

18.07.04

74a (משנה ה') → 75b (בעינן הן קודם ללאו)

I גיטין conditional משנה ה'

- a *if*: he gave a גט on condition that she give him 200 זוז, she is divorced and must give
- i *meaning*:
- 1 **דב הונא**: she must give – but the גט is valid immediately
 - 2 **דב יהודה**: when she gives the money – the גט is valid
 - 3 *split the difference*: if the גט is destroyed in the interim (רב הונא – no need for a new גט)
 - 4 *parallel*: conditional קידושין (same dispute – if the תנאי is separate obligation or an obstacle to the קידושין)
 - (a) *split the difference*: if she accepted קידושין from another in the interim (רב הונא – meaningless)
 - 5 *justification*: if we only had dispute in re: קידושין, סד"א that הונא ר' sees it as a non-obstacle since he's bringing her closer – but would agree with יהודה in re: גיטין
 - (a) *and*: if we only had dispute in re: גיטין, סד"א that ר"ה's position is because she is ashamed to demand the money, but in the case of קידושין she would be comfortable doing so and he would agree with ר"י - צריכה
 - 6 *challenge (to יהודה ר')*: if he gave her a גט "על מנת" that you give me 200 זוז, even if it is destroyed in the interim, it is valid (but she may not marry until she gives 200 זוז; at that point she is no longer זקוקה לייבום)
 - (a) *dissent*: רשב"ג allows her to give it to his family members (interpreting לי as including יורשיו)
 - 7 *Answer*: this follows רבי, who equates מעכשיו::על מנת
 - 8 *Variation*: in א"י, they understood לכר"ע that מנת מעכשיו::על מנת; dispute is only re: מהיום ולאחר מיתה (supp. ברייתא)
 - (a) *challenge*: acc. to יהודה רב, why not express disagreement (in ברייתא) about על מנת?
 - (b) *Answer*: כח דהיתרא – prefer to show that רבי even allows על מנת as a retroactive גט
- b *however, if*: he made the conditional time-bound (e.g. within 30 days), it is only valid if she gives 200 זוז within 30 days
- i *justification*: we may have thought that he only gave a time-frame to encourage her to act with due diligence – קמ"ל
- c *רשב"ג*: case in צידון where a man made a גט conditional upon her giving him a cloak which was then lost
- i *ruling*: she must give him its value in money
- ii *note*: משנה is deficient; ת"ק ruled that the cloak itself must be given, רשב"ג dissented and brought story as support
- iii *Question*: if he forgives the money of the תנאי, is the גט valid without the 200 זוז being given?
- 1 *According to דבנן*: they may still permit, since he was מוחל
 - 2 *According to רשב"ג*: he may still disallow, since he only permits when she pays the value
 - 3 *Challenge*: ruling in re: נדרים – if נדר was made if the מודר doesn't bring a gift and then the מדיר is מוחל – lifted
 - 4 *Distinction*: in the case of the נדר, he wanted "surplus" and then didn't need or want it; in our case, he wants to harass her and that can't be accomplished if he forgives the debt
 - 5 *Case*: (during drought) man told sharecropper that he would get paid more (1/3 instead of 1/4) if he waters 4 times (instead of the customary 3); it rained and the 4th watering wasn't needed:
 - (a) *יוסף ד'*: didn't fulfill condition (doesn't get paid 1/3)
 - (b) *דבה*: it wasn't needed (gets paid 1/3; considered akin to מחילה)
 - (c) *note*: הלכה follows רבה, (and we rule against רשב"ג [below]) → must be that both רבה and יוסף ר' accept רבנן
 - (i) *Explication*: רבה – same distinction (in the רשב"ג case, it was harassment; here he needed extra water)
 - 6 *Clarification*: הלל made a rule (in re: חומה בתי ערי חומה – see ויקרא כה:כט-ל) that the money be paid against the will of the seller in his absence so as to complete the sale at the end of 1 year
 - (a) *Inference #1*: usually, a coerced receipt isn't a gift → if she is forced to give the 200 זוז, גט is invalid
 - (i) *Challenge*: perhaps הלל only had to make this ruling for a gift in his absence, but in his presence, valid
 - (b) *Inference #2*: a coerced receipt is usually valid except in his absence → if she is forced to give 200 – valid
 - (i) *Challenge*: perhaps it's never valid and הלל made the ruling for the circumstance (absent seller)
- iv *Ruling*: צידון יוחנן ר' – when רשב"ג's opinion is cited in the משנה, הלכה follows him **except 3 cases, including צידון** (our case)
- v *Note*: if he gives a גט on condition that the paper is his – invalid; on condition that she returns it – valid
- 1 *Suggestion*: follows רשב"ג (as per ruling about cloak) – she might pay him instead (and keep the גט)
 - 2 *Rejection*: רשב"ג only validates if the cloak is gone; here, the paper is still accessible
 - 3 *suggestion*: per ר"מ who requires כפול תנאי, (block: also requires למעשה קודם לתנאי אחר and ומעשה בדבר אחר)
 - (a) *Rather*: follows רבי who equates מנת מעכשיו::על מנת
- vi *אם לא מתי לא יהא גט, אם מתי יהא גט* – writes גט שכ"מ in case of *תקנה שמואל*
- 1 *Reason*: don't mention אם מתי first (mentioning death) – but must double condition as per ר"מ
 - 2 *אם לא מתי לא יהא גט, אם מתי יהא גט*: must have גט → יהא גט → קודם ללאו
 - (a) *reason*: in this manner, he doesn't mention death first, but precedes לאו to the לאו