

OVERVIEW of the Daf

1) Konam this house that you will enter

Avimi inquired, if a person declares that his house is prohibited to his friend and the owner dies or sells his house is the friend permitted to derive benefit from that house?

Rava demonstrates that one has the ability to prohibit an item that is presently in his possession even after it is no longer in his possession.

2) Konam these fruit

A Mishnah pertaining to a person who declares fruit a konam to himself is cited.

Rami bar Chama inquires whether it is permitted to derive benefit from things that were exchanged for that fruit.

The Gemara details the two sides of the inquiry.

R' Acha bar Minyomi demonstrates that items received in exchange for the prohibited fruit are not prohibited.

Rava rejects this proof.

Another attempt is made to prove that one is permitted to receive benefit from items one received in exchange for prohibited fruit.

This proof is also rejected.

3) MISHNAH: The Mishnah begins by distinguishing between the ramifications of different vow-related declarations. A second topic of the Mishnah relates to how these vows effect their use of public property. ■

REVIEW and Remember

1. Is it possible for a person to prohibit an object that is in his possession after it leaves his possession?
2. What are the two sides of the question of whether a person who is prohibited to derive benefit from fruit is permitted to derive benefit from items that were exchanged for them?
3. How does a woman seek support if her husband takes a vow prohibiting her from benefiting from him?
4. What items are permitted for benefit for two people who are prohibited from benefiting from one another?

Distinctive INSIGHT

Exchanged items (חליפין) of prohibited benefit

אמר קונם פירות האלו על פלוני מהו בחלופיהן ובגידוליהן

Tosafos and ר"ן write that the question of Rami bar Chamma is not only in reference to fruits which are prohibited due to an oath, but his inquiry is in regard to all cases of forbidden benefit in the Torah (איסורי הנאה). Does the prohibition of benefit apply only to the item itself which is אסור, or does it apply to any items exchanged for it as well. The proof that this matter applies to all cases of אסורי הנאה is from the Gemara itself, which references a case of betrothing a woman with fruits of ערלה, which is a general prohibition and not a case of a neder.

Rambam holds that there is a difference between items prohibited due to oaths and those which are general cases of prohibited benefit. If a person sells a meat/milk mixture, Rambam rules (Hilchos Ma'achalos Asuros, 8:16) that the money is permitted, even for the person who sold it herself. On the other hand, in reference to oaths (Hilchos Nedarim 5:16), he rules that if Reuven declares his fruit to be prohibited upon Shimon, there is a doubt whether any fruits exchanged or which subsequently grew from these are also prohibited. In other words, Rambam holds that the question of Rami bar Chamma remains unresolved. And this is despite his having ruled that exchanged items for standard cases of אסורי הנאה are permitted. Obviously, Rambam holds that the cases are distinct. Lechem Mishnah asks how Rambam would understand our Gemara which brings a case of ערלה in reference to the question of neder, and Lechem Mishnah leaves this unanswered.

The ת"א (O.C. 433:#3) explains how Rambam understood our Gemara (47b) which brings the halacha of ערלה in reference to neder, although Rambam holds that the cases have different rules regarding exchanges. The Gemara originally felt that it could prove its point by citing the rule by ערלה, where the money obtained by selling it is permitted. However, the Gemara rejects this proof. The words of the Gemara are הכא נמי לכתחילה הוא דלא, ואי עבד עבד.

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HALACHAH Highlight

Is the requirement to immerse utensils Biblical?

בעי רמי בר חמא אמר קונם פירות האלו על פלוני

Rami bar Chama asked: If a person declares, "Konam these fruit upon so-and-so."

