



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

### Gittin Daf Lamed Zayin

- **R' Yehuda in the name of Shmuel** said, orphans do not need to write a pruzbul, and the debts owed to their deceased father will not be cancelled by shmitta. **Rami bar Chama** explained from a Braisa that the Beis Din is considered to be the guardians of the orphans, and their debts are therefore already given over to the Beis Din.
- A Mishna says, a pruzbul must be written on the basis of a piece of land (owned by the debtor). If the debtor has no land, the creditor should give him a tiny piece so that the pruzbul can take effect.
  - **R' Chiya bar Ashi in the name of Rav** said, the "tiny piece" can be as small as one stalk of cabbage. **R' Yehuda** said, the creditor can even just lend him land for his use, and that is sufficient for the purposes of pruzbul.
    - **Q: Hillel** (the Amora) taught a Braisa that a pruzbul can only be written on a flowerpot if it has a hole on the bottom (and is therefore considered to be connected to the ground). This suggests that a flowerpot without a hole cannot be used, even though it takes up space (and therefore should be sufficient according to **R' Yehuda**)!? **A:** The case is where the flowerpot is on a stand, and therefore not taking up place on the ground.
  - **R' Ashi** gave his debtor the stump of a palm tree and wrote a pruzbul based on that.
  - **The Rabanan of the Yeshiva of R' Ashi** would verbally say the pruzbul to each other instead of writing it down. **R' Yonason** did the same to **R' Chiya bar Abba**, who then told him, you have done all that needs to be done for pruzbul.
  - A Braisa says, if the debtor doesn't have any land, but the guarantor on the loan does, the pruzbul can be written on the basis of that land. If the debtor and the guarantor don't have any land, but a debtor of the debtor does, the pruzbul may be written on the basis of that land (using the "shibuda d'Rebbi Nosson").
- A Mishna says, shmitta cancels a loan, whether it is a loan written in a document or not.
  - **Rav and Shmuel** both say, when the Mishna says "written in a document" it means a document where there is "achrayus" (a lien on real property), and when it says "not written in a document" it means a document that doesn't have achrayus. Certainly, a loan that was only done orally will be cancelled as well. **R' Yochanan and Reish Lakish** say, when the Mishna says "written in a document" it means a document where there is no achrayus, and when it says "not written in a document" it means an oral loan. However, a loan written in a document with achrayus will not be cancelled by shmitta.
    - There are two Braisos that say like **R' Yochanan and Reish Lakish**.
    - In practice **R' Yochanan** once ruled that a loan written in a document with achrayus is cancelled by shmitta. **R' Assi** asked him, you have said different!? **R' Yochanan** said, I said what I said as an explanation to a Mishna, but did not pasken that way, because I did not hear this from my rabbei'im. **R' Assi** asked, we have Braisos that say that the loans do not get cancelled!? **R' Yochanan** answered, it may be that those Braisos follow **B"S**, who say that a document which stands to be collected is considered as if it was already collected (and as such is not outstanding by shmitta).
- A Mishna says, if a loan was done with collateral, and loans that were given over to Beis Din, are not cancelled by shmitta.

