נֶחְלְקוּ עָלָיו בְּנֵי כֹּהֲנִים גְּדוֹלִים, וְאָמְרוּ: יְשַׁבֵּעַ כַּמָּה הוֹצִיא, וְיִטּוֹל. אָמַר רַבִּי דוֹסָא בֶּן הַרְכִּינָס כִּדְבָרֵיהֶם. אָמַר רַבִּי יוֹחָנָן בֶּן זַכַּאי. יָפָה אָמַר חָנָן: הִנִּיחַ מְעוֹתָיו עַל קֶרֶן הַצְּבִי.

The sons of High Priests disagreed with Ḥanan's opinion **and said:** The man **swears how much he spent** on behalf of the woman, **and he takes** that sum from the husband. **Rabbi Dosa ben Harkinas said** that the *halakha* is **in accordance with their statement. Rabbi Yoḥanan ben Zakkai said: Ḥanan spoke well** in this case, as this man is like one who **placed his money on the horn of a deer** in midflight, i.e., he has no reasonable expectation of reimbursement.

גמ׳ תְּנַן הָתָם: הַמּוּדָּר הֲנָאָה מֵחֲבֵירוֹ

GEMARA **We learned** in a mishna **there** (*Nedarim* 33a): With regard to **one** who is **prohibited by a vow** from **deriving benefit from another,**

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שׁוֹקֵל לוֹ אֶת שְׁקָלוֹ, וּפוֹרֵעַ אֶת חוֹבוֹ, וּמַחֲזִיר לוֹ אֲבֵידָתוֹ. וּבְמָקוֹם שֶׁנּוֹטְלִין שָׂכָר – תִּפּוֹל הֲנָאָה לַהֶקְדֵּשׁ.

the other **may contribute his shekel for him,**[H] i.e., it is permitted for the second individual to donate the half-shekel from his own money to the Temple on behalf of the first one, who is prohibited by the vow from deriving benefit; **and he may repay his debt**[H] for him, i.e., if the one prohibited by the vow owes money to a third party, the one from whom he may not derive benefit may pay off that debt on his behalf. **And he may return to him his lost object,**[H] **and in a place where one takes a wage**[N] for returning a lost article, **the benefit** paid for the return of the item **goes to** the Temple treasury of **consecrated** property.[N]

בְּשִׁלְמָא שׁוֹקֵל לוֹ אֶת שְׁקָלוֹ – מִצְוָה קָעָבֵיד, דְּתַנְיָא: תּוֹרְמִין עַל הָאָבוּד וְעַל הַגָּבוּי וְעַל הֶעָתִיד לִגָּבוֹת.

The Gemara discusses this mishna: **Granted, he may contribute his shekel for him,** as **he** thereby **performs a mitzva.** The one prohibited by the vow from deriving benefit does not derive any direct benefit from this action, as even if he did not pay the half-shekel, all Jews have a share in the communal offerings brought in the Temple, **as we learned** in a *baraita*: **One** performs the **collection** of money from the chamber with the intention that the ceremony apply to money **that is lost,**[H] **and** money **that has** already **been gathered** but has not yet been brought to the Temple, **and** money **that will be gathered in the future.** This shows that even if one did not give a half-shekel, the communal offerings are nevertheless sacrificed in his name.

וּמַחֲזִיר לוֹ אֲבֵידָתוֹ – נַמִּי מִצְוָה קָעָבֵיד. אֶלָּא פּוֹרֵעַ לוֹ אֶת חוֹבוֹ – הָא קָמַשְׁתַּרְשֵׁי לֵיהּ!

And concerning the *halakha* that **he may return to him his lost object, he also performs a mitzva**[N] by means of this action. However, with regard to the statement that **he may repay his debt** for him, this is problematic because it **provides a gain for** the one prohibited by the vow from deriving benefit; if he did not repay the person's debt, that person would have to pay it from his own pocket. Consequently, it should be considered as though the one prohibited from deriving benefit received money.

HALAKHA

May contribute his shekel for him – שׁוֹקֵל לוֹ אֶת שְׁקָלוֹ: In a case where one is prohibited by a vow from deriving benefit from another, that other person may donate the half-shekel to the Temple treasury on his behalf (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 6:4).

And he may repay his debt – וּפוֹרֵעַ אֶת חוֹבוֹ: In a case where one is prohibited by vow from deriving benefit from another, that other individual may pay off his debts. Even if the one who paid the debt was given the collateral the lender had previously taken, he must return it to the borrower. This is in accordance with the opinion of Ḥanan and the statement in the Jerusalem Talmud that this *halakha* refers not only to one who provides sustenance for a wife but to any case involving a creditor (see *Tosafot*). However, some authorities (*Bah*; *Sma*) dispute this and maintain that this *halakha* applies only to debts that are similar to sustenance (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 6:4; *Shulḥan Arukh*, *Yoreh De'a* 221:2).