There is a disagreement amongst the Rishonim whether the obligation to immerse metal utensils acquired from non-Jews is a Biblical or Rabbinic obligation¹. Rav Yosef Karo in Shulchan Aruch presents contradictory rulings on this matter. In Yoreh Deah² he rules that if one receives a metal utensil from a non-Jew as collateral and there is a possibility that the non-Jew may not redeem this utensil it must be immersed without a beracha. The rationale behind the ruling is that since there is a doubt whether this utensil will become the property of the Jew he should immerse it based on the principle of **לחומרא דאורייתא** ספק. On the other hand, in Orach Chaim³ he indicates that although there is a dispute whether it is permitted on Shabbos to immerse a utensil purchased from a non-Jew the primary opinion is that it is permitted. The rationale behind this ruling⁴ is that immersing new utensils is only a Rabbinic requirement and therefore it is not considered **מתקן מנא**—fixing a utensil, and the immersion may be done Shabbos.

Rav Ovadiah Yosef⁵ suggests that Shulchan Aruch's ruling in Yoreh Deah is not necessarily a proof that immersing utensils is a Biblical requirement. Another rationale for the ruling that one must immerse a utensil received as collateral is the principle of **דבר שיש לו מתירים**—an item that is presently prohibited but will become permitted. The halacha regarding **דבר שיש לו מתירים** is that it does not become nullified when

(Insight. Continued from page 1)

the exchanged items are prohibited just as the fruit itself, but if the person already derived benefit, it is allowed. In regards to all other areas of prohibited benefit, the exchanged items are permitted outright. ■

mixed with permitted items. Thus if one mixes a utensil that was not immersed with utensils that were immersed one is required to immerse all the utensils since immersing all the utensils will assure that all the utensils were immersed without having to rely on **ביטול**. Therefore, if one was given a utensil as collateral from a non-Jew the reason it should be immersed is that it qualifies as a **לו מתירין** since it could be easily immersed, and the ruling is not based on the assumption that immersing utensils is a Biblical requirement. A difficulty with this approach is that Rav Akiva Eiger maintains that concerning Rabbinic prohibitions one could be lenient even when dealing with a **לו מתירין** and he bases himself on the commentary of the Ran⁶ in our Gemara where he discusses rules of halachos which are rabbinic. Accordingly, if Shulchan Aruch maintained that immersing utensils was only a Rabbinic obligation one would not be required to immerse the utensil, nonetheless, the majority opinion maintains that even regarding Rabbinic prohibitions the principle of **לו מתירין** applies even to Rabbinic prohibitions and this is a possible resolution to the contradictory rulings in Shulchan Aruch. ■

1. ע' שו"ת יביע אומר ח"ב יו"ד סי' ט' אות א'

2. שו"ע יו"ד סי' ק"כ סע' ט'

3. שו"ע או"ח סי' שכ"ג סע' ז'

4. ט"ז שם סק"ה

5. שו"ת יביע אומר הנ"ל

6. ד"ה ולענין הלכה וע"ש בשו"ת רעק"א סי' ס"ק שמדייק כן מדברי הר"ן ■

STORIES Off the Daf

The new Shul

קונם לבית זה

A certain community shul was slated to be destroyed and then rebuilt. As the repairs were in the final stages, the members wondered whether they needed to make a blessing of **הטוב והמטיב**. It was really a compound question, though: is one required to make such a blessing on the construction of a new shul, and if so, does a rebuilt shul have

the same status as one that is new?

They posed these questions to the Halachos Ketanos, zt"l who replied, "A community that has built a new shul definitely needs to make such a blessing on it. The **ציבור שליח** should stand up in front of everyone and make the blessing out loud. The same certainly holds true regarding a shul that was destroyed or demolished and then rebuilt from scratch. The proof is from the Ran in Nedarim 47a who writes that if one vowed never to enter a certain house and it subsequently collapsed and was rebuilt he may enter the rebuilt house.

This is because it is considered like an entirely new structure.

He continued, "The source for this is the Midrash in Koheles Rabbah: This could be compared to a king whose son had angered him. The king was so infuriated that he drove the boy out and swore that he would never again be allowed entry into the royal palace. What did the king do when he finally calmed down? He ordered the palace demolished and rebuilt. In this manner he was able to have his son rejoin him in the palace without violating his oath!" ■