

## OVERVIEW of the Daf

### 1) Forgiving loans (cont.)

The Gemara concludes the incident related to forgiving loans involving R' Nachman's relative.

R' Huna the son of R' Yehoshua offers advice to the one who purchases a loan to protect his interest.

Ameimar asserts that there is a dispute whether the creditor who sold and forgave the loan must reimburse the buyer for his loss.

A related incident is recorded.

### 2) Paying debts

Ameimar in the name of R' Chama issues a ruling related to a man who dies in possession of cash and land and his wife's kesubah and other loans must be paid from his estate.

He issues a second ruling concerning a case where the deceased left only one parcel of land.

R' Pappa asked R' Chama to confirm whether he issued a ruling in the name of Rava related to a debtor's offer that the creditor should sell his land to pay his debt.

R' Chama denies that Rava issued the ruling said over in his name and R' Chama retells the exact details of the case.

R' Kahana inquired from R' Pappa whether one can refuse to do the mitzvah of paying back a debt.

R' Pappa responded with a Baraisa that teaches that a person can be compelled to fulfill a mitzvah.

### 3) Delaying the activation of a גט

Rami bar Chama asked R' Chisda about a get that was given with the stipulation that it would not be effective until after thirty days and the wife placed the get on the sides of the public domain, when day thirty arrives and the גט is still intact is it a valid divorce.

R' Chisda demonstrated that the divorce is not effective.

Rami bar Chama unsuccessfully challenges this ruling.

Another version of this exchange is recorded.

4) **MISHNAH:** The Mishnah discusses the oath a husband can impose on his wife who oversees some part of his estate.

(Continued on page 2)

## REVIEW and Remember

1. Explain דינא דגרמי.
2. How did Beis Din punish a person who claimed that the money he had to pay his debt belonged to a non-Jew?
3. Why type of behavior will likely undermine a marriage?
4. What language releases a woman from taking any vow?

## Distinctive INSIGHT

### Cash for creditors, land for the kesubah

האי מאן דאיכא עליה כתובת אשה ובעל חוב ואית ליה ארעא ואית ליה זוזי

A person owes money for his wife's kesubah, and he also owes money to a creditor. The person has land and he also has cash, but the cash is only sufficient to pay off one of the obligations. Ameimar in the name of Rav Chama rules that the creditor is paid with the money, which is what he had lent to the borrower, and the woman is given the land, which is what she relied upon at the time of the marriage.

Ritva explains that this halacha is applicable when the husband is still living, and the kesubah is payable due to the husband's having divorced his wife. However, if the husband had died, and the widow comes to the orphans to claim her kesubah, and the creditor is coming to the orphans as well to demand repayment of the loan he had extended to their father, in this case no one will collect cash. The rule is that orphans do not have to pay from movable items (מטלטלין / chattel) to settle the debts of their father.

Ritva writes, however, that Rabbeinu Chananel understands that this case could, in fact, be speaking about where the husband had died. The case would be where the orphans have land as well as cash, and they wish to keep the land for themselves and to settle the debts of their father by paying off each claim with cash. The creditor and the wife each demand land, but the orphans want to pay them off with cash instead. The halacha is that they may pay the creditor with cash, even though the land they inherited from their father is mortgaged for payment of the loan. The reason is that even during the life of their father, the loan could have been paid back with money. The rule that the cash of orphans is not available for payment of the father's debts is only stated for the benefit of the children, but here they prefer to settle the claim with cash.

The kesubah of the wife, however, must be paid with land. The reason for this is parallel to what we saw above in reference to the creditor. The woman could not have demanded cash rather than land even from her husband when he was alive, in a case where he had divorced her. Therefore, the orphans, as well, cannot pay her with cash while keeping the land for themselves. ■

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# HALACHAH Highlight

*Spending more than twenty percent of one's assets to pay back a loan*

פריעת בעל חוב מצוה

*Paying back a loan is a mitzvah*

Rav Chaim Soloveichik<sup>1</sup> poses an interesting question. There is a halachic principle that states that one does not have to spend more than twenty percent of his assets to fulfill a mitzvah. Therefore, if a person borrows money and thus has a mitzvah to pay back his creditor, he should not have to pay any more than twenty percent of his assets to fulfill that mitzvah, even if the loan constitutes more than twenty percent of his estate. This question was discussed by Maharam Shik<sup>2</sup>, who suggests that the principle limiting how much a person spends on a mitzvah applies only when the mitzvah does not affect others. On the other hand, concerning mitzvos that have an impact on others, like the mitzvah to pay back a loan, one is obligated to spend even more than twenty percent of one's assets to fulfill that mitzvah.