And he may return to him his lost object – וּמַחֲזִיר לוֹ אֲבֵידָתוֹ: In a case where one is prohibited by vow from deriving benefit from another, that other individual may return to him his lost object. If the two are mutually prohibited from benefiting from each other, and they are in a place where a reward is given to one who returns a lost article to its rightful owner, the one who found the lost object returns it to the other in fulfillment of the mitzva, and the reward is paid to the Temple treasury of consecrated property (Rambam *Sefer Hafla'a*, *Hilkhot Nedarim* 7:1; *Shulḥan Arukh*, *Yoreh De'a* 221:3).

One performs the collection for money that is lost, etc. – תּוֹרְמִין עַל הָאָבוּד וכו׳: When the treasurers take money from the chamber, they do so with the intention that this money represents those whose coins are in the chamber, those whose coins were collected but did not yet arrive to the chamber, and those whose coins are yet to be collected (Rambam *Sefer Zemanim*, *Hilkhot Shekalim* 2:9 and *Kesef Mishne* there).

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And in a place where one takes a wage – וּבְמָקוֹם שֶׁנּוֹטְלִין שָׂכָר: There is no obligation to give a reward to one who returned a lost object, as there is both a mitzva to return a lost article to its rightful owner and a prohibition against neglecting this duty. Nevertheless, in some places the owner of the lost article presents a small gift to the finder as a sign of his gratitude. In certain circumstances, the owner of the lost object must reimburse the finder if he had taken time from his work to restore the lost item to its owner.

The benefit goes to the Temple treasury of consecrated property – תִּפּוֹל הֲנָאָה לַהֶקְדֵּשׁ: The Gemara in *Nedarim* 33a asks why the finder cannot accept his reward; after all, it is the owner of the lost object who is prohibited from deriving benefit from the finder, not the reverse. One answer, cited by Rashi here, is that this refers to a case where each of them was prohibited by vow from deriving benefit from the other, which means that the finder may not derive benefit from the owner of the lost article either. Others explain that this refers to a place where it was customary to give something to the finder; however, this finder would rather not derive benefit from this type of favor. Under other circumstances, the finder could simply refuse the reward, but if he does so in this case he is providing benefit to the owner. Consequently, the money is given to a third party, the Temple treasury of consecrated property (*Nimmukei Yosef*).

He also performs a mitzva – נַמִּי מִצְוָה קָעָבֵיד: The fact that he is performing a mitzva is not enough to render this action permitted, since if the other person is in need of charity he may not give him money, despite the fact that by doing so he would fulfill a mitzva. The difference between these two cases is that as opposed to one who donates to charity, one who returns a lost object does not give anything tangible of his own, as he merely returns to the owner that which belongs to him (Ritva).

אֲמַר רַב אוֹשַׁעְיָא: הָא מַנִּי? חָנָן הִיא, דַּאֲמַר: אִיבֵּד אֶת מְעוֹתָיו.

Rav Oshaya said: In accordance with **whose** opinion **is this** mishna? **It is** in accordance with the opinion of **Ḥanan, who said** in the mishna: He has **lost his money.** In other words, this is referring to a case in which he repays a debt that the other does not really have to repay at all, and therefore he is doing a favor to the creditor, not to the one who is prohibited from deriving benefit.

וְרָבָא אָמַר: אֲפִילּוּ תֵּימָא רַבָּנַן, הָכָא בְּמַאי עָסְקִינַן – שְׁלָוָה עַל מְנָת שֶׁלֹּא לִפְרוֹעַ.

And Rava said: You can **even say** that this is in accordance with the opinion of **the Rabbis, and here we are dealing with** a situation where the borrower **borrowed** money **on the condition that he** need **not pay it back**[N] until he chooses to do so. In that case, if the one from whom this borrower may not derive benefit repaid the debt for him, he performed a favor only to the lender, not to the borrower.

