

OVERVIEW of the Daf

1) Writing all of one's possessions to his wife (cont.)

Rava inquires whether Shmuel's ruling that a husband who gives his estate to his wife has merely made her an administrator applies even if he is healthy.

The two sides of the inquiry are explained.

An unsuccessful attempt to resolve this inquiry is presented.

Related to the halacha mentioned in the previous Baraisa R' Yosef bar Minyomi in the name of R' Nachman rules in accordance with the position of Chachamim.

The implication of this ruling (that R' Nachman does not follow circumstantial evidence of what a person was thinking) is unsuccessfully challenged.

2) A woman's forfeiture of her kesubah

A Mishnah rules that a man who writes his estate to his sons and gives his wife a small parcel of land has caused her to forfeit her kesubah.

Rav, Shmuel and R' Yosi the son of R' Chanina disagree about the circumstance of this ruling.

All three explanations are refuted.

R' Nachman offers another explanation for the Mishnah.

R' Yosef bar Minyomi also reports this ruling in the name of R' Nachman.

Rava inquires whether this ruling applies even if the man is healthy and the matter is left unresolved.

Two incidents related to the cited Mishnah are recorded. ■

REVIEW and Remember

1. What happens when a healthy person gives his estate to his wife?

2. When does R' Nachman follow אומדנא?

3. How does the Gemara refute the explanations of Rav, Shmuel and R' Yosi bar Chanina?

4. Does a woman forfeit the right to collect her kesubah if she receives movable objects?

Distinctive INSIGHT

Relying upon the mind set of a person

והתניא הרי שהלך בנו למדינת הים ושמע שמת בנו

Rebbe Eliezer and the Chachamim discuss a case where a man gave his possessions to his wife as a gift. It then became apparent that the husband had owed money to someone. The lender now comes to collect from the property which was given to the wife. Rebbe Eliezer holds that the wife can cancel the gift, and then claim her kesubah from the property, a claim which predates the claim of the lender. Chachamim disagree. They say that she now stands to lose her kesubah, as the lender has first rights to collect from the property. She may end up, therefore, losing both the gift as well as her ability to collect her kesubah.

Rav Yosef bar Minyomi quotes Rav Nachman who rules according to Chachamim. This, in effect, means that the woman loses her claim to her kesubah, and we do not follow the assumed mindset of the woman who certainly did not expect to accept a gift from her husband and thereby lose her claim to her kesubah. The Gemara now asks whether R' Nachman, who rules here according to Chachamim, is consistent in another ruling he made.

A man had a son who travelled abroad. The man heard that his son died, so he wrote a document in which he gave all his possessions to a different person. Surprisingly, his son came back, indicating that the reports of his death were mistaken. Tanna Kamma holds that the gift to the different person is still valid. R' Shimon ben Minasya holds that the gift is cancelled, as we must assume that had this person realized that his son was alive he would not have given his property to someone outside the family. Here, R' Nachman rules according to R' Shimon ben Minasya. This indicates that R' Nachman does, in fact, take into consideration the mind set of a person (אזיל בתר אומדנא), and we say that the father was mistaken with his gift. Why, then, does R' Nachman say in the previous Baraisa that we disregard the thinking of the woman who received a gift (לא אזיל בתר אומדנא)?

The Gemara answers that in the case of the wife, she might be pleased about the gift, even with its risks, as the

(Continued on page 2)

Today's Daf Digest is dedicated
 In memory of my mother, Mrs. Dorothy Lane,
 by her son Jerry Lane, Oak Park, MI

HALACHAH Highlight

Mentally forgiving a debt

כיון שעשאה שותף בין הבנים אבדה כתובתה

Since he made her a partner amongst the sons she loses her kesubah

There are many circumstances where a person forgives money that is owed to him. It may be because the amount is nominal or because one is embarrassed to ask for the money after not mentioning it for such a long period of time. However, since no one knows that the creditor forgave the loan it is not unusual for the creditor to decide that he now wants to collect the loan. The question is whether he is still permitted to collect the money once he mentally forgave the obligation. Ketzos HaChoshen¹ cites Maharshah who subscribes to the position that once a person mentally forgives a loan he may not subsequently seek collection of that money. Proof to this can be found in the Gemara Kesubos (104a) which discusses a woman who for twenty-five years did not file for collection of her kesubah. Halacha states that she may no longer collect her kesubah since it is assumed that she forgave her right to collect her kesubah. Although she never articulated the fact that she was forgiving her right to her kesubah once we have a clear indication that she forgoes her right to the kesubah she may no longer collect.

Ketzos HaChoshen strongly disagrees since one of the fundamental principles of monetary law is that דברים שבלב – a person's thoughts are of no significance. The reasoning behind the Gemara's ruling in Kesubos is that once a woman allowed twenty-five years to pass without

(Insight...continued from page 1)

fact her husband presented her with a gift portrays her in a positive light.

ר"י קרקושה explains that the case of the son who disappeared abroad is a case where the father had no other living descendants, so it is a compelling situation to say that he gave his possessions away only because he thought his son had died. If, however, he had other sons and he nevertheless gave his property to someone else, the gift would be valid, even if his son who was reported dead now returns. Accordingly, if the father only gave the outsider the portion of the estate which would have been earmarked for the son who was reported dead, the gift would be cancelled if the son turns up alive. Here, again, we would follow the clear assumption that he only awarded this portion of the estate to someone else because he was convinced that his son was dead. ■

making an effort to collect her kesubah it is considered public knowledge and not merely דברים שבלב that she will no longer collect her kesubah. Other authorities² disagree with Ketzos Hachoshen and cite our Gemara as proof that one can forgive a loan without verbalizing that intent. The Gemara discusses the case of a woman who receives a parcel of land amongst the sons of her husband and rules that by accepting a parcel of land she forgoes the right to collect her kesubah. Although she never articulated that intent, nevertheless, it is assumed that she forgives her rights to collect her kesubah. ■

1. קצות החושן סי' י"ב סק"א.

2. ע' במתיבתא פניני הלכה קל"ב: ד"ה מחל לחבירו. ■

STORIES Off the Daf

"The Halachah is like Rabbi Shimon ben Menasia..."

"הלכה כרבי שמעון בן מנסיא..."

A certain woman was quite wealthy but her only surviving relative was her brother, who lived a long distance away. She lived in Milan, Italy, while her brother lived in Tunis. During their times, the journey between the two places was long and fraught with danger, so she felt justified in giving away her entire estate to the poor. Af-

ter all, how likely was it that he would brave the hardships and travel? And if he did, he would likely arrive while she still lived and could easily change her halachic will.

As things worked out, the brother did finally make the journey, but he only arrived after his sister had left the world. The moment he heard of her will he contested it. "I am sure if my sister had known I would visit she would have given the money to me. Besides, even if my first claim is unacceptable and she left the money to the poor, I am also a pauper. Perhaps one's poor close relatives take precedence

over the poor of his city."

The beis din was unsure about the halachah so they consulted with the Tashbitz, zt"l. He ruled that the woman's gift to the poor was invalid. "In Bava Basra 132, Rav Shimon ben Menasia rules that if a person mistakenly heard that his only son died and gave his property to others, the gift is void. It is assumed that had he known his son was really alive he would never have given the land away.

"This is the halachah, and the same is true in our case."¹ ■

1. שו"ת תשב"ץ, ח"ג, ס' רפ"ט