the husband will lose his פירות*

**נכסי מלוג**

1 So let's review ...

Our דף begins by teaching that a wife can prevent her properties from becoming נכסי מלוג by writing a שטר פסים that she is giving away ALL of her properties to another person. In this way she accomplishes 2 things:

1. The properties do not become נכסי מלוג, because they are now נכסים שאינן ידועים לבעל

2. These properties also do not become the property of the recipient. Rather, she still retains ownership, because we say that a person will not give away ALL of their נכסים; it was just done to prevent the husband from gaining ownership over it.

However, if she only wrote a שטר פסים for SOME of her properties, the recipient can claim ownership of the properties in the שטר, because a person sometimes does give away part of their נכסים.

In order to avoid this, the wife must write in the שטר מהיום ולכשארצה

The שטר is only effective if she later approves of it. This way she can later say that she does not approve of it  
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1

A wife can prevent her properties from becoming נכסי מלוג by writing a

**שטר פסים**

that she's giving her properties to another person

She accomplishes 2 things:

1  
The properties do not become נכסי מלוג  
Because they are now נכסים שאינן ידועים לבעל

2  
ALL her properties:  
They do not become the property of the recipient  
We say a person will not give away all of their נכסים

SOME of her properties  
The recipient can claim ownership  
A person sometimes gives away part of their נכסים

To avoid this she must write מהיום ולכשארצה

2

The next משנה continues the discussion of נכסי מלוג - Which is קרקע או מטלטלין, land or movable objects - in which the גוף, the principal belongs to the אשה, the wife, and the פירות, the fruits or profits, belong to the בעל, the husband.

זאקט די משנה נפלו לה כספים

ילקח בהן קרקע והוא אוכל פירות

If a wife inherits money it is not given to the husband, because when he uses it the wife might lose the קרן.

Rather, land is bought with it and the husband gets the פירות.

Similarly, פירות התלושין מן הקרקע

ילקח בהן קרקע והוא אוכל פירות

If a wife inherits detached produce - which if eaten, will leave no קרן - therefore, this produce is considered קרן, and land is bought with it and the husband gets the פירות.

However, פירות המחוברים בקרקע

If a wife inherits land with produce attached to it; Obviously, the land remains נכסי מלוג, the גוף hers, the future פירות his. However, how do we deal with the existing produce? Are they considered קרן, and hers, or פירות, and his? There is a מחלוקת:

2

מל"ב:

פירות התלושין מן הקרקע

ילקח בהן קרקע והוא אוכל פירות

Because if eaten קרן he will leave no

נפלו לה כספים

ילקח בהן קרקע והוא אוכל פירות

Because when he uses it the wife might lose the קרן

**פירות המחוברים בקרקע**

The גוף hers, the future פירות his  
How do we deal with the existing produce?

3 אמר רבי מאיר שמין אותה כמה היא יפה בפירות וכמה היא יפה בלא פירות ומותר ילקח בהן קרקע והוא אוכל פירות We view the produce as part of the land, and we assess the value of the land with or without the produce. The difference is considered קרן, from which land will be bought which will be like all מלוג, the גוף hers, the פירות his.

Rashi explains;

מה שלא גדל ברשותו הוי קרן

That which grew BEFORE she acquired it, is considered קרן when acquired. However,

מה שגדל ברשותו הוי פירות

That part which continues to grow after their acquisition is considered פירות, which is entirely his.

וחכמים אומרים

המחוברים לקרקע שלו

We view the attached produce as פירות, and they belong to the husband. As Rashi explains the reasoning of the Chachamim;

אף אלו שלא גדלו ברשותו

תורת פירות נתנו בהן

הואיל והקרקע קיימת לה

The Chachamim considered the attached produce פירות since she retains the land as קרן.

The חכמים reiterate that which the Mishnah stated earlier; והתלושין מן הקרקע שלה

וילקח בהן קרקע והוא אוכל פירות

Only if a wife inherits detached produce is it considered קרן, from which land is bought and the husband gets the פירות.

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<p><b>וחכמים אומרים</b></p> <p>▼</p> <p><b>המחוברים לקרקע שלו</b></p> <p>⤴</p> <p><i>We view the attached produce as פירות</i></p> <p>אף אלו שלא גדלו ברשותו תורת פירות נתנו בהן הואיל והקרקע קיימת לה</p> <p>▼</p> <p><b>והתלושין מן הקרקע שלה וילקח בהן קרקע והוא אוכל פירות</b></p>	<p><b>אמר רבי מאיר</b></p> <p>▼</p> <p><b>שמין אותה כמה היא יפה בפירות וכמה היא יפה בלא פירות ומותר ילקח בהן קרקע והוא אוכל פירות</b></p> <p>⤴</p> <p><i>The difference is considered קרן</i></p> <p>מה שלא גדל ברשותו הוי קרן מה שגדל ברשותו הוי פירות</p>
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4 The Gemara concludes with an opinion that seems to be the same as the חכמים:

רבי שמעון אומר  
מקום שיפה כחו בכניסתה  
הורע כחו ביציאתה

If the husband has the advantage when it enters his wife's possession, he has the disadvantage when they get divorced

מקום שהורע כחו בכניסתה  
יפה כחו ביציאתה

If the husband has the disadvantage when it enters his wife's possession, he has the advantage when they get divorced

כיצד  
פירות המחוברים לקרקע  
בכניסתה שלו  
וביציאתה שלה

Attached fruits, when they enter the wife's possession, go to the husband when harvested, because they're considered פירות.

