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# DAF YOMI DIGEST
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## OVERVIEW of the Daf

**1) Clarifying the Mishnah (cont.)**

Shmuel offers an explanation of the case and point of dispute between Tanna Kamma and Ben Nannas.

R' Nachman in the name of Rabbah bar Avuha offers an alternative explanation of the dispute.

Abaye suggests a third explanation of the dispute.

**2) A din Torah with partners**

R' Huna rules that if one partner goes to a din Torah the other partner cannot assert that he deserves a second hearing because his partner is considered his agent.

R' Nachman cited our Mishnah as proof to this ruling.

The proof is rejected.

A qualification to R' Huna's ruling is presented.

**3) Two deeds to the same property**

Rav and Shmuel disagree regarding the halacha when two deeds to the same property share the same date. According to Rav the property is to be split whereas according to Shmuel the matter is decided according to the discretion of the judges.

It is suggested that this dispute is related to a dispute between R' Meir and R' Elazar concerning what part of the divorce proceedings actually effects the divorce.

Another suggestion is made that both Rav and Shmuel follow R' Elazar's opinion but the suggestion is rejected.

Shmuel's opinion is challenged from a Baraisa.

After failing to completely defend his position the Gemara admits that the matter is a dispute between Tannaim.

A related incident is presented where R' Sheishes and R' Nachman issued opposite rulings.

When R' Sheishes and R' Nachman discussed the matter R' Nachman demonstrated that his ruling was binding.

The Gemara begins to recount another related incident.■

## REVIEW and Remember

1. Is a later creditor who collected early allowed to keep the property he collected?

2. Does one partner automatically represent the other partner in litigation?

3. What is the dispute between R' Meir and R' Elazar?

4. What were the reasons R' Nachman gave for overruling R' Sheishes?



## Distinctive INSIGHT

***The document dated "Nisan"***

הנהו תרי שטרי דאתו לקמיה דר' יוסף וכו'

Rashi (ד"ה הנהו) learns that the discussion in our Gemara is dealing with a case of sales documents. For example, a seller sold a piece of land to two people. To one of the buyers he recorded the date on the document as "the fifth of Nisan". On the other document, the seller wrote "Nisan," without indicating on which day of Nisan the sale took place. The obvious question is whether the sale on the unspecified date was before the fifth of Nisan, and it is the sale which is valid, or whether it took place after the 5th of Nisan, whereby the sale on the fifth was first, leaving the other sale invalid.

Rif and Ramban understand that the Gemara is dealing with loan documents. The loan which originated earlier has the right to establish a lien against the land of the borrower. The question is, as above, can the holder of the document dated "Nisan" collect before the lender whose document is dated "5 Nisan"?

K'tzos Hachoshen (43:#7) notes that earlier, in the Mishnah (93b), the final case is of many documents written and dated to become valid at the same hour. The halacha is that they all collect equally, and none has priority over any other. There, ר"ן writes that when many documents are written in one day, and there is therefore no indication which was first, the halacha determines that they all become valid simultaneously at the end of the day. The lien against property occurs only as of the moment when the claim has become certain, and not earlier. Even if one document was actually written before another, the fact is that its power to collect land only starts from the end of the day, at the moment the document and its legal weight are conclusive. We do not say that all documents collect with equal rights because we are in doubt, but rather due to a certainty that the end of the day is when they become effective.

*(Continued on page 2)*

# HALACHAH Highlight

***Choosing a kohen for a pidyon haben***

הנהו תרי שטרי דאתו לקמיה דרב יוסף וכו'

