DAF A WEEK
דף השבוע
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לע"נ ברוך בענדיט וברכה גרוס ע"ה
BY MR. & MRS. DUVY GROSS

# שבוע Matters

THE DIMONT FAMILY EDITION
לע"נ אסתר אביגיל בת חיה רבקה וציפורה רחל בת אסתר מחלה
שבת קודש פרשת תזריע | מסכת כתובות דף פ"ג

## INSIGHTS FROM OUR CHABUROS

### A written or verbal statement of intent to relinquish rights

תני רבי חייא האומר לאשתו. וכי כתב לה הכי מאי הוי והתניא האומר לחבירו

Rashi explains that the novelty of Rabbi Chiya is that it is not necessary for the husband to actually record his intentions in written form to deny rights to his wife's מלוג property, and it is not necessary for him to perform a formal transaction (קנין). It is enough for him to state his intentions in order to avoid or deny these rights.

The Gemara proceeds to cite a Baraisa where we find that a mere statement on the part of a partner to relinquish his rights is not sufficient. The Gemara finds the ruling in the Baraisa to be in conflict with Rabbi Chiya, and it continues to answer the question. However, according to Rashi, we have to wonder why the Gemara finds the Baraisa to be conflicting with the Mishnah. There seems to be an obvious difference, and that is that a written statement does work to remove one's rights (as we find in the Mishnah), whereas an oral statement is inadequate (as we find in the Baraisa). We also cannot say that the Gemara is coming to ask against Rabbi Chiya who explains that the case of the Mishnah itself is dealing with oral statements, because if this was the case, the Gemara would not have introduced its question by saying "Is writing such a statement valid?" Rather, the Gemara would have asked, "Is an oral statement adequate?"

Ritva explains the question of the Gemara in two ways. We see in the Baraisa that the expression which denies an established legal association—"דין ודברים אין לי/ I have no claim or argument..."— is not a binding expression. In other words, this expression is not valid, and it does not seem that it is only because it is said verbally, but even if it were to be written it is simply an inadequate statement.

Alternatively, Ritva explains that the Gemara detected that once Rabbi Chiya explains that the Mishnah is dealing in a case of an oral statement, and not necessarily where the intent of the husband was written, we now see that the document mentioned is only for proof (שטר ראיה), and no קנין was made. The Gemara's question is that if the husband cannot relinquish his rights, as we see in the Baraisa, what, then, is the case of the Mishnah?

## REVIEW AND REMEMBER

1. What language must a husband use to relinquish all his rights in his wife's property?
2. Is a person bound by Rabinic enactments made for his benefit?
3. How did Chazal express the idea "One in the hand is worth two in the bush"?
4. What is "produce of produce"?

## STORIES OF THE DAF

### The Inverse Kesubah

"יכולה אשה שתאמר לבעלה איני ניזונת ואיני עושה..."

As we see from today's daf, a woman has the right to say to her husband, "Don't provide for me and my salary will be exclusively mine." Strangely enough, some men feel as though they have the right to say the inverse: "You work. I don't want the responsibility to provide for you."

Once, there was a Rav who traveled to Eretz Yisrael and left his wife and children in Chutz La'aretz, with no livelihood to speak of. A certain man collected money for this Rav's upkeep, who had left instructions that only twenty percent of the money be given to his abandoned wife.

The poor woman complained to her local Rav, "This was far too little to cover even our most basic needs!"

The local Rav didn't know what to do. He wanted to allocate the entire sum for the poor woman. Although he could technically do so, the general rule is that one may not change the beneficiary of charity money without explicit permission from the donors. So how could he just allocate money given for the upkeep of the Rav in Eretz Yisrael for use by his abandoned wife and family in Chutz La'aretz?

He decided to consult with the Chasam Sofer, zt"l. "This man should be fined in every way possible to bring him to his senses and force him to support his wife and children! The people who gave the money to support him in Eretz Yisrael wish to enable him to stay in Eretz Yisrael. Supporting his family is also important to enable him to live in Eretz Yisrael. This is why he has the right to allocate the twenty percent to his family. If he doesn't completely provide for his family we will have to make waves by publicizing his despicable act until he has no choice but to return and make sure his family is amply provided for. So allocating the entire sum to his family is actually saving him embarrassment and enabling him to stay in Eretz Yisrael. However, it is better to warn him first and get his permission. In the meantime she should use only twenty percent and the rest should be held in escrow."

## HALACHA HIGHLIGHT

### Can a Shadchan refuse payment and then change his/her mind?

אמרי דבי ר' ינאי בבותב לה ועודה ארוסה

*D'vei R' Yannai explain [that the husband's statement to relinquish his rights to his wife's property is effective] when he writes it while she is still an* ארוסה.

