



בס"ד Intro

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

The Halachah of רבי עקיבא that תפיסה מחיים

מהניא

When a claimant confiscates נכסי המת, the deceased's assets, while he was still alive, the confiscation IS effective.

However

תפיסה לאחר מיתה

לא מהניא

When the claimant confiscates נכסי המת, after he died, the confiscation is NOT effective.

The case of a נפקד, safe guarder, who was תופס מחיים In which it is considered a תפיסה לאחר מיתה

The Halachah of מחזי כשיקרא לא אמרינן, there is NO concern for false impressions;

As in the cases of one composing a שטר חום, loan document, before the occurrence of the actual loan; and the case of someone who composes a אשרתא, a document attesting to קיום שטרות, before the occurrence of the actual קיום.

The Halachah for one that claims a פקדון, safe guarded item, מיתת הנפקד, after the safe guarder passed away.

The Halachos for the case of האומר נכסי לטוביה A dying man who stated that his estate shall be given to a man named Tuvyah, but he did NOT specify which Tuvyah; The Halachah of רבי עקיבא

תפיסה לאחר מיתה תפיסה מחיים

לא מהניא

מהניא

The case of a safe guarder who was תופס מחיים



מחזי כשיקרא לא אמרינן



One that claims a safe guarded item after the safe guarder passed away



האומר נכסי לטוביה

But he did not specify which Tuvyah







1 So let's review ...

The Gemara in the previous Daf taught that the Halachah is like רבי עקיבא that

תפיסה מחיים

מהניא

When a claimant confiscates נכסי המת, the deceased's assets, while he was still alive, the confiscation IS effective.

However,

תפיסה לאחר מיתה

לא מהניא

When the claimant confiscates נכסי המת, after he died, the confiscation is NOT effective.

The Gemara taught
the Halachah is like תפיסה
תפיסה
מחיים לאחר מיתה
מהניא לא מהניא

The Gemara mentions an incident
ההיא איתתא דהוו מיפקדי גבה מלוגא דשטרי
אתו יורשים קא תבעי ליה מינה
אמרה להו מחיים תפיסנא להו

A person entrusted a woman with a package of loan documents. After he died, the יורשים claimed that they own the package - While the woman claimed that she already possessed the package while he was alive, with which she wishes to collect a debt.

רב נחמן ruled that she is NOT entitled to the package, because this is considered a

תפיסה דלאחר מיתה

As Rashi explains because

היו פקדון בידה

והרי הן כמונחין ברשותיה

She possessed the package for safeguarding, in which it it's Halachically considered to be in the deceased's possession.

However,

אית ליך סהדי דתבעוה מיניך מחיים

ולא יהבית ניהליה

If she provides witnesses that the deceased demanded his package and she refused to return it, she IS entitled to the package, because this is considered a תפיסה מחיים, because he retained the package, לשם חוב, for her debt

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The Gemara mentions another incident that involves a claimant to נכסי המת:

ההוא גברא דאפקיד שב מרגניתא דציירי בסדינא

בי רבי מיאשא בר בריה דר' יהושע בן לוי

A person entrusted רבי מיאשא to safeguard a packet that contained 7 pearls.

שכיב רבי מיאשא ולא פקיד

רבי מיאשא died without leaving instructions.

The person claimed the packet, while the יורשים claimed that their father רבי מיאשא owned the packet. רבי מיאשי ruled that that the person is entitled to the packet for two reasons;

One:

דידענא ביה בר' מיאשא בר בריה דר' יהושע בן לוי דלא אמיד

This packet certainly did NOT belong to רבי מיאשא, because אבי מיאשא was known not to be wealthy.

Two:

הא קא יהיב סימנא

This person provided the correct indications of the packet.

אבל רגיל דעייל ונפיק להתם

However, if this person frequented ירבי מיאשא's home, he is NOT entitled to the packet, because

אימא איניש אחרינא אפקיד

ואיהו מיחזא חזא

Perhaps the packet belongs to another person, and he observed the indications while visiting רבי מיאשא.

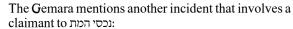
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ההוא דאמר להו נכסיי לטוביה

שכיב

אתא טוביה

A dying man stated that his estate shall be given to a man named Tuvyah, but he did NOT specify which Tuvyah; and a man named Tuvyah came forth to claim the estate. א"ר יוחנן

הרי בא טוביה

רבי יותנן ruled that this Tuvyah is entitled to the estate, because we assume that he is the said Tuvyah.

However in a case where

אמר טוביה

ואתא רב טוביה

That the הום said Tuvyah, and a man named Rav Tuvyah came forth;

Rav Tuvyah is NOT entitled to the estate, because לטוביה אמר

לרב טוביה לא אמר

The מת said Tuvyah, NOT Rav Tuvyah.

## However,

ואי איניש דגיס ביה

הא גיס ביה

If the מת and Rav Tuvyah were friends, Rav Tuvyah IS entitled to the estate, because the מת referred to him by his first name.





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In a case in which

אתו שני טוביה

Two men named Tuvyah came forth to claim the estate: עוכו

ותלמיד חכם

If one was a neighbor, while the other was a Talmud Chacham;

OR

קרוב

ות"ח

One was a relative, while the other was a Talmud Chacham; in both cases;

תלמיד חכם קודם

The Talmud Chacham is entitled to the estate. As Rashi explains because

אדם מצדיק מעשיו

לזכות בשעת מיתה

One on his deathbed seeks to perform good deeds, and there is a Mitzvah to support a Talmud Chacham.

In a case in which אתו שני טוביה
שכן קרוב
ותלמיד חכם ותלמיד חכם
תלמיד חכם קודם

Because
אדס מלדיק מעשיו
לזכות נשעת מיתה

The Gemara asks; איבעיא להו

שכן וקרוב מאי

What is the ruling when one was a neighbor, while the other was a relative?

And the Gemara answers that the neighbor is entitled to the estate

Because the Pasuk in Mishlei states

טוב שכן קרוב מאח רחוק

A close neighbor is better than a distant brother.







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שניהם קרובים ושניהם שכנים ושניהם חכמים ושניהם חכמים In which they were both relatives, OR they were both neighbors OR they were both Talmudei Chachamim שודא דדייני

It's up to the discretion of the Dayanim.

There is a well-known מחלוקת רש"י ותוספות in the explanation of שודא דדייני:

Rashi says; למי שיש לומר

בו נתכוין המת לזכות

The Dayanim evaluate which one was closest to the deceased, or which one is most pious, and we assume that he is the Tuvyah that the deceased had in mind.

Tosfos says; שהדיין יתן למי שירצה

The Dayan may give it to whomever he wants.





