

מסכת גיטין • דף י"ד ע"א

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THE SUGYA

In this daf, we continue our deep dive into the mechanics of Ma'amad Sheloshtan (the presence of all three parties) as a method of halachic acquisition. After exploring the psychological and logical underpinnings of why a debtor willingly obligates himself to a new creditor, the Gemara brings a powerful kashya from the harsh household of bar Elyashiv, where debtors are treated with extreme severity. This leads us to a fundamental kabbalah from Mar Zutra: that Ma'amad Sheloshtan is actually one of three unique halachos instituted by our Sages as a "halakha belo ta'am"—an ordinance that takes effect as a decree of the Chachamim, transcending standard legal mechanisms.

We then transition into practical applications and limitations of this halakha. The Gemara analyzes a real-life case involving Rav Aha Bardela and a kav of saffron, clarifying whether Ma'amad Sheloshtan allows for retraction and whether it applies equally to both large and small gifts. We also learn a fascinating story of gardeners who made a mistaken calculation, which brings us to a crucial ruling by Rav Nahman and Rava regarding a "kinyan b'ta'us"—an acquisition made in error, which is completely null and void. Finally, the Gemara introduces a major machlokes between Rav and Shmuel regarding a sender's responsibility and ability to retract when sending money to a creditor via an agent.

All introductions, summaries, and contextual notes are the editor's commentary and are not part of the original text.

EXPLANATION

בְּהֵימָה הַנָּאָה דְּקָא מְשִׁתְּנָא לִיהּ בֵּין מַלְוָה יְשָׁנָה לְמַלְוָה חֲדָשָׁה, גָּמַר וּמִשְׁעָבִיד נִפְשִׁיהּ.

With that benefit that is changed for him between an old debt and a new debt, where he gets more time to pay, he completely resolves and pledges himself to the new creditor.

OBJECTION

אָמַר לִיהּ הוּנָא מֶר בָּרִיָּה דְּרַב נְחֶמְיָה לְרַב אָשִׁי: אֵלָא מִצַּתָּהּ, כְּגוֹן הֵיךְ דְּבִי בֶר אֶלְיָשִׁיב, דְּכַפְתִּי וְשָׁקְלִי לְאַלְתֵּר, הֲכִי נָמִי דְּלֹא קִנּוּ?

Huna Mar the son of Rav Nechemyah said to Rav Ashi: If so, in a case such as those of the house of Bar Elyashiv, who bind the debtor and take their money immediately when the due date arrives, so too will you say that they do not acquire through this transaction because the debtor gets no benefit of extra time?

OBJECTION

וְכִי תִימָא הֲכִי נָמִי, אִם כֵּן נִתְּתָ דְּבָרֶיךָ לְשִׁיעוּרִין!

And if you say indeed so, that they do not acquire, if so, you have given your words to varying measures, making the halachah of this acquisition dependent on the character of the creditor!

STATEMENT

אֵלָא אָמַר מֶר זוטרא: הֵיךְ תִּלֵּת מִיָּלִי שׁוֹינָהוּ רַבָּנִן כְּהִלְכָתָא בְּלֹא טַעְמָא:

Rather, Mar Zutra said: These three matters the Rabbis established as a halachah without a logical reason:

STATEMENT

חֲדָא – הָא;

One is **this** law of acquisition in the presence of all three parties;

STATEMENT

וְאֵידֶּהּ – דָּאָמַר רַב יְהוּדָה אָמַר שְׁמוּאֵל: הַפּוֹתֵב כָּל נִכְסָיו לְאִשְׁתּוֹ – לֹא עֲשָׂאָהּ אֶלָּא אֶפִּיטְרוּפָא;

and another is that which Rav Yehudah said in the name of Shmuel: One who writes all his property to his wife as a gift, he has only made her an administrator, but she does not own it;

STATEMENT

וְאֵידֶּהּ – דָּאָמַר רַב חֲנַנְיָא: הַמְשִׂיא אִשָּׁה לְבְנוֹ גָּדוֹל בְּבֵית – קָנָא.

and another is that which Rav Chananya said: One who marries off a wife to his adult son in a house that he set aside for the wedding, the son has acquired it.

STATEMENT

אָמַר לִיהִי רַב לְרַב אַחָא בְּרִדְלָא: קָבֵא דְמוֹרִיקָא אֵית לִי גַבְהּ; יְהִיבִיהּ לְפִלוֹנִי. בְּאַפִּיָּה קֶאֱמִינָא לָךְ
דְּלֹא הִדְרָנָא בִּי.

Rav said to Rav Acha Bardela: I have a kav of saffron with you; give it to so-and-so. In his presence I am saying this to you, so that I will not retract.

QUESTION

מִכְּלָל דָּאִי בְּעֵי הֵדֶר בִּיהּ, מְצִי הֵדֶר בִּיהּ!?

The Gemara asks: Is this by implication that if he wanted to retract, he could retract if it were not in his presence?

ANSWER

הָכִי קֶאֱמַר: דְּבָרִים הֵלָלוּ לֹא נִיתְּנוּ לְחֻזְרָה.

