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Nedarim Daf 43

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### **Mishna**

The *Mishna* states: If one is prohibited by vow from deriving benefit from his fellow, he may not lend him and he may not borrow from him; he may not loan him money and he may not borrow money from him; he may not sell to him and he may not purchase from him. (42b2)

### **Forbidden Mutual Benefit**

The Gemora asks: It is understandable why he should not lend him money, as he would be benefiting him. However, why can't he borrow money from him? How is he benefiting him by borrowing money from him?

Now, it may be understandable why someone who cannot benefit from someone else should not borrow items or buy things from that person, for there are cases where the subject of the vow is providing benefit to the vower. [This may happen in the following instances: If he borrows inferior coins, and returns better ones, and as the value of coins depend to some extent on their weight, the subject of the vow would benefit. Likewise, the buyer may not purchase an article for which there is only moderate demand, for that is providing benefit to the seller.] However, why can't the subject of the vow borrow items (something which is returned intact) from him?

Rabbi Yosi the son of Rabbi Chanina says: The Mishna refers to a case where each vowed not to have benefit from the other.

Abaye says: This was a Rabbinical decree not to borrow because this might lead to lending, and so too, with all of

them it is on account of a decree (*and one should not buy from him for this may lead to selling to him*). [The Ra”n elaborates: Although the Mishna above taught that if one declared, “that I not benefit from a yisroel,”: he must buy above the proper price and sell below it, and if he states, “that a Yisroel may not benefit from me,” he must buy for less and sell for more; and we said concerning that: whenever it is desirable merchandise, the one forbidding benefit is allowed to sell to the one from whom he is forbidden, and we do not make any decree. The Ramban already wrote there, since he forbade himself from all Yisroel, we do not make any decree, because if we made a decree and required him to give benefit to gentiles, it would be a hardship for him. Here, however, where he is only forbidding benefit from one other person, he is able to tolerate it, so we make a decree.] (43a1)

### **Mishna**

A person said to his friend, “Lend me your cow,” and his friend replied, “It is not available.” The person then vowed (*out of anger*) as follows, “My field is konam my ever plowing with this cow.” The halachah is as follows: If he (the vower) would normally plow his field, he is forbidden to do so, but others are permitted to plow his field. If he normally does not plow his field, then he and everyone else is forbidden (to plow the field with this cow).

If a person is subject to a vow that forbids him from having benefit from his friend, and he does not have what to eat, he (the person from whom he is prohibited to benefit wishes to provide for him) may go to the storekeeper and

say, "So-and-so is subject to a vow that forbids him from having benefit from me, and I do not know what to do (*as he has no food*).” He (the storekeeper, understanding the hint) can thereby give food to the hungry person, and then go and take (money) from this one (who vowed). If his house needed to be built, his fence needed to be erected, or his field needed to be harvested (but he had no money to hire workers), he can similarly go to workers and say, So-and-so is subject to a vow that forbids him from having benefit from me, and I do not know what to do (*as he has no food*).” The workers (understanding the hint) can then go do work for him, and then go and take (money) from this one (who vowed).

If they were walking together on the road, and he (the person who is subject to a vow that forbids him from having benefit from his friend) does not have what to eat, he (the person from whom he is prohibited to benefit wishes to provide for him) should give another person the food as a present, and he (the person who is subject to a vow) is permitted to eat it. If there is no other person with them, he (the person from whom he is prohibited to benefit wishes to provide for him) can put the food on a rock or fence and say, “These are ownerless for anyone who wants to take them.” That person (the person who is subject to a vow) can then take it and eat. Rabbi Yosi forbids this. (43a1 – 43a3)

### **Rabbi Yosi’s Reasoning**

Rabbi Yochanan says: What is the reasoning of Rabbi Yosi? He holds that declaring something ownerless is similar to that of a present. Just as a present is in the possession of the giver until it reaches the possession of the receiver, so too when someone declares something ownerless, it is in the possession of the owner until it reaches the possession of the one who acquires it. [The owner can still retract until the other takes possession of it; accordingly, it is as if the one acquiring it is taking it directly and benefitting from the owner.]

Rabbi Abba challenged this from the following braisa: That person (the person who is subject to a vow) can then take it and eat. Rabbi Yosi forbids this. Rabbi Yosi says: When is this applicable? It is when his vow was before his declaring the item ownerless. However, if his declaring the item ownerless preceded his vow, it is then permissible. Now, if you say that (declaring something ownerless does not remove ownership) until it reaches the possession of the one acquiring it, why should there be a difference if the vow was made before he declared it ownerless or whether he declared it ownerless before he made the vow (it should be forbidden in both cases)?

Rabbi Abba asked the question, and he also answered it, by explaining the braisa as follows: Whoever vows does not have in mind to include that which he already declared ownerless.

*[The following explanation is according to the text of the Ran.]* Rava asked a question from a braisa: Someone had two slaves, and gave some of his property to the first one, and afterwards gave everything to the second. The first one does not acquire anything, for perhaps part of his body was left out of what he was given, and since he did not acquire himself, he did not acquire his property either, because he is a slave who acquires property (and the law is that what a slave acquires belongs to his master). The second slave does acquire himself and the property, and also gains the right to enslave the first one, because for him, nothing was left over. *[If you say that one’s mind is not on what he made ownerless, so too, one’s mind is not on what he already gave away!?!]*

Rather, Rava says: Rabbi Yosi’s reasoning is based on a decree arising from the “present of Beis Choron.” (see Mishna later 48a). *[The case is similar to the case of our Mishna, but the recipient of the present (who was supposed to allow someone else to use it) decided to declare the food hekdesch, much to the chagrin of the giver.]* (43a3 – 43b2)