

## OVERVIEW of the Daf

### 1) Reversing a decision of Beis Din (cont.)

The Gemara concludes its presentation of the source of R' Nachman's decision to reverse an earlier decision without regard to the reputation of Beis Din.

R' Ashi challenges this interpretation of the Mishnah and suggests that the dispute relates to whether the testimony of two single witnesses could be combined.

A dispute between Tannaim on this matter is recorded.

### 2) Why would he lie?

An incident is presented in which the occupant admitted to forging the document that states that he purchased the land but claims that he did so because he lost the actual document.

Rabbah and R' Yosef disagree whether the occupant's claim is to be believed.

Rabbah and R' Yosef have the same dispute regarding a loan document.

R' Idi bar Avin rules in favor of Rabbah in the case involving land and in favor of R' Yosef in the case involving cash.

A related incident is presented.

### 3) Claiming ownership of land

The Gemara begins to recount an incident in which Rava bar Sharshom retained land that belonged to orphans claiming that it was to satisfy another debt. ■

## REVIEW and Remember

1. What is the disagreement related to combining testimonies?
2. What was the point of dispute between Rabbah and R' Yosef?
3. Why did R' Iddi rule in one case in accordance with Rabbah and in a similar case in accordance with R' Yosef?
4. When does a return of borrowed money to the borrower not constitute a new loan?

## Distinctive INSIGHT

### The power of migo

האי שטרא חספא בעלמא הוא

The Gemara presents a case which came before Rabba for a ruling. Reuven confronted Shimon and accused him of trespassing on his field. Shimon responded that he had bought the land from Reuven, and although he had not occupied the land for the years of chazakah, Shimon produced a document to verify the sale. Reuven was shocked, and immediately accused Shimon of producing a counterfeit document. At this point, Shimon would have won the case and he would have been able to stay on the land, as the document appeared legitimate. Shimon leaned over and whispered to Rabba, "It is true that this document is false, but I actually bought this land and I had a document for the sale, but I lost it. I had this one arranged in order not to walk into court empty-handed."

Rabba announced that Shimon would be allowed to stay in the land, as he could have remained silent and he would have won the case. He was believed that he had a previous document with a *migo* that he could have remained silent. Rav Yosef objected and noted that Shimon admitted that the document which was produced in court was false. Rav Yosef claimed that Shimon cannot prevail when the document before the court is known to be a counterfeit, albeit based upon Shimon's own confession.

The Gemara then brings a similar case where one person claimed that money was owed to him, and the other denied it. The loan document which was shown in court was challenged, and the lender quietly admitted that it was a forgery. Rabba ruled in favor of the lender, while Rav Yosef again argued that the document was known to be false and therefore unreliable.

R' Iddi bar Avin rules in accordance with Rabba in the case of land, and in accordance with R' Yosef in the case of the loan.

ר"י מיגאש, cited by Ramban and Rashba, explains that the disagreement between Rabba and Rav Yosef hinges upon a fundamental issue whether we can rely upon a *migo* to collect from someone who is in possession of an item or money. Rabba holds that the *migo* is strong enough to extract the land or the money, while R' Yosef holds that we must leave the items in the possession of the one currently holding them. R' Yosef also holds that in the case of the land, Reuven, the previous owner, is recognized as

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## HALACHAH Highlight

### *A woman's reliability regarding her marital status*

אנן אחתינייה ואנן מסקינן ליה

*We demoted him and we can now elevate him*

There is a well known principle in halacha that a single witness has reliability regarding those matters that could easily be revealed (מלתא דעבידא לגלויי לא משקרי) since we assume that people would not lie only to be discovered a liar. A question that is discussed amongst Poskim is whether this principle applies to a woman who testifies that her husband is dead. Teshuvos Beis Yitzchok<sup>1</sup> cites many proofs that a woman is not believed to testify that her husband died even if her assertion is one that, if a lie, would be easily discovered.

The Veitzener Rov in Teshuvos Mekadshei Hashem<sup>2</sup> disagrees with the conclusion of Teshuvos Beis Yitzchok and cites a Yerushalmi<sup>3</sup> that indicates that a woman is believed to testify about the death of her husband when it is a circumstance that a lie would be easily discovered. Yerushalmi asks why a woman is believed to testify that her husband died but is not believed to testify that her husband divorced her. The Gemara answers that a woman would be fearful to lie that her husband is dead since if he returns her lie will be evident as opposed to claiming that she is divorced where even if the husband contradicts her assertion, she can continue to lie and maintain that

(Insight...continued from page 1)

having been in possession of the land, and Shimon's occupying the land does not indicate that the land is in his possession. R' Iddi rules according to R' Yosef, but he holds that Shimon is in possession of the land due to his occupying it.

Rashba suggests that even Rabba agrees that a migo does not allow extracting of property, but that Rabba does not feel that Shimon is removing the land from the possession of Reuven. ■

she received a get but lost it. Furthermore, Pischei Teshuva<sup>4</sup> cites Teshuvos Minchas Ani who maintains that a woman is believed to claim that her husband divorced her if she includes in her claim the name of a nearby Beis Din since we are confident that she would not lie, if it could be easily discovered that she was lying. Another proof that he brings is found in the Sefer Beis Yaakov who quotes Tosafos<sup>5</sup> in our Gemara that we can apply the assumption that a woman investigates all the facts before remarrying even in the case of a divorcée. This lends support, concludes the Veitzener Rov, that a woman could be believed to testify about a change in her marital status as long as there is a compelling reason to believe her. ■

1. שו"ת בית יצחק אה"ע ח"ב סי' י"ב.
2. שו"ת מקדשי השם אה"ע סי' א'.
3. יבמות פט"ו ה"א.
4. פת"ש אה"ע סי' קמ"ב סק"ז.
5. תוס' ד"ה אנן מסקינן. ■

## STORIES Off the Daf

### *Contempt of court*

"זילותא דבי דינא..."

Once, during sefiras ha'omer, a certain couple decided to finalize their divorce plans. Unfortunately, the rav who wrote the גט erred and instead of writing אייר with two yuds, he wrote איר with one yud. When another more senior rav saw this spelling, he was astounded and he immediately declared the גט invalid.

Obviously this caused a huge outcry. All the poskim in the area were called to an emergency assembly in Vi-

enna to deliberate about the matter. The conclusion of the assembly was that although Iyar should be spelled with two yuds, if it is spelled with one the גט is kosher בדיעבד.

On another occasion, a rav misspelled Iyar with one yud but caught this immediately and asked the Terumas Hadeshen whether he was required to correct it or not. After all, even the assembled poskim at Vienna had ruled that just such a divorce need not be rewritten since this is a case of זילותא דבית דין.

But the Terumas Hadeshen disagreed. "First of all, there is no doubt that they are correct and that Iyar should be spelled with two yuds. We

find this spelling in the Targum of Megillas Esther as well as in one Targum in Melachim. Although the assembly had ruled that the beis din need not correct the misspelled divorce, that was only because several days had elapsed before they caught the error and the woman was already known to be divorced. Clearly in such a case, recalling the גט is a זילותא for beis din. But in our case, it is still the same day and people have hardly heard about this woman's new status. Surely you should recall the divorce and correct it so that it should be kosher לכתחלה!"<sup>1</sup> ■

1. תרומת הדשן, סי' רל"ג. ■