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Gittin Daf 79

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Daf Notes is currently being dedicated to the neshamot of

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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

Mishna

If she was standing on the top of the roof and he threw it to her, as soon as it reached the airspace of the roof, she is divorced. If he is above (*on the roof*) and she is below (*in her courtyard*) and he threw it to her, as soon as it left the domain of the roof, even if it was erased or burned, she is divorced. (79a)

On top of her Roof

The *Gemora* asks: But it is not guarded (*for a wind can blow it out of her courtyard*)?

Rav Yehudah said in the name of Shmuel: We are speaking about a roof which has a fence around it.

Ulla bar Menasya answers in the name of Avimi: the *Mishna* is discussing a case where the *get* came to the air space within three handbreadths of the roof, for any space within three handbreadths from the roof is regarded as the roof itself. (79a)

Airspace of the Domain

The *Mishna* had stated: If he is above (*on the roof*) and she is below (*in her courtyard*) and he threw it to her, as soon as it left the domain of the roof, even if it was erased or burned, she is divorced.

The *Gemora* asks: But it is not guarded (*for a wind can blow it out of her courtyard*)?

Rav Yehudah said in the name of Shmuel: We are speaking about a case where the lower walls (*of her courtyard*) extend over the upper walls (*of the roof*). Rabbi Elozar said the same thing in the name of Rabbi Oshaya, and so too, Ulla said in the name of Rabbi Yochanan.

Rabbi Abba asked Ulla: With whose view does our *Mishna* follow? It is with that of Rebbe, who said that something which is contained in the air space of a certain domain is equivalent to coming to rest upon the ground. [*If, on Shabbos, an article is thrown from one public domain to another public domain across a private domain, Rebbe holds that this constitutes a change of domain and one would be liable for transferring from one domain to another. This is only because it is regarded as if it rested in a private domain. So too, in our Mishna, the woman is divorced as soon as the get enters the airspace of her courtyard.*]

Ulla replied: You can even say that the *Mishna* is following the opinion of the Rabbis, since the Rabbis might disagree with Rebbe only with respect of *Shabbos* (*where in order to be liable for transferring, the object must physically rest in the domain*), but here the deciding factor is whether it is guarded, and in fact it is guarded (*even if it did not land on the ground*).

Other Amoraim had the exact same discussion: Rabbi Assi said in the name of Rabbi Yochanan: We are speaking about a case where the lower walls (*of her courtyard*) extend over the upper walls (*of the roof*).

Rabbi Zeira asked Rabbi Assi: With whose view does this accord? With whose view does our *Mishna* follow? It is with that of Rebbe, who said that something which is contained in the air space of a certain domain is equivalent to coming to rest upon the ground.

Rabbi Zeira replied: You can even say that the *Mishna* is following the opinion of the Rabbis, since the Rabbis might disagree with Rebbe only with respect of *Shabbos*, but here the deciding factor is whether it is guarded, and in fact it is guarded. (79a)

Lends One Place, Not Two

Rav Chisda said: Domains remain distinct for purposes of bills of divorce. [*If the husband lent her a space in his courtyard for her to receive her get, and the husband threw the get on the roof or in his house, she is not divorced, for he did not lend her two places.*]

Rami bar Chama asked Rava: From where did this elderly man derive this idea from?

He replied: It is from our *Mishna*: If she was standing on the top of the roof and he threw it to her, as soon as it reached the airspace of the roof, she is divorced. Now with what circumstances are we dealing? Are we to say that the roof is hers and the courtyard is hers? If so, why do we need the air space of the roof (*she should be divorced when the get is in the airspace of her courtyard*)? If it is his roof and his courtyard, even if it reaches the air space of the roof, why should she be

divorced (*it is not in her property*)? Obviously the *Mishna* is referring to a case where the roof is hers and the courtyard is his. Now let us look at the next clause in the *Mishna*: If he is above (*on the roof*) and she is below (*in her courtyard*) and he threw it to her, as soon as it left the domain of the roof, even if it was erased or burned, she is divorced. Now if the roof is hers and the courtyard is his, why is she divorced (*it is not in her property yet*)? It must be therefore that the roof is his and the courtyard is hers. Now can it be that the first clause speaks of where the roof is hers and the courtyard is his, and the second clause is dealing with a case where the roof is his and the courtyard is hers? Rather, it must be that the *Mishna* is discussing a case where (*the roof and the courtyard is his*) he lends her a place (*in the first clause, where she is standing on the roof, he lends her place on the roof, and in the second clause, where she is standing in the courtyard, he lends her a place in the courtyard*), and this indicates that a person will lend only one place but not two places!