Rabbeinu Nissim[1] writes that just as it is not possible to acquire an object that does not yet exist, so too it is not possible for a person to waive a right (מוחל) that does not yet exist. Therefore, if Reuven waives the right to a gift and subsequently accepts that gift, the gift cannot be taken back with the claim that Reuven waived his right to the gift. This principle would seemingly apply to the case of a broker or shadchan who waived the right to his fee before the deal is finalized. Since the broker/ shadchan fee is not paid until the transaction is completed waiving the rights to that money before the transaction is completed is ineffective since the right to the money does not yet exist.

Taz[2] challenges this conclusion from the ruling of Rema[3] that although it is not possible to acquire something that does not yet exist one can relinquish his rights (מסלק עצמו) from something that does not yet exist. Accordingly, one should also have the ability to waive one's rights to something that does not yet exist. Taz answers that relinquishing one's rights indicates that one is in possession of a certain right over his friend's property. Therefore, he can release that right even though his friend does not yet possess the object that is being released. In contrast, waiving one's rights does not involve any rights that one has over his friend's property, thus it is something that does not yet exist in any form and that right cannot be waived.

There was once an incident where Reuven agreed to help arrange a business deal for Shimon and asked that Shimon cover his expenses but he will waive his broker's fee. When the deal was about to be completed Reuven told Shimon that he changed his mind and wouldn't assist finishing the deal unless he was paid his broker's fee. Shimon had no choice but to pay the broker's fee. Some time later Shimon found himself in possession of property that belonged to Reuven and inquired whether he was permitted to keep that property since he felt that Reuven had improperly charged him. Maharik[4] ruled that Shimon was not permitted to keep the money. The reason is that Reuven had not done anything in violation of halacha, since he merely waived a right that did not yet exist, consequently, there is no recourse Shimon has against Reuven.

1. שו"ת הר"ן סי' ב"ג.
2. ט"ז חו"מ סי' ר"ט ס"ק ב"א.
3. רמ"א שם סע' ח.
4. שו"ת המהרי"ק סי' קל"ג.

## PARSHA CONNECTION

**In this week's daf** the גמרא discusses the ramifications of a husband telling (writing) to his wife that he wants no part in her assets. There is one occasion where a wife makes a very similar declaration regarding her husband. פרשת תזריע starts with the obligation of a יולדת to bring a קרבן חטאת, and the Gemara asks why:

שאלו תלמידיו את רבי שמעון בן יוחי: מפני מה אמרה תורה יולדת מביאה קרבן חטאת.

אמר להן: בשעה שכורעת לילד קופצת ונשבעת שלא תזקק לבעלה, לפיכך אמרה תורה תביא קרבן.

Since she made a שבועה to no longer live with her husband, she brings a קרבן חטאת. Based on this the גמרא explains the difference between a boy and a girl, by a boy there's a ברית and a big שמחה and this causes the lady to regret her שבועה whereas by a girl she takes longer to regret her שבועה.

This also explains why the ברית is mentioned here in the middle of דיני טומאה because it's the reason why there are only seven days of טומאה for a לידת זכר. This can also help us understand why the פרשה of a יולדת is next to the פרשה of צרעת? The אלשיך הקדוש explains that it is meant to show us that everything surrounding טומאה is a result of our actions, and it's in our hands to become טהור. The מצורע goes to a כהן instead of a doctor, to show that this is not a physical ailment but rather a spiritual one, where it is more obvious that it based on our deeds. This is clearly also shown by the difference between the טומאה associated with the birth of boy, as compared with the birth of a girl. Because the mother has חרטה earlier she becomes טהור earlier. So too a מצורע who does תשובה for whatever caused his צרעת will be cured faster.

## POINT TO PONDER

**The Gemara quotes** a ברייתא which says האומר לאשתו and then asks about writing to his wife. The גמרא than asks וכי כתב לה מאי הוי. Since the גמרא is asking how does writing it help, why does it first bring the ברייתא about אמירה which doesn't seem to add anything to the question?

**Response to last week's Point to Ponder:**

The Gemara says that there is a difference between saying קני לאחר ל יום, and adding the word מעכשיו. Since in both cases the קנין doesn't take effect until after the 30 days, how does saying מעכשיו help?

The שיטה מקובצת explains that it works as follows: the גוף belongs to the buyer right away, while the פירות will become his after 30 days.

For more points to ponder by Rabbi Yechiel Grunhaus, or insights by Rabbi Yitzchok Gutterman, please visit our website, dafaweek.org, or download the app

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