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DAF Notes
Insights into the Daily Daf

Shevuos Daf 43

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Guardian

The *Mishna* had stated that a guardian who watches for free does not swear (*regarding the exceptions listed in the Mishna*).

The *Gemora* asks: How do we know this?

The *Gemora* answers from a *braisa*. The *braisa* states: *When a person will give to his friend* is a *k'lal* (*general statement*). *Money or vessels* is a *p'rat* (*specific statement*). *To guard* is another *k'lal*. This is a *k'lal u'p'rat u'k'lal* which always teaches that things similar to the *p'rat* are included. Just as the *p'rat* in this case is something that is movable and has intrinsic value, so too anything that is movable and has intrinsic value is included. This excludes land - as it is not movable, slaves - that are always compared to land, and documents - as they have no intrinsic value. Sacred items are also excluded, as the verse say:s *his friend,* excluding *hekdesh*.

The *Mishna* states that a guardian who is paid does not pay.

The *Gemora* asks: How do we know this?

The *Gemora* answers from a *braisa*. The *braisa* states: *When a person will give to his friend* is a general statement. *A donkey or an ox or a sheep* is specific. *And any animal to guard* is general. This is a *k'lal u'p'rat u'k'lal* teaching that etc. (*same as previous teaching regarding a guardian who watches for free*). (42b – 43a)

Vines with Fruit

The *Mishna* had stated: Rabbi Meir says: There are things that are attached to the ground but they are not like land (*with regards to an oath*).

The *Gemora* asks: The *Mishna* implies that Rabbi Meir holds that whatever is attached to the ground does not have a status of land. If this is true, then instead of them arguing about vines with fruit, let them arguing about trees without fruit!?

Rabbi Yosi the son of Rabbi Chanina answers: The case here is where the grapes are ready to be harvested. Rabbi Meir holds they are therefore considered as if they have already been harvested, while the Sages argue that they have not been harvested. (43a)

A Defined Amount

The *Mishna* had stated: One only swears regarding an item that is measured, weighed, etc.

Abaye says: The *Mishna* only refers to someone not having a claim because he said, "A house full of etc." However, if he said, "This house that was full of etc." his claim is valid, as it is defined.

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Rava asked: How can this be? The second part of the *Mishna* says that if one says it was full until the ceiling beam and one says until the window, he is liable. If you are correct, the beginning of the *Mishna* should have said that this is only if he said "a house," but if he said "this house," he is liable!?

Rather, Rava says: One is never liable unless he claims a measure, weight, or amount, and the admission is regarding a measure, weight, or amount.

The *braisa* supports Rava. The *braisa* states: If a person claims a *kor* of produce and the defendant denies the claim entirely, he is exempt. If a person claims a large candelabra, and the defendant says he only owes a small candelabra, he is exempt. If a person claims a long strip of material, and his friend says he only owes him a short strip of material, he is exempt. However, if a person claims a *kor* of produce and the defendant says he only owes a *lesech* (*half a kor*), he is liable. If a person claims a ten-litra candelabra, and the defendant says he only owes a five-litra candelabra, he is liable. The rule is that one is only liable if the claim was regarding a measure, weight, or amount, and the admission is regarding a measure, weight, or amount. What did the *braisa* mean when it says, "The rule is etc." It must mean to include a case where someone says, "This house full etc."

The *Gemora* asks: How is this different from a large candelabra and a small candelabra?

The *Gemora* answers: The claim (*of the large candelabra*) was not admitted to, and the admission (*of the small candelabra*) was not part of the claim.

The *Gemora* asks: If so, a ten-litra candelabra and admission of a five-litra one should also be exempt, as the claim was not admitted to, and the admission was not part of the claim.

Rav Shmuel bar Rav Yitzchak answers: The case is regarding a candelabra that is composed of different pieces (*enabling one to lengthen or shorten it*). He is therefore admitting to owing part of this very candelabra.

The *Gemora* asks: If so, why doesn't the *Mishna* say a case where there is a ten cubit strip of material being claimed, and he admits to five? [*This could be in a case where the material is made up of pieces that can be sewn together easily.*] Rather, the *Mishna* does not say it is made up of strips, and it is therefore understandable why the second part of the *Mishna* has no such case. If so, why should we assume the candelabra is made of parts if this is not stated in the *Mishna*?

Rather, Rabbi Abba bar Mamal says: A candelabra is different, as material can be scraped off of it until it is reduced from ten litra of metal to five litra of metal. (43a)

Mishna

[*A sela is worth two shekel, which is worth four dinar.*] Someone lent his fellow money and took a security for the loan, which he then lost. If the lender claims, "I lent you a *sela* and the collateral was worth a *shekel* (*therefore, you owe me a shekel*)," while the borrower says, "You lent me a *sela* and the collateral was worth a *sela* (*therefore, I owe you nothing*)," the borrower does not have to swear. [*This is because he is a "kofer hakol" – he is denying the entire claim.*] If the lender claims, "I lent you a *sela* and the collateral was worth a *shekel* (*therefore, you owe me a shekel*)," while the borrower says, "You lent me a *sela* and the collateral was worth three *dinar* (*therefore, I owe you one dinar*)," the

