



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

### Bava Metzia Daf Mem Ches

- **Rava** said, there is a pasuk and a Braisa that support **Reish Lakish** (that meshicha, not money, is koneh moveable items D'Oraisa).
  - The pasuk says that if someone denies and swears falsely regarding a deposit, a loan, a stolen item, a withholding of wages, or a found item, then an "asham gezeilos" must be brought. **R' Chisda** explained, the cases of a loan and withholding of wages are discussing where collateral was designated by the borrower or the employer, and they then denied the obligation. The later pasuk then repeats and says that in the case of the deposit, the stolen item, a found item, and the withholding of wages, the actual item must be returned. Now, this pasuk leaves out the case of a loan. It must be because the collateral never had meshicha done to it ("payment" was given by the giving of the money for the loan). This proves that meshicha is D'Oraisa!
    - **R' Pappa** said to **Rava**, this is no proof. It may be that the case of a loan is meant to be learned from the case of the withholding of wages, which is similar to it. **Rava** said, the case of the wages was where the employee took the collateral and then gave it back to the employer. Since meshicha was done, the employer must return the actual item. The case of the loan was where meshicha was not actually done.
      - **Q:** If that is the case, it is the same thing as the case of a deposit!? **A:** The pasuk lists two kinds of deposit.
      - **Q:** Why doesn't the pasuk repeat the case of the loan and give the case of where the lender did meshicha and returned it to the borrower? **A:** By not repeating the case, the pasuk can act as a support to **Reish Lakish**.
      - **Q:** A Braisa says that **R' Shimon** says, the words "oy mikol asher yishava alav lasheker" teach that the case of the loan is included in the obligation to return the actual item!? **A:** Since it was not explicitly repeated, the pasuk can still be said to support **Reish Lakish**.
    - A Braisa says, if a person gave a coin of hekdesch to a bathhouse attendant, he is liable for me'ilah immediately, even before taking the bath. **Rav** said, the case of the bathhouse attendant is used, because in that case there is no item being purchased that requires meshicha to be done (it is a service), but in a case where meshicha was needed and was not done, he would not be chayuv for me'ilah. This supports **Reish Lakish**.
      - **Q:** A Braisa says that if the coin of hekdesch is given to a barber he is immediately chayuv for me'ilah. Now, in that case he has to do meshicha on the scissors in order for the kinyan to be final, and yet the Braisa says he is chayuv immediately upon giving it!? **A:** The case is of a non-Jewish barber, and meshicha cannot be done with a non-Jew.
        - This must be the case, because another Braisa says that when one gives a coin of hekdesch to a barber he is chayuv only after doing meshicha on the scissors. It must be that this Braisa is discussing a Jewish barber and the other Braisa is discussing a non-Jewish barber. **SHEMA MINAH**.
  - **R' Nachman** also holds like **R' Yochanan**, that D'Oraisa the payment of money makes the kinyan. **Levi** even put this view in a Braisa as well (that money makes the kinyan).
    - **Q:** This Braisa refutes **Reish Lakish**!? **A:** **Reish Lakish** will say that the Braisa follows **R' Shimon** (who holds that money is koneh D'Oraisa).

- **Abaye** said that if someone wants to renege from a deal after having paid, we inform him that he will be punished by Hashem, but we don't curse him ourselves. **Rava** said, we curse him ourselves (that Hashem should punish him).
  - **Abaye** said, we don't curse him, because the pasuk of "v'nasi b'amcha lo sa'or" teaches that we may not curse a person. **Rava** said, the word "b'amcha" teaches that this only applies to someone who acts properly, and this person did not act properly. **Rava** said, I can prove my view from a story in which **R' Chiya bar Yosef** reneged on a deal after getting paid and **R' Yochanan** told him to give over the item, and if not, to accept the curse upon himself. Now, **R' Chiya bar Yosef** surely did not need to be informed of the halacha, so it must mean that an actual curse was going to be given.
    - **Q:** This can't be what happened in the story, because **R' Chiya bar Yosef** would not do something to cause a curse to be put on him. Rather, the case was that **R' Chiya bar Yosef** had accepted a down payment on the items, and he felt that he only had to give an amount that corresponds to the amount of the down payment, but could renege on the rest. **R' Yochanan** told him that the entire sale is considered completed, and no part could be reneged on.
  - With regard to a down payment given on a purchase, **Rav** says it is koneh an amount equal to the payment, and **R' Yochanan** says it acquires the entire amount of the agreed upon purchase.
    - **Q:** A Braisa says, if two people agree to a transaction and the buyer gives a security to the seller and says "if I renege, you can keep the security" and the seller says "if I renege I will double your security", **R' Yose** said, these stipulations are binding. **R' Yehuda** said, it is enough that the buyer is koneh an amount of the item equal to the value of the security. **R' Shimon ben Gamliel** said, this is only when the buyer said "my security should be koneh". However, if the money was given as a down payment for a house or a field, the buyer is koneh the entire house or field with the down payment, and he must then pay the rest. Now, presumably this same halacha would apply to moveable items as well, and would mean that with a down payment the buyer is koneh the entire thing and if the seller would renege on any part he would be subject to the curse. This refutes **Rav**!? **A:** It may be that this only applies to land, because the giving of the money acts as the kinyan on the land as well. However, with regard to moveable property, where the giving of the money only affects that they may not renege or risk being subject to the curse, it may be that the money given only obligates him to carry through on an amount of the deal equal to the amount of the down payment.
    - **Q:** Maybe we can say this is actually a machlokes among Tanna'im. A Braisa says, if one lent money and received collateral and shmitta then arrived, **R' Shimon ben Gamliel** says, even if the value of the collateral is less than the loan, the loan is not cancelled. **R' Yehuda Hanasi** says, if the collateral is equal in value to the loan, it is not cancelled. If it is less, it is cancelled. Now, what part of the loan is **R' Shimon** saying is not cancelled and **R' Yehdua** is saying is cancelled? It must be referring to the part of the loan beyond the value of the collateral. If we view the collateral as partial payment on the loan, we can say that the machlokes is that **R' Shimon** says the partial payment effects the entire loan, whereas **R' Yehuda** says it only effects up to its value! **A:** It may be that **R' Shimon** means that the part of the loan equal to the collateral is not cancelled, which would mean that **R' Yehuda** holds that even that part of the loan is cancelled. The reason is, **R' Yehuda** holds that when collateral for less than the value of the loan is taken, it is not meant to be viewed as payment. Rather, it is given as a reminder that payment must be made.