*Two contracts that were brought before R' Yosef etc.*

There was once a town where kohanim used to fight for the merit to preside over a pidyon haben. To stop the fighting it was decided that at the beginning of the year a lottery would be drawn and the kohanim would preside over the pidyei haben following the results of the lottery. It happened once that at the beginning of a year a couple gave birth to twin boys and lost track of which of the boys was born first and needed a pidyon haben. One of the babies died within thirty days of birth and the halacha in such as case is that a pidyon haben is not performed, since whenever there is a doubt concerning the obligation to do a pidyon haben there is no obligation to do the mitzvah (המוציא מחבירו עליו הראיה). Sometime later another boy was born who would require a pidyon haben. The kohen who merited by virtue of the lottery the right to the first pidyon haben claimed that the privilege was his since this is the first pidyon haben of the year, but the father of the child refused to allow the first kohen to preside over the pidyon haben because the first kohen lost his privilege with the first family that had twins. When the kohen next in line stepped forward the father told him that he has no right to the money since it is possible that the child that died was the older twin and this is the first pidyon haben of the year. The intention of the father was to deflect the claim of the first two kohanim so that he could choose another kohen altogether.

*(Insight. Continued from page 1)*

Accordingly, the document dated "Nisan" should certainly collect only from the end of the month. Why, then, asks the K'tzos, does R' Yosef rule that the bearer of this document cannot have a טירפא written for him at all, as the buyer can claim that the owner of the "Nisan" document might be the legal owner of the property seized by the one who has the document dated 5 Nisan, and that he has no right to take the land?

Rabbi Akiva Eiger suggests that our Gemara can be dealing with a שטר הקנאה, where the borrower commits himself to pay the lender with land from the moment of the loan. The K'tzos rejects this answer. The Nesivos Hamishpat (43:#17) also suggests an answer. The buyers claim that even a verbal loan can collect from land, and this is binding from the time of the loan, which might have been on the first of Nisan, and the land taken by the other lender actually is his. ■

Rav Yosef Chaim of Baghdad[1], the Ben Ish Chai, responded that the only way to solve this quandary was for the two kohanim to make an agreement where one authorizes the other (power of attorney) to collect, if necessary, on his behalf. In other words, the first two kohanim agree that the first kohen will collect the money for the first pidyon haben. When the second pidyon haben arrives the second and third kohanim will make an agreement that allows the second kohen to collect the money. This ruling is based on our Gemara that states that when a person, trying to collect property, has a contract without a specific date the only way he will collect, if there is another person with a contract that contains a specific date, is if he and the other party grant one another a power of attorney. ■

1. שו"ת תורה לשמה סי' רמ"ח. ■

# STORIES Off the Daf

***False Pretenses***

אנא דיינא ומר לאו דיינא

One reason why the halacha follows Rav Nachman's evaluation as opposed to Rav Sheishes's is that he was ordained as a judge by the Reish Galvasah.

In Europe before the Second World War, there were some who hoped to garner the admiration of the fairly simple people among whom they lived. One easy method was to go by the title Rabbi, even if the bearer was not the greatest scholar and lacked an official position. All one needed to do was to call himself Rabbi and imply that others ought to do the same, and his acceptance was pretty much assured. Since in those years most people known as Rabbi had, or had held, a position, it would be automatically assumed that the "Rabbi" was in this category. The Choftez Chaim, zt"l, commented on this petty dishonesty, "Someone who calls himself Rabbi without an official position to support it transgresses the prohibition of מדבר שקר תרחק. Even a Torah scholar transgresses this prohibition if he assumes the title of Rav without a shteller."

Of course, some people refer to the need for semicha and a congregation to a ridiculous extreme. When the Chofetz Chaim went to meet with the maskilim, they complained that he was not qualified to speak on behalf of the Orthodox community since he didn't have semicha. Writing the Mishnah Berurah was no qualification in their eyes. "Since our entire delegation has semicha, it makes no sense to speak about important issues with a layman like yourself!"

When Rav Chaim Ozer was appraised of this by telegram, he sent back a four word response: "יורה יורה, ידין ידין."

Someone asked Rav Shlomo Zalman Aurebach, zt"l, "According to the Chofetz Chaim, most people in the yeshivish world transgress daily the prohibition against uttering falsehood. Everyone who has semicha is known as 'HaRav' and even those in learning without semicha are called Rav?"

The gadol replied, "In those days when 'Rabbi' was reserved for people with a position, one would have transgressed. Nowadays, however, the custom is to call anyone learned 'Rabbi,' so no one is being fooled. It all depends on the custom of the country one is in." ■

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