

23 Sivan 5783
June 12, 2023



Gittin Daf 27

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Mishnah

If an agent (*who was bringing a get*) lost the *get* and found it immediately, it is still valid. However, if he found it after some time, it cannot be used (*for we are concerned that it fell from someone else and it is not the get which he lost*). If he found the *get* in a *chafisah* or in a *deluskema* (*types of containers*), or if he recognizes the *get*, it is valid. (27a1)

To Return it or not to Return it

The *Gemora* asks: There is seemingly a contradiction between our *Mishnah* and the following *Mishnah* in Bava Metzia (18a): If a man finds *gittin* or bills of emancipation for slaves or wills (*from a deathly ill person*) or deeds of gifts or receipts, he should not return them (*to the writer or the recipient*) for we are concerned that after they were written, the writer changed his mind and decided not to give them. It may be inferred from this that if he had said, “Give them,” they are to be given, even if a long interval had elapsed (*since they were lost*)!? [Our *Mishnah* states that the *get* should only be returned if it was found immediately; otherwise, it might be a different one!?!]

Rabbah replied: There is no difficulty. Our *Mishnah* is referring to a place where caravans pass frequently (*and therefore, if it was not found immediately, we are concerned that it was lost by a different traveler*). The other *Mishnah* is discussing a place where caravans do not frequently pass (*and therefore, even after a considerable amount of time, we are not concerned that it was lost by another; and if the writer would say to give it, we would listen to him*).

Rabbah’s ruling is qualified: And even in a place where caravans frequently pass, the *get* is invalid only if it has been established that there are two men named Yosef ben Shimon in the same town (*and their wives’ names are identical*). For if you do not qualify Rabbah’s ruling like this, then there would be a contradiction between this statement of Rabbah and another of his. For a *get* was once found in the *Beis Din* of Rav Huna in which it was written the following: In Shviri, a place by the Rachis River. And Rav Huna said: The concern that there may be two Shviris is to be taken into account (*and we cannot return the get to the agent who claimed that he lost it*). Rav Chisda said to Rabbah: Go and look this matter up carefully, because tonight Rav Huna will ask you about it. He went out, searched and found that we had learned in the following *Mishnah*: Any document which has passed through a *Beis Din* is to be returned. Now the *Beis Din* of Rav Huna was similar to a place where caravans pass frequently, and nevertheless, Rabbah resolved that the document should be returned! [Why aren’t we concerned that someone else with the same name lost this document?] From this we conclude that if it has been established that there are two men named Yosef ben Shimon in the same town, it is not to be returned, but otherwise, it is.

The *Gemora* records an incident that occurred with Rabbah: In the case of a *get* which was found in a flax-house in Pumbedisa, Rabbah ruled according to his ruling (*and he returned the get*). Some say it was found in the place where flax was soaked, and although there were two persons of the same name known to be in that place, he ruled that the *get* should be returned because it was not a place where caravans passed frequently. And others say that it was the place where flax was sold, and there were not two persons

of the same name known to be there. And although caravans did pass frequently, he ruled that the *get* should be returned. [*Rabbah maintains that the get should be returned unless it has already been established that there are two people with identical names residing in this city and that it was found in a place where caravans frequently pass.*]

Rabbi Zeira had asked a contradiction on our *Mishnah* from a *Baraisa* and he answered it. Our *Mishnah* said: If an agent (*who was bringing a get*) lost the *get* and found it immediately, it is still valid. However, if he found it after some time, it cannot be used (*for we are concerned that it fell from someone else and it is not the get which he lost*). However, we learned in the following *Baraisa*: If a man finds a *get* in the street, if the husband admits that he had given it to his wife, he should deliver it to the woman, but if the husband does not admit, he should not give it to the husband (*for he then can use it as a receipt that he already paid her kesuvah*), nor to her (*for perhaps he never divorced her*). The *Baraisa* states that when the husband does admit, the *get* should be given to the woman. Seemingly, this would be true even if a long time has elapsed (*which is not like our Mishnah*)!?

Rabbi Zeira answered by saying that Our *Mishnah* is referring to a place where caravans pass frequently (*and therefore, if it was not found immediately, we are concerned that it was lost by a different traveler*). The *Baraisa* is discussing a place where caravans do not frequently pass (*and therefore, even after a considerable amount of time, we are not concerned that it was lost by another; and if the husband admits, we would give the get to the woman*). Some say that the *Mishnah's* ruling that it should not be returned is only if it has been established that there are two men named Yosef ben Shimon in the same town (*and their wives' names are identical*), which is the same view as Rabbah. And others say that Rabbi Zeira maintained that it should not be returned even though it has not been established that there are two men named Yosef ben Shimon in the same town, and so, he would be differing from Rabbah.

