

22.9.11;150b (אמר נכסי לפלגיא) → 151b (ורע'ג דקנו מיניה)

- I Definition of "property" (נכסים) vis-à-vis declaration of פלוגי
- a *Certainly*: includes slaves (as per ג:ח פאה), land, garments and coins (as per א:ה קידושין)
 - i *Story*: of ר"פ empowering בר אחא to collect his coins in בי חוזאי via אגב
 - b *Also*: includes שטר as per 3rd type of שטר added by ר' הונא, based on א:ה קידושין
 - c *Includes*: animals and fowl (as per ז:ד תפילין (שקלים) (as per ו:ד ערכין)
 - d *Question*: does it include a ספר תורה?
 - i *Lemma1*: since he may not sell it, it isn't his property OR
 - ii *Lemma2*: since it may be sold to study or marry, it is his property – תיקו
- II Stories of various מתנות given by women who wanted to recant when conditions changed
- a זוטרא בר טוביה's mother wanted to marry and keep her property from ר' זביד (new husband);
 - i *So*: she wrote all of her property over to her son; married and was divorced and wanted it back
 - ii *Ruling* (ר' ביבי בר אביי): she wrote it to get married and married – gift is irrevocable
 - 1 *Dissent*: ר' הונא בריה דר"י – even the position that getting a gift from מברחת is irrevocable, that is only if she doesn't explicit mention her impending marriage; here, she did and now is divorced – חזר
 - b אשתו של חמא: first wrote her property over to רמי at night, the next morning wrote all of it to עוקבא (both her sons)
 - i *Ruling*: ר"ש granted it to רב"ח
 - ii *But*: ר"נ granted it to עב"ח
 - 1 *ש"ש* but she died, so her first gift to רב"ח should stand
 - 2 *ל"ג* but שמואל ruled that any gift that, were the ש"מ to recover, he could reverse (e.g. כל נכסיו), he can also retract while alive
 - (a) *Challenge* (ר"ש): perhaps שמואל meant that in regards to himself (i.e. retracting gift), not redirecting it
 - (b) *Response* (ר"נ): שמואל explicitly made this ruling regardless – to himself or to a different beneficiary
 - c Mother of חסידא ר' עמרם had a bundle of שטרות; on her deathbed she gifted them to her son; afterwards his brothers came to ר"נ, noting that עמרם hadn't made משיכה → קנין no
 - i *Response*: it is מתנת ש"מ – no need for משיכה
 - d ר' טובי בר ר' מתנה's sister wrote all of her property to him in the morning; in the afternoon, his brother came to her, begging her to change, lest people think less of him than his brother so she redirected the gift to him
 - i *Ruling* (ר"נ): as per שמואל above – she may redirect (or retract), since she could've reversed it (כל נכסיה)
 - e ר' דימי בר יוסף's sister had a patch of an orchard; everytime she felt she was about to die, she wrote the entire patch over to him and then recovered and took it back; finally, he refused to accept it until she agreed to leave one piece out, making it (he thought) irrevocable even if she lives. – and she recovered and came to ר"נ for relief
 - i *Ruling*: ר"מ summoned ר' דימי, who refused on ground that it was an irrevocable gift
 - 1 *ל"ג* looked into it and witnesses told him what happened
 - 2 *Ruling*: it was a מצוה מחמת מיתה (she clearly thought she was about to die) and it reverses – even though she left some that wasn't part of the gift
- III Status of מתנת ש"מ which is incomplete (not all of his property)
- a רבא quoted ר"נ רבא: it is like מתנת ש"מ – no need for קנין; like מתנת בריא – can't retract it
 - i *Refutation* (רבא): ר"נ only said that it is like מתנת בריא and requires a קנין
 - ii *Challenge* (ר"נ to רבא): our משנה – if he left any land, his gift is valid
 - 1 *Assumption*: the עדים didn't make a קנין from him
 - 2 *Response*: in this case, they did make a קנין (→valid)
 - (a) *Challenge*: סיפא – if he left nothing over – מתנה can be retracted; if there was a קנין, how is there חזרה
 - (b) *Answer*: שמואל ruled that a ש"מ who wrote everything to others – even if there was a קנין – retracts
 - (i) *Reason*: we understand that all of it was done (including קנין) because he thought he was dying
 - iii *Challenge* (ר"נ to מרשיא): story about woman with sons who declared that she wanted her daughter to have a brooch worth 12 מנה, she died and חכמים fulfilled her wishes (tho מתנה במקצת without a קנין)
 - 1 *Answer*: that was a case of מצוה מחמת מיתה – she was about to die
 - iv *Challenge* (ר"נ to רבנא): if a man instructs them to give a גט or שחרור – can't give posthumously,
 - 1 *But*: if he directs them money to פלוני – may do so after his death
 - (a) *And*: there was no קנין, as the ברייתא equates the money with גט (no קנין made on גט), so here
 - 2 *Answer*: this is also a case of מצוה מחמת מיתה
 - b *ע"ג* even הונא בריה דר"י: מצוה מחמת מיתה usually requires קנין; these cases are all when he divided up his entire estate
 - c *Final rulings*: an incomplete מתנת ש"מ requires קנין, even if he dies; מצוה מחמת מיתה doesn't require קנין – if he dies; if he recovers, he may retract the gift, even if they made a קנין