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Mishnah

If one intends to misappropriate (*shole'ach yad*) a deposit, Beis Shammai says: He is liable. Beis Hillel, however, says: He is not liable until he actually misappropriates it, as it is said: *If he did not put his hand to his fellow's goods.*

If he tilted the barrel and took from it a *revi'is* of wine and it later broke, he pays only for the *revi'is* (*for he never acquired the rest of the wine*). If he picked it up and took a *revi'is* from it, and it later broke, he pays its entire value. (43b3)

Intending to Misappropriate

The *Gemora* asks: How do we know this? The *Gemora* answers: We know this from a *Baraisa*. The *Baraisa* states: *On any matter of negligence*. Beis Shammai says: This teaches that he is liable for intending to misappropriate it as if he actually did it. Beis Hillel says: He is only liable if he actually misappropriates it. This is as the verse states (*that he swears*): *If he did not lay his hand upon the goods (i.e. using the deposit) of his fellow.*

Beis Shammai asked Beis Hillel: Didn't the verse already say: *On any matter of negligence*? Beis Hillel replied: Didn't the verse say: *If he did not lay his hand upon the goods (i.e. using the deposit) of his fellow*? Why does it also say: *On any matter of negligence*? It says this because we only know that he is liable if he himself misappropriates it. What if he tells his servant or messenger to misappropriate the item? This is why the verse states: *On any matter of negligence (to include them).*" (44a1)

Acquiring it

The *Mishnah* says that if he tilted the barrel etc.

Rabbah says: This was taught only if he broke it. However, if it turned sour (*because wine often goes bad when the vessel is not full*), he is liable. Why? This is because his arrows (*i.e. his actions directly*) caused it to go sour.

The *Mishnah* discusses where he picked it up and took some etc.

Shmuel says: The *Mishnah* does not mean that he actually took. It means even if he lifted it up in order to take, and did not yet actually take.

The *Gemora* asks: This implies that Shmuel holds that one does not need to cause a loss to the object in order to transgress usurping a deposit. [*Does he really hold this way?*] The *Gemora* answers: No; this case is different, as he wants the entire barrel to be supporting this *revi'is* of wine that he is taking from the barrel. [*As mentioned before, wine spoils easily when there is only a small amount in an otherwise empty vessel. Shmuel therefore holds that essentially the entire barrel is being taken in order to protect the revi'is that he wants.*]

Rav Ashi asked: What if he picks up a wallet in order to take out a *dinar*? Wine is guarded by other wine (*so it should not spoil*), and this does not apply to coins. On the other hand, a wallet with money inside is more readily guarded than a single coin. [*It is therefore possible that he wants the wallet to more easily guard the coin.*] The *Gemora* leaves this question unresolved. (44a1 – 44a2)

WE SHALL RETURN TO YOU, HAMAFAKID

Mishnah

[A small preface: The Mishnah discusses what happens when two types of coins are sold, one for the other. One is considered the money, and the other is considered the object being purchased. The reason this matters is because according to Torah law, the purchase is only finalized once the item being purchased is pulled by the one buying it, not when the one buying it transfers the money to the seller. This law manifests itself in the following cases.]

The (acquisition, i.e. pulling of) gold *dinarim* acquire the silver *dinarim* (for the seller of the gold *dinarim*). The (acquisition, i.e. pulling of) silver *dinarim* do not acquire the gold *dinarim* (for the seller of the silver *dinarim*). [This is because the silver *dinarim* is the money in the transaction.] The (acquisition, i.e. pulling of) copper *perutos* acquire the silver *dinarim* (for the seller of the copper *perutos*). The (acquisition, i.e. pulling of) silver *dinarim* do not acquire the copper *perutos* (for the seller of the silver *dinarim*). [This is because the silver is considered more of a currency than copper *perutos*, giving the copper *perutos* the status of the item being bought.] The (acquisition, i.e. pulling of) old currency that is no longer accepted acquires the new currency (for the seller of the old currency). The (acquisition, i.e. pulling of) new currency does not acquire the old currency (for the seller of the new currency). The (acquisition, i.e. pulling of) unstamped coins acquires regular coins (for the seller of unstamped coins). The (acquisition, i.e. pulling of) regular coins do not acquire the unstamped coins (for the seller of the regular coins). The (acquisition, i.e. pulling of) movable objects acquire coins (for the seller of the movable objects). The (acquisition, i.e. pulling of) coins do not acquire movable objects (for the seller of the coins).