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borrower has to swear. [*This is because he is a "modeh b'miktzas" – he is admitting to a portion of the claim.*] If the borrower says, "You lent me one *sela* and the collateral was worth two *sela* (*therefore, you owe me one sela*)," and the lender says, "I lent you a *sela* and the collateral was worth a *sela* (*therefore, I owe you nothing*)," he is exempt. If the borrower says, "You lent me one *sela* and the collateral was worth two *sela* (*therefore, you owe me one sela*)," and the lender says, "I lent you one *sela* and the collateral was worth five *dinar* (*therefore, you owe me one dinar*)," he is liable. Who swears? The one who had possession of the deposit (*before it was lost*) swears, lest the other person (*the borrower*) swear (*falsely – on the worth of the collateral – by not being careful in assessing its value*), and the other person (*the lender*) will take out the deposit (*showing its true value; this will consequently disqualify the borrower from taking any future oaths or from testifying in Beis Din – to prevent this, they placed the burden of taking the oath on the lender*). (43a)

Transferring the Oath Obligation

The *Gemora* asks: What case is this (*last statement*) of the *Mishna* referring to? If it is referring to the last case, isn't it obvious that the lender (*Biblically*) swears anyway (*for he is the one who partially admitted to the borrower's claim – the special reason given by the Mishna would not be necesdsary*)?

Shmuel answers: This must be referring to the first part of the *Mishna*. Rav Chiya bar Rav said the same answer, as did Rabbi Yochanan.

The *Gemora* asks: Which part of the first part of the *Mishna* are they referring to? It must be the second case in the first part of the *Mishna*. If the lender claims, "I lent you a *sela* and the collateral was worth a *shekel* (*therefore, you owe me a shekel*)," while the borrower says, "You lent me a *sela* and the collateral was worth three *dinar* (*therefore, I owe you one dinar*)," the borrower has to swear. [*This is because he is a "modeh b'miktzas" – he is admitting to a portion of the claim.*] In this case the borrower should be required to swear (*for he admitted to part of the claim*), and instead, the Rabbis imposed the oath upon the lender.

The *Gemora* suggests an alternate explanation: Now that Rav Ashi says that the lender swears that the object is not in his possession and the borrower swears on its worth, the *Mishna* must mean as follows. Who swears first? The one who had possession of the deposit swears first, lest the borrower swear first as to how much it is worth, and then the lender will take out the deposit (*and refute the borrower; once the lender swears that it is not in his possession, we are not concerned any longer that he will pull it out*). (43b)

Collateral in Place of the Loan

Shmuel says: If a person lent his friend one thousand *zuz* and took as collateral the handle of a sickle, if the lender loses the collateral, he loses the right to collect the loan. [*He cannot pay the borrower for the worth of the sickle and then collect his debt.*] However, if he took two handles as collateral, he does not lose the loan (*nor half of it*) if he loses one of them. [*We view the two handles together as collateral for the loan; he therefore can return one handle, plus the worth of the other, and then he can collect his debt.*]

Rav Nachman says: If he took two handles and lost one of them, he has lost five hundred *zuz*. [*He maintains that although it was not specified, we assume that each handle was collateral for half the debt.*] If he loses both,

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he loses the entire loan. However, this does not apply if he took both a handle and a bar of metal as collateral.

The Nehardeans said: Even if he took a handle and a bar of metal - if he loses the bar, he loses half the loan, and if he loses the handle, he loses half the loan.

The *Gemora* asks on Shmuel from the *Mishna* which states: If the lender claims, "I lent you a *sela* and the collateral was worth a *shekel* (*therefore, you owe me a shekel*)," while the borrower says, "You lent me a *sela* and the collateral was worth three *dinar* (*therefore, I owe you one dinar*)," the borrower has to swear. Why can't the borrower claim that the lender accepted the collateral instead of the loan (*as is the handle according to Shmuel, and therefore, he will owe nothing*)?

The *Gemora* answers: The *Mishna*'s case is where the lender explicitly said he is only accepting it according to its value, not against the value of the loan. Shmuel's case is where nothing was said. (43b)

DAILY MASHAL

It is understandable why one cannot take away a commandment given to us in the Torah, but why cannot we try to outdo ourselves and add to the commandments?

The Maggid of Dubno explains why not. He tells the story of a poor person who went to his next- door-rich-neighbor and borrowed a Kiddush cup. The rich man gave it to him and after Shabbos the poor man returned the Kiddush cup along with a smaller silver cup. Asked the rich man, "What's with the smaller cup?" Said the poor man, "the Kiddush cup had a baby over Shabbos – this is the baby." The rich man wasn't going to argue the point and kept the small cup. Later that week, the poor man asked to borrow the rich man's watch. The wealthy man agreed, and lo and behold, when it came time for the poor man to return it, he brought three watches. The rich man was perplexed, but the pauper simply shrugged his shoulders and said shyly, "Your watch had twins!" The next Shabbos the poor man borrowed the rich man's silver candelabra. After Shabbos, the rich man waited to see what would be returned…but nothing was returned. Sunday came and went and nothing. Monday, the rich man went to the poor man to ask for his silver back. Said the poor man, "Sorry, it was sad, but your candelabra died." "Died!" screamed the rich man, "they aren't alive- – they can't die." The poor man looked at him sadly and said, "If silver cups can have babies, then a silver candelabra can die." Said the Dubno Maggid, 'when you begin to add to the Torah, you eventually think you can detract from it.'

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