

19.01.25; 27b (וזוקקים את הנכסים) → 29a (אטו הדיוט לאו במי שפרע קאי)

1. ובאו המים המאזרים האלה במעיד לצבות בטון ולנפל ירד ואמרה האשה אמן אמן: במדבר ה, כב
 2. והשיב אתה הכהן ואמר אל האשה אם לא שכב איש אתך ואם לא שטיית טמאה תחת אישך הנקי ממי המזרים המאזרים האלה: במדבר ה, יט
 3. ונקה האיש מעון והאשה ההוא תשא את עונה: במדבר ה, לא
 4. ואם גאל יגאל את השדה המקדיש אתו וינסף חמשיית קסף ערכך עליו וקם לו: ויקרא כז, יט

- I Last Clause of ד' משנה ב' (we can only administer a שבועה on שבועה; if, however, such a שבועה is being administered, the plaintiff can add in claims he has against the defendant regarding real estate via שבועה)
- a Source: סוטה (vv. 1-3) - since he can administer an oath even vis-à-vis her behavior as an ארוסה - which is off-limits - must be done via שבועה
- i Question: how can it be applied to ממונה?
- ii Answer (ר' ישמעאל): ק"ו:
- 1 If: סוטה, which cannot be accused without 2 witnesses (of סתירה), allows for שבועה
 - 2 Then: certainly ממונות, which can be claimed based on one witnesses (קם הוא לשבועה) - allows for גלג"ש
- iii Challenge: how can we apply שבועה to a case of ספק?
- iv Answer (ר"ש): סוטה (the שבועה administered "inside" [מקדש]) equates: ספק: וודאי: so too ממונות (administered "outside")
- b Question: extent of שבועה
- i רב: claiming that someone is an עבד
- 1 challenge: in such a case, we excommunicate the accuser
 - (a) note: if he calls someone "ממזר", he gets מכות; "רשע" - ב"ד has no recourse but he is considered an enemy
 - 2 rather (רבא): if he claims that someone was sold to him as an עבד עברי
 - (a) challenge: this is a perfectly good claim - of financial debt
 - (b) answer: רבא is following his own approach - ע"ע is physically owned by master
 - (i) Challenge: if so, it's the same as קרקע (which, we already know, is accessible via גלג"ש)
 - (ii) Answer: קמ"ל - קול has a קול, but ע"ע is sometimes sold quietly - possibly no קול, but ע"ע has a קול
- II חליפין: משנה ו'
- i Rule: anything that is exchanged after appraisal (באחר), once the appraised item is received, the other party takes full ownership of (and is liable for losses to) the bartered item.
- ii Example: if an ox was swapped for a cow or a donkey for an ox - once the 1st party receives (ox/donkey), the 2nd party is full liable for losses to the (cow/ox).
- 1 Suggested interpretation (rejected): money is being used here - teaching that חליפין
 - 2 Rejection: רב יהודה (as per explanation above);
 - 3 Support: examples don't involve money, but two (appraised) animals being swapped
 - (a) Note: according to original (mistaken) understanding, what was the purpose of those examples?
 - (i) Answer: to teach that פירות can be used for חליפין - i.e. the meat of the ox for a cow etc.
 1. note: this explanation is only valid for ר' ששת (פירות עבדי חליפין) - ר' ששת, not for ר"ג
 2. ד' נחמן. (interprets) there is money which works like חליפין - if he swapped the money of an ox for a cow etc.
 - a. explanation: money can operate in the same way as חליפין
 3. note: he must agree with ר' יוחנן that מה"ת ר' יוחנן (the transfer of money effects the קנין)
 - a. משיכה: is a rabbinic institution to protect the buyer (as above)
 - b. in this case: they didn't enforce משיכה, since it's an unusual form of barter
 - c. note: according to ר"ל (משיכה) is explicit in the תורה - must hold like ר' ששת
 - d. comment: this conclusion is only within the (rejected) first understanding of the משנה
- III 21 משנה ב' (גמרא quoted in תוספתא א: ט: interepreted along lines of הקדש to קנינין: משנה ב')
- a הקדש acquires with כסף (משיכה not needed), unlike regular citizenry (חזקה = משיכה)
- b an oral commitment to הקדש ≡ handing it over in a non-קדש setting
- i meaning: his commitment, even regarding something out of reach, immediately transfers it to הקדש
- ii benefit to הקדש:
- 1 if: someone wanted to redeem from הקדש, took it and it appreciated before he paid - higher value (v. 4)
 - 2 if: he took it and it depreciated before he paid - higher value (הדיוט shouldn't be worse off than הקדש)
 - 3 if: he paid more and it depreciated before he took - higher amount remains as per v. 4
 - 4 however: if he paid less and it appreciated before he took - it's redeemed, since even a הדיוט would have to honor that price (or be under the curse of הדבורו)