



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

Gittin Daf Nun Aleph

- **Q: Ulla** had said that an unwritten loan or obligation may not be collected from the debtor's encumbered properties. **R' Huna bar Manoach** asks, a Mishna says that if a man promised to support his wife's daughter (his stepdaughter) and he then died, the stepdaughter may collect her support from encumbered properties, because she is like a creditor, whereas the man's own daughters from that same wife (who he has an obligation to support) may only collect from unencumbered properties. Now, this proves that one can collect a debt from encumbered properties without it being in writing (since the obligation to the stepdaughter was presumably not written)!? **A:** The case of the Mishna is that an actual kinyan was done to formalize the obligation to the stepdaughter, and that is why she may collect from encumbered properties.
 - **Q:** That means that the Mishna is discussing where there was a kinyan made to his own daughters for their obligation as well, so why must they collect from unencumbered properties? **A:** The case is where a kinyan was only made for the stepdaughter, and not for his daughters.
 - **Q:** Why would we say that the Mishna is inconsistent? **A:** He made a kinyan for both. However, at the time of his marriage to the mother, only the stepdaughter was around, and therefore the kinyan only helps for her.
 - **Q:** Why can't we say that the case is where the daughters are around at the time of marriage as well (the case would be where he was married to this woman who had a daughter from a previous marriage, and had a daughter with her and then divorced her, and then remarried her. At the time of the remarriage the daughter and the stepdaughter were both around)? **A:** Although a kinyan was made for each of them, since his own daughter must be supported by a condition of Beis Din, a kinyan doesn't help to further the obligation and is therefore ineffective. The stepdaughter's obligation is a new obligation and the kinyan is therefore effective in furthering it and allowing her to collect from encumbered properties.
 - **Q:** Just because the daughter's obligation is stronger, why would that prevent a kinyan from being effective!? **A:** Since his obligation to his daughters is set by Beis Din, we are concerned that he left a bundle of money somewhere for her to use for her support. Therefore, we do not allow her to collect from encumbered properties. We do not have this concern for his stepdaughter, and that is why she may collect from encumbered properties.
- **Q:** A Braisa says that when a purchaser is forced to return the purchased land because his seller had stolen it from the true owner, he may collect the purchase price from his seller's encumbered properties, but the amount that he spent to improve the land may only be collected from unencumbered properties. **R' Nosson** said, this is only true if the improvements were done after the other properties were sold and became encumbered. However, if the improvements were done first, he can collect this amount from encumbered properties of the seller. We see that unwritten obligations may be collected from encumbered properties!? **A:** The Gemara says, this is actually a machlokes among Tanna'im. We find a Braisa where the **T"K** says that an unwritten obligation cannot be collected from encumbered properties, and **R' Yose** says that any obligation that is not for a set amount cannot be collected from encumbered property. We will say that **Ulla** holds like the **T"K** and **R' Chanina** holds like **R' Yose**.

V'HAMOTZEH METZI'AH LO YISHAVA

- **R' Yitzchak** said, if someone tells his friend, "You found two wallets of mine that were tied together", and the friend says "I only found one wallet", he must swear that he only found one. If someone tells his friend, "You found two oxen of mine that were tied together", and the

friend says “I only found one”, he need not swear that he only found one. The difference between the cases is that oxen have a tendency to separate themselves, whereas wallets do not. If someone tells his friend, “You found two oxen of mine that were tied together”, and the friend says “I found both, but I already returned one to you”, he must swear that he already returned one.

- **Q:** Does **R’ Yitzchak** not hold of our Mishna that says that for the benefit of the world, one who finds something need not swear regarding the found item? **A:** He holds like **R’ Eliezer ben Yaakov** who argues on our Mishna in a Braisa. In the Braisa he says, there are times when a person will have to swear on his own claim. For example, if a person tells an orphan “I owed your father a maneh, but already paid him half”, he must swear to that claim. The **Chachomim** argue in the Braisa and say this person is “returning a lost object” and is therefore patur from swearing.
 - **Q:** Does **R’ Eliezer ben Yaakov** not hold of the concept of the returner of a lost item being patur? **A:** **Rav** said, the Braisa is talking about where a minor made a claim against the debtor, and that is why he had to swear.
 - **Q:** A Mishna says that the claim of a minor has no bearing to make someone have to swear!? **A:** In the Braisa there is an adult who is making the claim against the debtor. The reason **Rav** referred to him as a minor is because even an adult orphan is referred to as a minor in his father’s affairs (because he is totally unfamiliar with them).
 - **Q:** If this is the case, why does the Braisa refer to it as swearing “on his own claim”? It is the claim of the orphan that is making him swear!? **A:** The Braisa means that it is the claim of the orphan, but his own admission.
 - **Q:** Every case of swearing on an admission is based on a self-admission!? **A:** The machlokes in the Braisa is based on the concept of **Rabbah**, as to why a partial admission must swear. He says it is because a person is embarrassed to lie and deny a claim completely, but does so partially so as to find more time to pay. The **Rabanan** say that a person would have no problem denying the claim of the son, since it was his father, and not him, who lent the money. Therefore, a partial admission is like the return of a lost item. **R’ Eliezer ben Yaakov** says that a person would not have the chutzpah to fully deny the claim of the son either. That is why the partial admission is like the partial admission to the father himself, which requires the person to swear regarding the rest.