The *Gemora* asks: Why didn't Rabbi Zeira ask like Rabbah? [*A contradiction between two Mishnayos is a stronger question than a contradiction between a Mishnah and a Baraisa! The Babraisos were compiled by Rabbi Chiya, a disciple of Rabbi Yehudah HaNasi. It can be said that we can ignore a Baraisa which contradicts a Mishnah, for Rabbi Yehudah HaNasi omitted it!*]

Rabbi Zeira might answer that the other *Mishnah* does not expressly state that if the husband said to give it, it shall be given even after a long time has elapsed (*and therefore, the two Mishnayos are not contradicting each other*). Possibly what it means is that if he has said 'give' it is given only if it was found immediately, as we established in our *Mishnah*.

Rabbi Yirmiyah suggests an alternative answer to the original contradiction between the two *Mishnayos*. Our *Mishnah* rules that the *get* is returned even after a lapse of time is only if the witnesses say, "We have never signed more than one *get* with the name of Yosef ben Shimon" (*and this is the man; accordingly, we are not concerned that it was lost by another*).

The *Gemora* asks: If so, what novelty is the *Mishnah* teaching us?

The *Gemora* answers: You might think that we still should not return the *get* for fear that the names on this *get* may happen to be the same as the names on the other, and the names of the witnesses on this *get* may also happen to be the same as those on the other one. This *Mishnah* teaches us that we disregard this possibility.

Rav Ashi answers the contradiction as follows: Our *Mishnah* rules that the *get* is returned even after a lapse of time is only where the agent says, "There is a hole at the side of such-and-such a letter," which is a precise distinguishing mark. And that is only if he said "at the side of such-and-such a letter," which is a precise distinguishing mark, but if he merely said that there is a hole, the *get* would not be returned to him.

The *Gemora* notes that Rav Ashi said like this because he was uncertain if distinguishing marks are accepted Biblically or perhaps, only by a Rabbinical decree. [Therefore, he ruled, that it may only be returned if the agent provided a precise distinguishing mark.]

Rabbah bar bar Chanah (as an agent) lost a *get* in the *Beis Medrash*. He said to the *Beis Din*: If you want a distinguishing mark, I can give you one, and if you want me to recognize it by sight (the *handwritings of the scribe and the witnesses, its length and width*), I can do so. They gave it back to him. He said: I do not know if they gave it back to me because I was able to give a distinguishing mark, and they maintain that distinguishing marks are accepted Biblically, or because I was able to recognize it by sight. And for this (to return it to someone who claims that he recognizes it by sight), it is only to a Talmudic scholar who would be trusted, but not any ordinary person. (27a1 – 27b3)

Immediately

The *Mishnah* had stated: However, if he found it after some time, it cannot be used.

The *Gemora* cites a *Baraisa*: What is it that we call ‘after some time’?

Rabbi Nosson says: If he has allowed an interval to elapse long enough for a caravan to pass by and pitched camp.

Rabbi Shimon ben Elozar says: It is only called ‘immediately’ so long as someone stands there and sees that no other person passed there.

Some say: It is only called ‘immediately’ so long as someone stands there and sees that no other person has stopped there.

Rebbe says: It is only called ‘after some time’ if he waited long enough for a *get* to be written. [This is just an example of time.]

Rabbi Yitzchak says: It is only called ‘after some time’ if he waited long enough to read the *get*.

Others say: It is only called ‘after some time’ if he waited long enough to write it and to read it.

The *Baraisa* continues: Even if a considerable time did elapse, if there are precise distinguishing marks, they are taken as evidence (and the *get* can then be returned). This is only if the agent said that there is a hole at the side of such-and-such a letter. The general characteristics of the *get*, however, are no evidence, e.g., if he said that it was long or short.

The *Baraisa* continues: If the agent found it tied up in a moneybag, a wallet, or a ring, or he found it among his vessels (at home), even if it was found after a considerable amount of time (since it was lost), the *get* is valid.

The *Gemora* issues a ruling: Rav Yehudah said in the name of Shmuel: The *halachah* is in accordance with the one that said: It is only called ‘immediately’ so long as someone stands there and sees that no other person has stopped there. Rabbah bar bar Chanah said in the name of Rav Yitzchak who said in the name of Shmuel: The *halachah* is in accordance with the one that said: It is only called ‘immediately’ so long as someone stands there and sees that no other person passed there.

The *Gemora* explains that they didn’t just say that the *halachah* is like this master (Some say) or that the *halachah* is like this master (Rabbi Shimon ben Elozar) for there were those who switched around the names of the *Tannaim* in the *Baraisa* (and to avoid confusion as to what the *halachah* actually is, they stated the opinion). (27b3 – 28a1)

Containers



The *Mishnah* had stated: If he found the *get* in a *chafisah* or in a *deluskema* (types of containers), if he recognizes the *get*, it is valid.