Rami bar Chama rejected this proof: Is this conclusive? Perhaps each case stands on its own and the first clause is speaking of a case where the roof is hers and the courtyard is his, and the second clause refers to a case where the roof is his and the courtyard is hers! (79a)

Get is Different than Shabbos

Rava said: There are three cases in which the laws of a *get* are different than the general rule (*of Shabbos*).

The first one is that which Rebbe said that something which is contained in the air space of a certain domain is equivalent to coming to rest upon the ground, and the Rabbis disagreed with him; they only differed with regard to *Shabbos*, but here the deciding factor is whether it is guarded, and in fact it is guarded.

The second is the rule laid down by Rav Chisda: If a person stuck a pole in a private domain, on the top of which was a basket, and someone threw an object (*from a public domain*) and it came to rest on it, even if the pole is a hundred cubits high, he is liable (*for transferring from a public domain to a private one on Shabbos*), because a private domain extends upwards to the sky (*unlike a public domain, which only extends ten tefachim*). This applies only to *Shabbos*, but here the deciding factor is whether it is guarded, and in fact it is guarded (*for the wind will blow the get out of the courtyard*).

The third is the rule laid down by Rav Yehudah in the name of Shmuel: A man should not stand on one roof and gather rain water from his neighbor's roof, because just as the dwellings are separate below, so too, they are distinct above (*and an eruvei chatzeiros would be required in order to carry from one roof to the other*). This applies to *Shabbos*, but in regard to a *get*, the decisive factor is whether the owner is particular, and to this extent, people are not particular (*and if the husband would have lent her space on one roof, he would not be particular, and if the get would land on the other roof, she would be divorced*). (79a – 79b)

Within the Airspace

Abaye said: If there are two courtyards one within the other, the inner one belonging to her and the outer one belongs to him, and the outer walls are higher than the inner ones; if he throws a *get* to her, as soon as it reaches (*between*) the airspace of the walls of the outer one (*provided that the get is over the airspace of her courtyard*), she is divorced. The reason is as follows: The inner one itself is protected by the walls of the

outer one (*and the owner of the inner yard has a legal claim for the protection provided by the outer walls*).

The same *halachah* does not apply with baskets: If there were two baskets one inside the other, the inner one belonging to her and the outer one belongs to him; if he threw the *get* to her, even if it came into the airspace of the inner one (*and it is between the airspace of the outer basket*), she is not divorced. The reason is because it has not come to rest (*and unlike a courtyard, a basket can only acquire objects that physically land in it, for the walls of a basket are not meant to guard objects*).

The *Gemora* asks: And even if it comes to rest, what of it? Isn't this a case of the buyer using his vessel to acquire in the domain of the seller?

The *Gemora* answers: We are speaking here of a basket which has no bottom. (79b)

Mishna

Beis Shamai said: A man may divorce his wife with an old *get*. Beis Hillel prohibits this. And which is an old *get*? It is one where the husband secludes himself with her after the writing of the *get* (*but before it was given to her*). (79b)

Old Get

The *Gemora* asks: What is the basis of their argument?

The *Gemora* explains: Beis Shamai holds that we do not disqualify such a *get* out of fear that people may afterwards say that her *get* came before her child, whereas Beis Hillel holds that we do issue such a decree

(*prohibiting such a get*) for fear that people will say that her *get* came before her child.

Rabbi Abba said in the name of Shmuel: If she married on the basis of such a *get*, she is not required to leave her second husband. According to another version, Rabbi Abba said in the name of Shmuel: If she was divorced with such a *get*, she has the right to remarry. (79b)