Nevertheless, upon divorce, they go to the wife along with the property to which they're attached, since they're not ready to be harvested.

The Gemara later says that the Chachamim disagree with the last point, and hold that they go to the husband when harvested, because they're considered פירות.

והתלושין מן הקרקע  
בכניסתה שלה  
וביציאתה שלו

Detached fruits, when they enter her possession, they are hers, because these fruits are considered קרן, since she acquired them now.

However, upon divorce, they are his, because they're considered פירות, since they were harvested while they were married.

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5 The Gemara proceeds with a number of related discussions:

The קרקע that is bought has an order of preference - and therefore, if the husband and wife disagree on what to buy the order is as follows:

1. ארעא, Land
2. בתי, Houses
3. דיקלי, Palm trees
4. אילני, Fruit trees
5. גופני, Grapevines

The Gemara next defines what is considered קרן, or פירות, in a case of a tree used for its wood:

כללא דמילתא  
גזעו מחליף  
פירא

If the trunk replenishes itself and grows new branches, the wood is פירות, because she is left with the trunk which is קרן, since it will continue to produce.

אין גזעו מחליף

קרן

If the trunk will not replenish itself, the entire tree is considered קרן, and the husband may not cut it down for wood.

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5

The קרקע that is bought has an order of preference

If the husband and wife disagree the order is as follows

Land **ארעא**

Houses **בתי**

Palm trees **דיקלי**

Fruit trees **אילני**

Grapevines **גופני**



A tree used for its wood:

**כללא דמילתא**

**אין גזעו  
מחליף  
קרן**

**גזעו  
מחליף  
פירא**

6 The next משנה presents 2 cases in which there is a מחלוקת: זאקט די משנה

נפלו לה עבדים ושפחות זקנים

If a wife inherits old עבדים ושפחות, and if they die the wife will lose her קרן and the husband will lose his פירות;

The תנא קמא says

ימכרו וילקח מהן קרקע

והוא אוכל פירות

They shall be sold to buy land, which will be hers, and he will enjoy the פירות.

רבן שמעון בן גמליאל אומר

לא תמכור

מפני שהן שבה בית אביה

The wife has the authority to stop her husband from selling them, because they represent the prestige of her father's home.

6

נפלו לה עבדים ושפחות

**זקנים**

If they die the wife will lose her קרן and the husband will lose his פירות

רבן שמעון בן גמליאל

תנא קמא

לא תמכור

ימכרו

מפני שהן שבה בית אביה

וילקח מהן קרקע והוא אוכל פירות

7 Similarly,  
נפלו לה זיתים וגפנים זקנים  
If a wife inherits old olive trees and grapevines, and if they die the wife will lose her קרן and the husband will lose his פירות;  
The תנא קמא says  
ימכרו וילקח בהן קרקע  
והוא אוכל פירות  
They sell them and buy land, and the husband has the rights to the פירות.  
רבי יהודה אומר  
לא תמכור  
מפני שהן שבח בית אביה  
The wife may object to her husband selling them, because they represent the prestige of her father's home.

7

נפלו לה זיתים וגפנים זקנים

רבי יהודה

לא תמכור מפני שהן שבח בית אביה

תנא קמא

ימכרו וילקח מהן קרקע והוא אוכל פירות

8 The גמרא qualifies;  
אמר רב כהנא אמר רב מחלוקת בשדה שאינה שלה  
This מחלוקת is only in a case where the trees were growing in a field that belonged to another person. In that case the תנא קמא holds that the wife does NOT have the authority to stop her husband from selling them, because the trees will eventually die and there will be nothing left in terms of שבח בית אביה anyway.

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The גמרא qualifies;  
אמר רב כהנא אמר רב

אבל בשדה שלה

מחלוקת בשדה שאינה שלה

דברי הכל לא תמכור מפני שבח בית אביה

רבי יהודה לא תמכור מפני שהן שבח בית אביה

תנא קמא ימכרו וילקח מהן קרקע והוא אוכל פירות

Because even though the trees will die the land they are on will remain to represent שבח בית אביה anyway.

Because the trees will eventually die and there will be nothing left in terms of שבח בית אביה anyway.

אבל בשדה שלה  
דברי הכל לא תמכור  
מפני שבח בית אביה  
However, if the wife also inherited the land that the trees were growing on, the תנא קמא agrees that the wife has the authority to stop her husband from selling them, because even though the trees will die the land they are on will remain to represent שבח בית אביה.