Rabbah bar bar Chanah explained *chafisah* to mean a small skin bottle, and a *deluskema* is a box used by old people. (28a1)

INSIGHTS TO THE DAF

An Ignorant Person's Recognition

The *Mishnah* had stated: If an agent (who was bringing a *get*) lost the *get* and found it immediately, it is still valid. However, if he found it after some time, it cannot be used (for we are concerned that it fell from someone else and it is not the *get* which he lost). If he found the *get* in a *chafisah* or in a *deluskema* (types of containers), or if he recognizes the *get*, it is valid.

Rashi explains that if the agent himself found the *get* (not in a container) and he recognizes it, the *get* is valid.

Other Rishonim understand the *Mishnah* to mean that the *get* is valid if he recognizes the container.

The Rashba writes that the *get* will be valid if the agent found it and claims that he recognizes it. This is true even if the agent is an ignorant person. That which the *Gemora* says below that an ignorant person cannot be trusted that he recognizes the *get* is only true when someone else found it and the agent is trying to claim it from him. There, we suspect that he is lying. However, if he himself found the *get*, he is trusted that he recognizes it, for he has a *migu* (believe me what I am saying, for if I would want to lie, I could have said a better lie); he could have said that he never lost it in the first place. (The *Ritva* seems to say that the ignorant person is believed even without the *migu*.)

The Ramban writes that it is only with respect to a lost article that we do not trust an ignorant person when he claims that he recognizes it. However, with regards to a *get*, which is a prohibitory matter, he is trusted. (The *Magid Mishnah* explains that this is because one witness is believed with respect to prohibitory matters.)

There are two glaring questions on the Ramban. Firstly, the *Gemora* below states explicitly that to return it to someone who claims that he recognizes it by sight, it is only to a Talmudic scholar who would be trusted, but not any ordinary person!? Secondly, a *get* should be regarded as a *davar she'b'ervah*, a matter with respect to relations, and two witnesses are required for testimony involving such matters!?

The *Toras Gittin* answers the first question as follows: When the *Gemora* states that an ordinary person will not be trusted that he recognizes the *get*, that is only with respect to the monetary issues of the *get*; however, with respect to the prohibitions stemming from the *get*, he will be trusted.

The Maharam Schick answers the second question: The *halachah* is if a father said, "I accepted a *kiddushin* for my daughter, but I do not know from whom," and a fellow comes to us and says that it was him, he is believed and she is married to him. The Ran explains that although ordinarily, a *davar she'b'ervah* requires two witnesses, here it doesn't, for his testimony is not in contrast with any preexisting status quo; it is merely a clarification as to whom the father accepted the *kiddushin* from. One person is sufficient for this. So too, here, the one witness is not testifying on the divorce; rather, he is clarifying for us as to who this *get* belongs to.

The *Oneg Yom Tov* answers this question by saying that the concern for two Yosef ben Shimon's in the same city is only a Rabbinical one, and therefore, although it is a *davar she'b'ervah*, only one witness is required.

QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF



to refresh your memory

Q: What spaces is a *sofer* required to leave blank when he is preparing the form of a *get*?

A: The names of the man, woman and the date (*and according to Shmuel, "Behold, you are permitted to any man"*).

Q: The *Mishnah* stated: This (*the sofer leaves blank spaces*) was instituted as a *takanah*. What are the three explanations in the "*takanah*"?

A: For the *sofer* (*so he should have gittin ready*); quarrel (*if she would hear her name mentioned by the sofer*); *agunos* (*two explanations*).

Q: Why is the date required by an *arusah*?

A: Either because he will protect his sister's daughter, or because people might say the *get* was before her child.

DAILY MASHAL

The Gemora rules: We would return a *Get* to a Rabbinical scholar, but not to an ordinary person. Tosfos notes that although anyone is capable of definite visual recognition of an object, we only accept a claim from a Rabbinical scholar. This is on account of his scrupulous honesty; this gives him credibility when he claims that he recognizes the *Get*.

The Gemora in Shabbos (114a) states: Rabbi Yochanan said: Who is the scholar to whom a lost article is returned on his visual recognition of it (*even without providing proof that he is the owner*)? It is that scholar who is particular to turn his shirt around (*if it was put on inside out*). A person who pays attention to turn his shirt around when it is necessary, this is someone who we trust with his definite visual recognition of an object.

Bechor Shor asks: Our Tosfos seems to indicate that everyone has a definite visual recognition of an object; we just do not trust someone who is not a Rabbinic scholar as we suspect that he is lying. Accordingly, why do we need to prove anything from the fact that he is particular to turn his shirt around?

He answers that a Rabbinic scholar who is occupied in his Torah studies, we would think that he is inferior than an unlearned person, for he is not particular in his clothing and belongings; it is because of this that we need to prove from his being particular to turn his shirt around, that nevertheless, he pays attention to this and we therefore know for certain that he has a definite visual recognition of an object.