Mishna

If a letter of divorce was dated according to the reign of the Unworthy Kingdom (*the Roman Empire*), according to the Kingdom of Media, or according to the Kingdom of Greece, according to the building of the Beis Hamikdosh, or the destruction of the Beis Hamikdosh, or if he was in the East and he wrote that he was in the West, or he was in the West and he wrote that he was in the East, she must leave her first and her second husband (*if she remarried based on this defective document from her husband*). She loses her rights to her *kesuvah* payment; she is not entitled to the enactment of usufruct (*compensation, such as the husband's obligation to ransom her if she was taken captive, for the produce consumed from her property*), nor maintenance, nor to the worn-out clothing, not from this one or from this one. And if she took from this one or from this one, she must return it. And the offspring from this one and from this one is a *mamzer*. Neither this one nor this one may render himself *tamei* (*if he is a Kohen*) for her; and neither this one nor this one has a right to her findings, or to her earnings, or to annul her vows. If she was the daughter of a *Yisroel*, she is disqualified from the *Kehunah*. If she was the daughter of a *Levi*, she is disqualified from *ma'aser*. If she was the daughter of a *Kohen*, she is disqualified from *terumah*. And the heirs of neither this one, nor of

this one inherit her *kesuvah*. And if they died, the brothers of this one and the brothers of this one perform *chalitzah* but they do not perform *yibum*.

If he changed his name or her name, the name of his city or the name of her city, she leaves this one and this one, and all the penalties (*enumerated in the Mishna*) are applicable to her.

If the co-wives of any of the forbidden relatives concerning whom it has been said that they exempt their co-wives from *yibum* and *chalitzah* went and married, and any such forbidden relatives were found to be an *aylonis*, the co-wife must leave her husband and the *yavam* and all the penalties (*enumerated in the Mishna*) are applicable to her.

If a *yavam* married his brother's wife, and her co-wife went and married another man, and then the brother's wife was found to be an *aylonis* (*incapable of procreation*), the co-wife must leave her husband and the *yavam* and all the penalties (*enumerated in the Mishna*) are applicable to her.

If a scribe wrote a *get* for the man and a receipt for the woman, and he erred and gave the *get* to the woman and the receipt to the man, and they gave them to each other, and after some time, the *get* emerged from the hand of the man, and the receipt by the woman, she must leave this one and this one, and all the penalties (*enumerated in the Mishna*) are applicable to her. Rabbi Eliezer says: If it emerges immediately, it is not a *get*; if it was produced after some time, then it is a *get*, for it is not in the power of the first to render void the right of the second. (79b – 80a)



DAILY MASHAL

R' Chaim of Volozhin had a married daughter named Chasya who lived in Lida. Someone was about to travel from Volozhin to Lida so R' Chaim quickly wrote her a letter, inserted it into an envelope and handed it to him. As the traveler was preparing to leave Volozhin, he received word that R' Chaim wished to see him before he left. He hurried over to R' Chaim's house and R' Chaim asked him for the envelope. Removing the letter, R' Chaim took another letter and replaced it in the envelope. A few months later, Chasya was in Volozhin and her brother R' Itzchele asked her what their father had written in that letter. When she told him the substance of the letter he was surprised that it matched exactly the substance of the letter that R' Chaim had removed from the envelope.

However, R' Itzchele soon after understood what R' Chaim had done when Chasya also mentioned in passing that a week after she had received the letter, her father-in-law, the Lider Rav, was involved in arranging a Get for a woman with the same name as hers, and he had asked her if she happened to have a letter from her father, so as to determine the proper spelling for the woman's name. Knowing that his actions could have unexpected consequences, R' Chaim had made sure to rewrite his daughter's name according to its exact Halachic spelling, without endearment.

QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF to refresh your memory

Q: The *Mishna* stated that if he put the *get* in her lap or basket, she is divorced. Why? Isn't this a case of the buyer using his vessel to acquire in the domain of the seller?

A: The Amoraim provide several answers: Either the case is where she had her basket hanging on her body, or it is tied to her and dragging on the ground, or the basket was between her legs on the ground, or her husband sold baskets (*and he therefore does not care where a basket is located in the house*), or according to Rabbi Yochanan, a person is not particular regarding where exactly his wife's lap or basket is located (*he gives her permission for it to be there*).

Q: What is the *Mishna's* case where the husband threw the *get* to his wife, and it landed "half and half"?

A: Rav Yosef says: The case is where there are two groups of witnesses, one who says that it was closer to him, and one that it was closer to her. Rabbi Yochanan said: It is a case where either both of them can guard it, or both cannot.

Q: Why is she not divorced when the *get* is in her hands, but the string attached to the *get* is in his hands and he can pull the string and thereby bring the *get* back?

A: It is because the *get* must be deemed a "*sefer kerisus*" – "book of cutting off (*indicating that the giving must totally separate him from her as well*)."