The Gemara answers: This is what he is saying: These matters of acquisition in the presence of all three are not given to retraction, meaning it is an absolute rule.

QUESTION

הָא אָמַר רַב חֲדָא זִימְנָא; דָּאָמַר רַב הוּנָא אָמַר רַב: "מָנָה לִי בְיָדְךָ, תִּנְהוּ לוֹ לְפִלוֹנִי", בְּמַעַמַּד שְׁלֹשָׁתָן – קָנָה!

The Gemara asks: But Rav already said this once! For Rav Huna said in the name of Rav: "I have a maneh in your hand, give it to so-and-so," in the presence of the three of them, he has acquired it!

ANSWER

אִי מַהֲהִיא, הָוָה אֶמִּינָא הָנִי מִיֵּלִי מִתְּנָה מְרוּבָה, אֲבָל מִתְּנָה מוּעָטֶת לֹא לִיבְעֵי בְּפָנָיו, קָא מְשַׁמַּע לֵן.

The Gemara answers: If from that statement alone, I would have said these words apply only to a large gift, but a small gift does not require being in his presence to take effect; therefore he teaches us that even a small gift requires all three.

STATEMENT

הָנָהוּ גִינָאֵי דְעֵבֶיד חוֹשְׁבָנָא בְּהֵדִי הִדְדִּי. פֶּשׁ חֲמִשׁ אִיסְתְּרִי וּזְזִי גַבִּי חַד מִנִּיּהוּ, אָמְרִי לִיה: "יְהִבִּינְהוּ נִיחָ לִיה לְמָרִי אֲרָעָא" – בְּאַפִּי מָרִי אֲרָעָא, וּקְנָה מִינֵיהּ.

There were certain gardeners who made a calculation with one another. There remained five isterei of zuz with one of them. They said to him: "Give them to the landowner" in the presence of the landowner, and they performed an act of acquisition from him to bind him.

STATEMENT

לְסוּף אֲזַל עֲבַד חוֹשְׁבָנָא בֵּין דִּילִיה לְנַפְשִׁיהּ, לֹא פֶשׁ גַּבִּיהּ וְלֹא מִיּדֵי.

In the end, he went and made a calculation by himself, and there did not remain with him anything at all.

STATEMENT

אַתָּא לְקַמִּיהּ דְּרַב נַחֲמָן, אָמַר לִיה: מַאי אֵי עֵבִיד לָךְ? חָדָא, דְּאָמַר רַב הוּנָא אָמַר רַב. וְעוּד, הָא קִנּוּ מִינָהּ.

He came before Rav Nachman, who said to him: What can I do for you? One reason you must pay is that which Rav Huna said in the name of Rav regarding the presence of all three. And furthermore, they performed an act of acquisition from you.

OBJECTION

אָמַר לִיה רַבָּא: אַטּוּ הָאִי, מִי קָאָמַר "לֹא יְהִבִּינָא"? "דְּלִיכָא גַבְאִי" קָאָמַר!

Rava said to him: Is that to say this man is saying "I will not pay" what I owe? He is saying "there is nothing in my possession" because of a mistake in the calculation!

RESOLUTION

אָמַר לִיה: אִם כֵּן, קִנְיָן בְּטָעוּת הוּא, וְכָל קִנְיָן בְּטָעוּת חוּזֵר.

Rav Nachman said to him: If so, it is an acquisition in error, and any acquisition in error is retracted.

STATEMENT

אִתְּמַר: "הוּלֵךְ מָנָה לְפָלוּנִי שְׂאֲנִי חַיִּיב לוֹ", אָמַר רַב: חַיִּיב בְּאַחֲרִיּוּתוֹ; וְאִם בָּא לְחֻזֹּר – אֵינּוּ חוּזֵר.

It was stated: If one says to an agent, "Take a maneh to so-and-so to whom I am indebted," Rav says: He is responsible for its safety; but if he comes to retract, he cannot retract.

STATEMENT

וּשְׁמוּאֵל אָמַר: מִתּוֹךְ שְׁחַיִּיב בְּאַחֲרִיּוּתוֹ, אִם בָּא לְחֻזֹּר – חוּזֵר.

And Shmuel says: Since he is responsible for its safety, if he comes to retract, he can retract.

QUESTION

לִימָא בְּהָא קַמִּיפְלָגִי – דְּמָר סָבַר: "הוּלֵךְ" כְּ"זָכִי" דְּמִי, וּמָר סָבַר: "הוּלֵךְ" לֹא כְּ"זָכִי" דְּמִי?

The Gemara asks: Shall we say they argue about this: that one Master, Rav, holds "take" is like "acquire" on behalf of the recipient, and one Master, Shmuel, holds "take" is not like "acquire"?

ANSWER

לא; דכולי עלמא "הוילך" כ"זכי" דמי, והכא בהא קמיפלגי – מר סבר: לא אמרינן מיגו. ומר סבר: אמרינן מיגו.

The Gemara answers: No; everyone agrees "take" is like "acquire," and here they argue about this: one Master, Rav, holds we do not say "since" he is responsible he can retract, and one Master, Shmuel, holds we do say "since".

