

19.03.02

60a (משנה ב') → 61a (ומייתנא וזרענא ומייתנא) →

. / ואם משדה אחרתו יקדיש איש לה' והיה ערכך לפי זרעו זרע חמר שערים בחמשים שקל כסף: ויקרא מרד כז פסוק טז

## I קידושין על תנאי: משנה ב'

- a If: he gives her קידושין on condition that he pay her X (amount of money), קידושין are valid and he owes her X
- i **דב הונא** קידושין are valid immediately - it is like any other condition
- ii **דב יהודה** קידושין only valid *when* he gives the money – קידושין are contingent upon him giving
- 1 *split the difference*: if, in the meantime, she accepts קידושין from another
- 2 *parallel dispute*: in re: **משנה גיטין (ז:ה)** (inverted case –she owes him);
- (a) *split the difference*: if the **גט** is destroyed or lost in the interim)
- (b) *justification*: if we only knew
- (i) **קידושין** that **הונא** 'ר's position is due to man's desire to marry; in re: **גט**, he might agree with **יהודה** רב
- (ii) **קיד**, she may be shy that **הונא** 'ר's position is due to his readiness to claim his money; in re: **גיטין**
- 3 *Challenges to יהודה* **דב יהודה** 2 **ברייתות** where **על מנת** is clearly read as **תנאי** and **גט** is valid immediately
- (a) *Answer*: that follows **רבי**, who reads every **על מנת** מעכשיו::
- (b) *And*: **רבי** follows **רבנן** who don't read **על מנת** as מעכשיו
- (c) *Note*: in **טבריה** (unlike **בבל**), they held that all agree that **על מנת** מעכשיו::; dispute is only in re: **מיתא** ולאחר מיתה
- (d) *Challenge to יהודה* **דב יהודה** why do **רבנן** explicitly (**בריייתא**) dispute **מיתא** ולאחר מיתה; let them dispute **על מנת** מעכשיו::
- (i) *Answer*: **כח דהיתירא** is preferable to teach (here, **רבי** is more lenient, allowing even **מיתא** ולאחר מיתה)
- b If: he gives her קידושין on condition that he pay her X within 30 days – קידושין are only valid if he does so within that time
- i *And*: we don't read the "30 days" as encouragement to get it done; it is a real condition
- c If: he gives her קידושין on condition that he has X, קידושין are valid as long as we have testimony that he has it
- i *Challenge*: why aren't we concerned that he may have it (even if we have no witnesses)?
- ii *Answer*: indeed, that would generate **ספק קידושי**
- d If: he gives her קידושין on condition that he show her X, קידושין are valid if he shows it to her
- i *However*: if he shows her X on the moneychanger's table (not his) – invalid (implication – to see money he owns)
- ii *Even if*: he is doing business and showing her money with which he was doing business - invalid

## II קידושין – משנה ב' continuation of ג' משנה ג'

- a if: he gives her קידושין conditional on his having Y (size) plot of land – קידושין are valid if he has proof of ownership
- i *note*: without proof, we are concerned that he has and we have **ספק קידושי**
- ii *note*: have to teach this notion vis-à-vis money and land separately:
- 1 *if*: we only taught it re: money, **סד"א** money is hideable and we may not know about it, but land has **קול** – **ספק** no
- b if: he stipulates that he owns Y plot of land in location Z – he must prove that he owns Y in Z
- i *note*: we insist it be there, and don't allow him to say "what does it matter to you?"
- c if: he stipulates that he will show her Y plot of land – he must show her the land (she understands that he owns it)
- i *however*: if he shows her Y in a valley (not his) – invalid – she accepted it based on the notion that it was his
- d *definition of כור* can follow that of **הקדש** or **מכר**
- i **הקדש**: everything counts, including mounds and trenches of over **טפחים** י' – as long as they are arable (v. 1)
- ii **מכר**: trenches and mounds of over **טפחים** י' don't count, as a person wants a single field
- iii **קידושין** should follow **הקדש**, since he will provide for her from that field, even from higher/lower spots within field