The L'horos Nossan<sup>3</sup> answers that the principle that one does not have to spend more than twenty percent of his assets to fulfill a mitzvah applies only when one is spending money as a means to be able to later fulfill a mitzvah, rather than when spending the money is itself the mitzvah. For example, one does not have to spend more than twenty percent of one's assets to purchase an esrog since it is not the purchasing of the esrog that is the mitzvah but it is a means to be able to later fulfill the mitzvah. In contrast, regarding the mitzvah to pay back a loan it is the payment

(Overview. Continued from page 1)

## 5) Clarifying R' Eliezer's position

The Gemara inquires whether R' Eliezer allows a husband to impose an oath in all cases or only when his wife administered some of his estate.

On the second attempt the Gemara succeeds at demonstrating that an oath can be imposed even if his wife did not oversee his estate.

6) **MISHNAH:** The Mishnah discusses the matter of a wife who is exempted from taking an oath.

## 7) Clarifying the Mishnah

The Gemara inquires about the nature of the oath discussed in the Mishnah. ■

of money that is the fulfillment of the mitzvah and the principle limiting how much a person spends on a mitzvah does not apply. Another resolution suggested by L'horos Nossan is that one who does not pay back a loan becomes, by default, a thief and is violation of a prohibition. The limitation of spending twenty percent of one's assets on a mitzvah applies to positive commandments but in order to avoid violating a prohibition a person is obligated to spend all of one's money. Therefore, it is not the mitzvah to pay back a loan that obligates the borrower to pay even more than twenty percent of his estate but the prohibition against stealing that creates that obligation. ■

1. כתבי הגר"ח סי' קכ"ט.
2. שו"ת מהר"ם שיק או"ח סי' של"א.
3. שו"ת להורות נתן ח"ד סי' קט"ו אות ז'. ■

# STORIES Off the Daf

## The Importance of a Mitzvah

אבל במצות עשה כגון שאומרים לו עשה סוכה ואינו עושה לולב ואינו עושה

Our daf states the halacha that one who refuses to fulfill a positive mitzvah such as sukkah or lulav is lashed until he either fulfills it or dies. One of the things that can be learned from the severe penalty incurred by a person who willfully refuses to fulfill a mitzvah is just how precious the mitzvos are. The awareness of the infinite value of each and every mitzvah infused our gedolim with a zeal to perform them, and to perform them in the best possible way.

Several talmidim of Rav Shach, zt"l, came for a visit shortly before Sukkos. The moment they were ushered in, the Rebbet-

zin received a call. The caller was very happy to inform them that he had located a lulav that was completely free of any suspicion of being from the growth of the shemittah year. Since that year was motzei shvi'is, this was no small achievement.

When she told the Rosh Yeshivah, he was immediately consumed with a powerful longing to rush and obtain the lulav. On the other hand, what of the guests? It was certainly incorrect for him to leave them stranded waiting for his return. Not surprisingly, Rav Shach found a way around this. He asked the group, "Perhaps you would care to join me as I go to meet the person bringing my lulav?"

The Rebbetzin said, "But why go at all? He is bringing it here and will arrive in just a few minutes!"

The Rosh Yeshiva would not be moved. "Even just to go to some trouble for the sake of a mitzvah is itself a mitzvah.

When it comes to a mitzvah I can't wait even an instant! I rush to fulfill any mitzvah!"

As they were walking to meet the man bringing the lulav, Rav Shach explained further, "Although I always listen to my wife and am willing to go to almost any length for her, I could not listen in this matter. This is an issue that relates to my ruchniyus, my spiritual life. Although Chazal taught that one should consider his wife's opinion in anything relating to the material, in spiritual matters one should not necessarily listen to his wife if she tries to deter him from ruchniyus by telling him not to bother making an effort. While it is true that even in ruchniyus one must ensure that his decisions do not adversely affect another person, it is still his own responsibility to decide what is fitting and do it promptly!" ■