PROOF

תנא פויתיה דרב: "הוילך מנה לפלוני שאני חייב לו"; "יתן מנה לפלוני שאני חייב לו"; "הוילך מנה לפלוני – פקדון שיש לו בידי"; "יתן מנה לפלוני – פקדון שיש לו בידי" – חייב באחריותו, ואם בא לחזור – אינו חוזר.

It is taught in a braisa in accordance with Rav: "Take a maneh to so-and-so to whom I am indebted"; "Give a maneh to so-and-so to whom I am indebted"; "Take a maneh to so-and-so, a deposit that he has in my hand"; "Give a maneh to so-and-so, a deposit that he has in my hand" — he is responsible for its safety, and if he comes to retract, he cannot retract.

QUESTION

פקדון, לימא ליה... אין רצונו שיהא פקדונו ביד אחר!

The Gemara asks: Regarding a deposit, let him say to him: "It is not his desire that his deposit should be in the hand of another", so how can the agent acquire it for him?

ANSWER

אמר רבי זירא: כשהוחזק כפרן.

Rabbi Zeira said: This is when the depositor is established as a denier of debts, so the owner is pleased to have anyone else hold it.

STATEMENT

רב ששת הוה ליה אשרתא דסרפלי במחוזהא. אמר ליה לרב יוסף בר חמא: בהדי דאתית, אייתינהו ביחלי. אזל, והבינהו ליה.

Rav Sheshes had a collection of cloaks in Mechoza. He said to Rav Yosef bar Chama: While you are coming, bring them to me. He went, and they gave them to him.

STATEMENT

אמרי ליה: ניקמי מינה; אמר להו: אין. לסוף אישתמיט להו.

They said to him: Let us perform an act of acquisition from you to make you responsible; he said to them: Yes. In the end, he slipped away from them without doing it.

STATEMENT

כי אתא לגביה, אמר ליה: שפיר עבדת, דלא שוית נפשך "עכד לך לאיש מלך".

When he came before him, Rav Sheshes said to him: You did well, so that you did not make yourself "a servant is the borrower to the lender" by accepting unnecessary liability.

STATEMENT

לִישָׁנָא אַחֲרֵינָא: שְׁפִיר עָבַדְתָּ; "עָבַד לֹוֶה לְאִישׁ מִלֹוֶה".

Another version: You did well, for if you had accepted responsibility, you would be bound by the verse "a servant is the borrower to the lender."

STATEMENT

רַבִּי אַחֵי בְרַבִּי יוֹשִׁיָּיָה הָיָה אִיסְפָקָא דְכֶסֶף בְּנֶהרְדָּעָא,

Rabbi Achai the son of Rabbi Yoshiyah had a silver cup in Nehardea,

SUMMARY

The sugya begins by establishing that Ma'amad Sheloshtan is a Rabbinic decree that operates beyond standard legal reasoning, alongside two other unique halachos (a husband gifting all his property to his wife, and a father marrying off his eldest son in his own home). Through Rav's instructions regarding a kav of saffron, the Gemara clarifies that a transfer made in the presence of all three parties is absolute and cannot be retracted, applying to both small and large transactions alike. The Gemara then rules that if a transfer under Ma'amad Sheloshtan was based on an incorrect accounting—as occurred with the gardeners' calculation—it is deemed a kinyan b'ta'us and is fully reverted. The daf concludes with a classic dispute between Rav and Shmuel regarding one who sends a debt payment through an messenger: Rav holds that while the sender retains financial responsibility for the money until it arrives, he cannot retract the designation, whereas Shmuel rules that as long as the sender bears responsibility, he retains the right to retract.

In our daf, we see a beautiful and deep principle of truth in the Torah's laws of business. A gardener makes a calculation, believes he owes money, and makes a formal commitment in front of three people to pay it. But when he goes home and recalculates, he realizes it was all a mistake—he actually owes nothing. Rava teaches us, and Rav Nachman agrees, that a commitment made in error is completely void. A "kinyan b'ta'us"—an acquisition based on a mistake—must be reversed.

Think about how this applies to our own lives, especially in how we view ourselves and our past commitments. Sometimes, the yetzer hara convinces us that we are spiritually bankrupt, or we make hasty promises and commitments to others out of guilt, social pressure, or a mistaken calculation of our own strength. We bind ourselves to expectations that are not real, or we carry around the heavy debt of old mistakes that Hashem has already forgiven through teshuvah.

Just like the gardener, you need to sit down and do an honest, quiet calculation between yourself and Hashem. If you find that you have bound yourself to a path of anxiety, or if you are carrying a burden based on a mistaken view of who you are, remember that the Torah does not want you living a lie. A mistake is a mistake, and you can always recalculate and start fresh with a clear mind and a pure heart.

Today, if you feel overwhelmed by a commitment or a heavy feeling of spiritual debt, take five minutes to sit quietly and recalculate. Ask yourself if this burden is truly what Hashem wants from you, or if it is a mistaken calculation that you can choose to let go of.