- **Q:** We understand why loans given over aren't cancelled (because they were given to Beis Din who has the power to deem them collectable). Why is a loan made with collateral not cancelled? **A: Rava** said, since the lender holds the collateral, it is as if the loan is already collected.
  - **Q: Abaye** asked, according to this, if the borrower allowed the lender to live in his courtyard as collateral, the loan should also not be cancelled by shmitta, and yet we know that is not the halacha!? **A: Rava** explained, the case of a moveable collateral is different, because the lender is actually koneh the collateral, as taught by **R' Yitzchok**. Therefore, it is in that case that the loan is considered to already be collected.
- A Mishna says, if a debtor pays back a loan after shmitta (although it was cancelled by shmitta), the creditor must tell him "I relinquish the debt". If the debtor then says, "Even so, I still want to repay it", the creditor may then accept payment.
  - **Rabbah** said, the creditor may pressure the debtor until he says "Even so, I want to repay the loan".
  - **Q: Abaye** asked, a Braisa says that when a debtor repays a loan after shmitta, he must say that he is giving the money as a gift, not as repayment. This suggests that he cannot be forced or pressured to repay!? **A: Rabbah** said, he is allowed to pressure him to say "I am giving you this money as a gift".
  - It once happened that **Abba bar Marsa** attempted to pay a loan back to **Rabbah** after shmitta, and **Rabbah** told him "I relinquish the debt". **Abba bar Marsa** went away without paying. When **Abaye** saw that **Rabbah** was upset and was told what happened, he went to **Abba bar Marsa** and told him to go back to **Rabbah** and to tell him, "Even so, I still want to repay you". He did so, and **Rabbah** accepted the money.
- **R' Yehuda in the name of R' Nachman** said, a person is believed to say "I had a pruzbul, but I lost it". The reason is, that since the pruzbul allows him to collect his debts in a permissible way, we can assume that he had one done, and did not decide to lie and collect his debts in a prohibited way.
  - When a creditor would go to **Rav** (as a Beis Din) to collect their debts after shmitta, he would say to them, "Did you maybe have a pruzbul and it got lost"? He held that this was a case where it is mutar for Beis Din to coach the claimant into making the proper claim.
  - **Q:** A Mishna says that when a creditor comes for payment after shmitta without a pruzbul, they do not collect the loans. This seems to suggest that when he claims the pruzbul was lost we do not believe him (if the Mishna is talking about where he admits to never having written a pruzbul, it would be obvious that he may not collect)? **A:** It is actually a matter of machlokes between Tanna'im in a Braisa whether the creditor must be in possession of the pruzbul, or whether he can say that he had one written but misplaced it.

#### MISHNA

- If a slave was captured and Yidden paid a ransom to get him free, if they did so with the purpose that he remain a slave, he remains a slave. If they did so with the purpose of having him become a free man, he is no longer a slave. **R' Shimon ben Gamliel** says, in either case he remains a slave.

#### GEMARA

- **Q:** What is the case in the Mishna? If he was ransomed before the owner was "meya'esh", why should he go out free? If it was done after "yi'ush", why would he remain a slave if they ransomed him with the intent that he remain a slave? **A: Abaye** said, the Mishna is discussing where the owner was not yet meya'eish. Therefore, if he was ransomed with the intent to remain a slave, he remains a slave of his original owner. If he was ransomed with the intent to make him a free man, then he is no longer a slave to his original owner or to the one who paid

the ransom. He is not owned by his original owner, because if we were to say that he is, people would not go and ransom him from captivity. **R' Shimon ben Gamliel** holds that he will continue to be owned by the original owner and we are not concerned that people will not ransom him, because just as there is a mitzvah to redeem a Jew, there is also a mitzvah to redeem a slave.

**A2: Rava** said, the Mishna is discussing where the owner was already meya'eish. If the slave is ransomed to remain a slave, he becomes the property of the one who ransomed him (since the original owner was already meya'eish). If he was ransomed to go free, he goes free. **R' Shimon ben Gamliel** argues and says that in both cases he remains the property of the original owner, as **Chizkiya** explains, because if we don't say that, when a slave wants to be free of his master, he will just have himself captured and in that way end up being free.

- **Q:** A Braisa says that **R' Shimon ben Gamliel** said to the **Rabanan**, just as it is a mitzvah to a redeem a Jew, it is also a mitzvah to redeem a slave. Now, this statement is his reason according to **Abaye**. However, according to **Rava**, this is not his reason!? **A: Rava** will explain, that **R' Shimon ben Gamliel** was not sure what the **Rabanan** were saying. Therefore, he said to them, if the owner was not yet meya'eish, then the concern is that if he doesn't go out free people will not redeem him, and to that I say that just as there is a mitzvah to redeem a Jew there is also a mitzvah to redeem a slave. And, if you mean to discuss where the owner was already meya'eish, then the reason he must remain the property of the original owner is like **Chizkiya** said.
- **Q: Rava** said that the Mishna is discussing where the owner was meya'eish, and if the ransom was given with the intent for him to remain a slave, the slave becomes the property of the one who gave the ransom. From who was this person koneh the slave? You can't say he is koneh him from the captor, because how was the captor ever koneh the slave? **A:** Although the captor was never koneh the actual body of the slave (because a goy can't own the body of another goy) he is koneh the work of the slave, and it is that, that he then gives over for the ransom.