

OVERVIEW of the Daf

1) Claiming a receipt was a forgery (cont.)

Another incident related to a claim of a forged receipt is recorded.

Tangentially, Abaye offers advice for rabbinic students who are looking to betroth a woman.

2) Clarifying the Mishnah

The Gemara cites the source that the husband pays for the גט and then explains why nowadays it is the woman who pays for the גט.

The novelty of the Mishnah's statement that the borrower pays for the loan document is explained.

The novelties of a number of other rulings in the Mishnah are explained.

Two definitions of a שטר בירורין are presented.

It is suggested that the dispute between Tanna Kamma and R' Shimon ben Gamliel relates to whether we force a person to avoid S'dom behavior.

This explanation is rejected in light of another explanation.

3) MISHNAH: The Mishnah presents a dispute concerning a borrower who repaid part of his debt and committed to repay the full amount of the debt if he fails to repay the remainder by a chosen date.

4) Clarifying the dispute

The Gemara states that R' Yosi and R' Yehudah debate whether an אסמכתא is binding.

Although some Amoraim hold like R' Yosi that an אסמכתא is binding the Gemara rules that it is not binding.

5) MISHNAH: The Mishnah discusses the procedure for replacing an erased document.

6) Certifying a replacement for an erased document

A Baraisa describes the procedure for certifying a replacement for an erased document.

Different parts of the Baraisa are clarified.

A related incident is presented.

Abaye clarifies his position presented in the previous incident.

7) Lost document

A Baraisa presents the laws that pertain to someone who claims to have lost his document. ■

Distinctive INSIGHT

Abaye could not protect the owners against the Arabian thugs

נהנו ערבאי דאתו לפומבדיתא דהוו קא אנסי ארעתא דאינשי וכנ'

The Gemara brings a story which has reference to the halacha of rewriting a document which was destroyed. There was a group of Arabian thugs who came to Pumbedisa. According to Rashbam, these gangsters used to take land away from its owners, and they also confiscated the deeds to the lands in order that the owners not be able to pursue any legal action against them. The owners realized that this threat existed, so they approached Abaye and asked for him to supply them with duplicate documents of ownership. If the original document would be taken away from them forcefully, they would then have the second document ready to prove their ownership.

According to Rabeinu Gershom, these Arabians took the lands of these owners, but they did not take any documents. These were aides to the king who travelled with the king's entourage and his armies, and they were away from home for extended periods of time. The king gave them permission to grab land from the local population and to stay there as long as necessary. The owners approached Abaye to ask for duplicate documents, although they still had the original sales documents and deeds to the land. Rabeinu Gershom explains that this took place in the first three years since the purchases of the lands, and the current owners were afraid they might lose the original deeds, and they might later be forced to produce the documents as proofs of purchase if the sellers would challenge the sales and the occupancy of the land for three years (which was now being interrupted).

Nevertheless, Abaye cited a ruling of Rav Safra, based upon which he refused to write duplicate documents for the same land. Rav Safra prohibited issuing two documents for the same land in case someone may owe money, and he might sell land which was promised to his lender. When the lender takes that land from the buyer for payment of his loan, the buyer will go to subsequent buyers of land and collect from them. If the buyer is allowed to have multiple documents showing him as a buyer, there is a risk that after collecting from one buyer, he will go back to yet another subsequent buyer and collect a second time.

The landowners continued to pester Abaye to provide them with documents to protect them against the thugs, even though he had told them that he could not do so. Finally, Abaye tired to avoid the pressure of these owners as he instructed his scribes to give them documents which were technically not valid, as they were written, erased, and re-written. A document written on an erased surface is not valid, even if the witnesses are on a clean, non-erased part of the document. ■

HALACHAH Highlight

Responding deceitfully to improper requests

הנהו ערבאי דאתו לפומבדיתא וכו'

There were these Arabians who came to Pumbedisa etc.

There was once a tzedaka collector who applied a lot of pressure upon Reuven to make a donation that was beyond his means. In order to relieve himself of the pressure Reuven wrote a check for the amount the collector was asking but instead of signing his name on the check he wrote something he knew the bank would not accept. When the collector tried to cash the check it was rejected, and after the fact Reuven wondered whether he violated the prohibition of geneivas da'as by tricking the collector the way that he did.

Rav Yitzchok Zilberstein¹ answered that since the collector behaved improperly by applying too much pressure it is permitted for Reuven to also behave in a deceitful manner as the verse states (Tehillim 18:27), **ועם עקש תתפתל**, "And with the crooked, act perversely." He then proceeded to quote his brother-in-law, Rav Chaim Kanievski, who cited our Gemara as proof to this principle. The Gemara relates that Yishmaelim came to the city of Pumbedisa and were forcing people to relinquish their land to them. Since the Yishmaelim were powerful people they also demanded that the property owners should transfer their deeds together with the land so that they should not have the option to try and recover their land. The landowners asked Abaye to write an additional

REVIEW and Remember

1. Whom is a rabbinic student supposed to take with him when he goes to betroth a woman?

2. According to the Gemara's conclusion, is an asmachta binding?

3. What does a tear by Beis Din look like?

4. Why did Abaye refuse to provide people with a copy of their deed?

deed for them so that they would have proof that the land is theirs even after they gave a deed to one of the Yishmaelim. Abaye initially refused since R' Safra taught that it is not permitted to write two deeds for the same piece of property. The landowners applied significant pressure on Abaye and to relieve himself from their pressure he instructed his scribe to write a deed on erased parchment and have the witnesses sign on parchment that was not erased which is, halachically, an invalid document, but would free Abaye from the pressure the land-owners were applying to him. This indicates that it is permitted for a person to be deceitful to someone who is applying unwarranted pressure on him. ■

1. חשוקי חמד פסחים צ"ט: ■

STORIES Off the Daf

The Talmid Chacham's eyes

"צורבא מרבנן לאו אורחיה למידק..."

On today's daf we find that a talmid chacham is careful not to gaze at women.

A certain student of Yeshivas Kefar Chasidim, approached Rav Eliyahu Lopian, ז"ל, with a seemingly simple request. "I would like to travel to a family wedding in a distant town in Israel."

When Rav Lopian asked if he was certain that there would be no unseemly behavior or immodesty, the young man began to equivocate. "What difference does that make? I will be sitting at a separate table with my mother and

father, and most likely will not even notice anything improper. In any case, attending such affairs has never made a difference to me in the past, so why shouldn't I attend? Why assume that this will have a negative effect on me?"

Rav Lopian was shaken by this young man's brazen assertion and immediately took him to task. "Listen to me. I am eighty years old, and cannot see well, yet whenever I go through the street I am afraid that I will see something immodest, chas v'shalom.

"How can you, a young man with two good eyes in your head, feel certain that attending an affair with unseemly behavior such as mixed dancing will have no negative effect on you? "

He continued to berate the student

in a very harsh manner, and then he strode away, clearly disgusted with the student's foolish self-deceit.¹

Yet how is one to avoid noticing those who do not dress in a modest way? Rav Yissachar Dov of Belz, ז"ל, gave excellent advice in this regard, "A person who would like to guard his eyes must not walk in the middle of the sidewalk if he can avoid it, since if he does, he will likely see what is forbidden. But of course he also must not walk in the street, since this is dangerous and can cost him his life. Instead he should stick to the edge of the sidewalk. That way he will not go behind people and he will also be safe."² ■

1. לב אליהו, ח"א, ע" 13

2. קדושת העינים ■