Movable objects acquire each other. How? If the buyer pulled the fruit and did not yet pay the money, he cannot retract. If he paid money but did not yet take the fruit he can retract, but they (*Beis Din*) say that "The One Who exacted retribution from the Generation of the Flood and the Generation of the Dispersion will exact retribution from someone who does not keep his word.

Rabbi Shimon says: Whoever has the money in his hand has the upper hand. (44a3 – 44a4)

Which One is the Produce?

Rebbe taught his son, Rabbi Shimon, that gold acquires silver. Rabbi Shimon responded: My teacher, you taught us in your youth that silver acquired gold. Now you are teaching us when you are older that gold acquires silver?

The *Gemora* asks: What did he hold when he was young, and what did he hold when he was old? When he was younger he held that the gold that is more important is considered the currency, while the silver which is less important is considered the produce (i.e. non-monetary item). The pulling of the produce acquires the money (for the seller of the produce) When he was older he held that the silver that is more readily used and minted is considered money, while the gold is considered the produce. The pulling of the produce acquires the money.

Rav Ashi says: His position when he was young is more logical. This is evident from the Mishnah's statement that copper acquires silver. It is understandable to say that silver compared to gold is considered produce (and acquires gold), as the *Mishnah* would then similarly continue that copper acquires silver. [This is the same as silver acquiring gold, as the least important item acquires the more important item that is considered currency.] Even though silver is produce when it is compared to gold, however, when it is compared to copper, it is currency. However, if you say that silver when compared to gold is considered currency (even though gold is more valuable), it should certainly be considered currency in regards to copper, as it much more important, and it is readily traded and minted! [Why, then, does this have to be said in our Mishnah?]

The *Gemora* answers: It is necessary. One might think that copper coins in some places are more traded and readily minted than silver coins, and therefore it should be considered currency more than silver. This is why the

Mishnah has to state that copper coins are considered produce. As there are places where silver coins are necessary as currency, the silver coins are considered currency (*versus copper*).

Rabbi Chiya also holds that gold is a currency. Rav borrowed *dinars* from the wife of Rabbi Chiya. In the end, *dinars* became more expensive (*and he was worried that if he had to buy the now more expensive dinars, he would essentially be paying interest*). He went to Rabbi Chiya, and Rabbi Chiya said that he should pay his wife good coins (*the same amount of dinars he borrowed*). This is understandable if Rabbi Chiya held that *dinars* were a currency (*not an item, as one always has to pay back the amount of money he borrowed, whether it gained or lost value*). However, if it is considered goods, it is like lending a *se'ah* (*measurement*) for a *se'ah* of goods to be paid back later, which is forbidden (*see 75a*)!

The *Gemora* answers: Rav had other *dinars*. Being that he had other *dinars*, it is as if he told her that she should lend him until his son comes with money, or until he can find the keys (*i.e. to his house*).

Rava says: The following *Tanna* holds that gold is a currency. The *Baraisa* states: When they stated a *perutah*, they meant one eighth of an Italian *issar*. Why did the *Tanna* say this? What difference does it make? The difference is to tell us how much value is required to betroth a woman. An *issar* is one twenty-fourth of a silver *dinar*. Why did the *Tanna* say this? What difference does it make? The difference is for buying and selling. [*If someone sells a dinar, he is supposed to receive twenty-four issar. Receiving less or more can become a prohibition of ona'ah.*] One *dinar* of gold equals twenty-five silver *dinar*. Why did the *Tanna* say this? What difference does it make? It makes a difference regarding redeeming one's firstborn son. [*The Torah says this is done with five sela, which equals twenty silver dinar. Accordingly, if a person gives a kohen a golden dinar for his firstborn son, the kohen should give him back five silver dinar change.*] It is understandable if the *Tanna* holds that gold is a currency, as

this is why he is measuring with a set amount (*of silver dinarim that must be given back as change from a golden dinar given for pidyon ha'ben, see Rashi*). However, if the *Tanna* holds that gold is an item, why would the *Tanna* give a value to something that is an item that goes up and down in value? Sometimes the *Kohen* will give him change, and sometimes he will have to add money! It must be that the *Tanna* holds it is a currency. (44a5 – 44b3)

The *Mishnah* elsewhere states: Beis Shammai says that someone who has *sela'im* of silver (*that are ma'aser sheini*) cannot redeem them for golden *dinarim*. Beis Hillel allows him to do so.

Rabbi Yochanan and Rish Lakish argue regarding the crux of the argument between Beis Shammai and Beis Hillel. One says that the crux of the argument is regarding exchanging *sela'im* for *dinars*. Beis Shammai holds that the *sela'im* are currency and the *dinars* are an item, and one cannot transfer the holiness of *ma'aser sheini* money onto an item (*in order to exchange that item for something else, such as food, which is eaten as ma'aser sheini*). Beis Hillel holds that the silver is the produce and the *dinarim* are the currency, and a person could transfer *ma'aser sheini* from produce to currency. However, everyone would agree that one could take the original *ma'aser sheini* produce and transfer its holiness onto golden *dinarim*. [*The argument is only if the ma'aser sheini status of the produce was transferred first onto sela'im.*] Why is this allowed? This is because it is relative, like silver, according to Beis Hillel. Silver is only an item, according to Beis Hillel, when it is being exchanged for gold. However, Beis Hillel would agree that when it is being exchanged for actual fruits, that the silver is considered currency. Similarly, Beis Shammai only holds that gold is considered an item when it is being exchanged for silver. They agree that when it is exchanged for actual fruits it is considered currency.

The other says that the argument between Beis Shammai and Beis Hillel is also whether or not one can transfer the



holiness of *ma'aser sheini* from actual produce to golden *dinarim*.

The *Gemora* asks: According to this (*latter*) opinion, why did Beis Shammai and Beis Hillel bother to argue about transferring silver onto gold? Why didn't they just argue about transferring actual produce onto golden *dinarim*! The *Gemora* answers: If they would do this, I would think that they only argue in this case. However, when it comes to transferring silver onto gold, Beis Hillel would agree to Beis Shammai that when gold is exchanged for silver the gold is an item, and therefore the transfer is invalid. This is why they had to argue in such a case (*to show Beis Hillel's true position*). (44b3 – 44b4)

DAILY MASHAL

B'kiyus or b'lyun?

The *Mishnah* states: Gold can acquire silver, but silver cannot acquire gold. The Pappa Rav opened the winter *zman* with the following thought: The Torah is likened to gold and to silver. It is compared to gold, as it is written [Tehillim 19:11]: *Torah is to be desired more than gold, even more than very fine gold*. It is compared to silver, as it is written [Mishlei 2:4]: *If you seek it like silver*. It is also written [Tehillim 119:72]: *The Torah of your mouth is better for me than thousands of gold and silver*.

Now, one's primary focus should be on learning in depth, using all his full capacity of his mind and thoughts. It is through this that a person will have the ability to negate evil thoughts that might enter his mind, for the nature of man is that he cannot concentrate on two different things at the same time. Accordingly, if one delves into the depths of the holy Torah, he will most certainly be protected from all which is evil. This is when the Torah is likened to gold, for gold is untainted and pure.

However, it is impossible to consistently study on such a level, and one has an obligation to learn the entire breadth of the Torah. The *Gemora* in Shabbos (63a) teaches us that a

man should study and subsequently understand (*the understanding will come eventually*). Studying Torah at a quicker pace is likened to silver, for although silver is also valuable, it is nevertheless less significant than gold.

This is what our *Gemora* meant when it stated that Rebbe in his youth taught that silver acquires gold, but when he was older, he taught that gold acquires silver. Initially he thought that one should diligently study at a swift pace in order that he should learn the entire Torah even if he will lack understanding. However, when he aged, he came to the realization that gold acquires silver, and one's primary learning should be focused on the depths and understanding of Torah.

QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF

to refresh your memory

Q: If one deposits loose money with a storekeeper, may he use it?

A: It is a *machlokes* between Rabbi Meir and Rabbi Yehudah.

Q: What is the *halachah* if one deposits loose money with a moneychanger and an *o'nes* happens?

A: It is a *machlokes* between R' Nachman and R' Huna.

Q: What is the *halachah* according to Rabbah if someone stole a barrel of wine from his fellow and it was worth one *zuz* at the time it was stolen and four *zuzim* at the end (*when it was destroyed*)?

A: If he broke the barrel or drank the wine, he would pay four (*for up until the time of destruction, it belongs to the owner; the thief would have been obligated to return the barrel which was worth four zuzim; if he directly destroys it, it is considered as if he is stealing it again and therefore, he pays four*). If it broke by itself, he pays one (*for that is what it was worth at the time it was stolen*).