בְּשִׁלְמָא רָבָא לָא אָמַר כְּרַב אוֹשַׁעְיָא – דְּמוֹקֵים לָהּ כְּרַבָּנַן, אֶלָּא רַב אוֹשַׁעְיָא מַאי טַעְמָא לָא אָמַר כְּרָבָא? אָמַר לָךְ רַב אוֹשַׁעְיָא: נְהִי דַּהֲנָאָה לֵית לֵיהּ,

The Gemara analyzes these opinions: **Granted, Rava did not say** his statement in accordance with the explanation **of Rav Oshaya, as he establishes** the mishna in *Nedarim* not only in accordance with the view of Ḥanan, but also **in accordance with** the opinion of **the Rabbis. However, what is the reason** that **Rav Oshaya did not say** that the mishna is referring to a loan that did not have to be repaid, **in accordance with** the explanation of **Rava?** The Gemara answers that **Rav Oshaya** could have **said to you: Although** in this type of loan **there is no benefit to** the borrower, as he need not repay it within a certain period of time,

NOTES

On the condition that he need not pay it back – עַל מְנָת שֶׁלֹּא לִפְרוֹעַ: This does not mean that the money was given from the outset on condition that it need not be repaid, as that would be a gift, not a loan. Rather, as stated by Rashi, it means that no date was set for the repayment of the loan. Alternatively, the lender agreed that if the borrower fails to repay the loan he will not sue him in court (Rivan).

Perek **XIII**
Daf **108** Amud **b**

כֵּיפּוֹפָא מִי לֵית לֵיהּ? הָתָם נַמִּי אִית לֵיהּ הֲנָאָה – בְּהַהִיא הֲנָאָה דְּמֵיכְסֵיף מִינֵּיהּ.

doesn't he have shame due to his failure to repay the debt? **There too,** in the case of one prohibited by a vow, **he has benefit;** namely, the **benefit that he is ashamed before him** until the loan is repaid.

מתני׳ אַדְמוֹן אוֹמֵר שִׁבְעָה: מִי שֶׁמֵּת וְהִנִּיחַ בָּנִים וּבָנוֹת, בִּזְמַן שֶׁהַנְּכָסִים מְרוּבִּין – הַבָּנִים יוֹרְשִׁים וְהַבָּנוֹת נִזּוֹנוֹת. וּבִנְכָסִים מוּעָטִים – הַבָּנוֹת יְזוֹנוּ, וְהַבָּנִים יֶחֱזְרוּ עַל הַפְּתָחִים. אַדְמוֹן אוֹמֵר: בְּשֶׁבִיל שֶׁאֲנִי זָכָר הִפְסַדְתִּי? אָמַר רַבָּן גַּמְלִיאֵל: רוֹאֶה אֲנִי אֶת דִּבְרֵי אַדְמוֹן.

MISHNA **Admon states** a dissenting opinion to that of the Rabbis in **seven** cases. The mishna elaborates: With regard to **one who died and left** behind both **sons and daughters, when the estate is large**[H] **the sons inherit** the property **and the daughters are provided with sustenance** from it. **And with regard to a small estate,** which is insufficient to provide for both the sons and the daughters, **the daughters are provided with sustenance and the sons** have neither inheritance nor sustenance, and therefore, if they have no other means with which to support themselves, they must **go round** begging **at the doors. Admon says:**[N] **Because I am a male,** will **I lose out?**[N] **Rabban Gamliel said: I see** as correct **the statement of Admon.**

גמ׳ מַאי קָאָמַר? אֲמַר אַבַּיֵי, הָכִי קָאָמַר: בְּשֶׁבִיל שֶׁאֲנִי זָכָר, וְרָאוּי לַעֲסוֹק בַּתּוֹרָה הִפְסַדְתִּי?

GEMARA With regard to Admon's statement: Because I am a male will I lose out, the Gemara asks: **What is he saying?** What is the significance of the fact that one is male? **Abaye said** that **this is what he is saying: Because I am a male and,** unlike women, I **am fit to engage in Torah** study, should **I lose out?**

אֲמַר לֵיהּ רָבָא: מַאן דְּעָסִיק בַּתּוֹרָה הוּא דְּיָרִית, מַאן דְּלָא עָסִיק בַּתּוֹרָה לָא יָרִית? אֶלָּא אֲמַר רָבָא הָכִי קָאָמַר: בְּשֶׁבִיל שֶׁאֲנִי זָכָר וְרָאוּי לִירֵשׁ בְּנָכְסִים מְרוּבִּין, הִפְסַדְתִּי בְּנָכְסִים מוּעָטִין?

Rava said to him: Is that to say that it is **one who is engaged in Torah** study **who inherits,** whereas **one** who is **not engaged in Torah** study **does not inherit?** What does the study of Torah have to do with the matter at hand? **Rather, Rava said** that **this is what** Admon **is saying: Because I am a male,** who has a greater right to the property by Torah law, **and** therefore **it is fitting** for me **to inherit when the estate is large,** will **I** now **lose out** entirely **in** a case of **a small estate?**

HALAKHA

When the estate is large, etc. – בִּזְמַן שֶׁהַנְּכָסִים מְרוּבִּין וכו׳: With regard to one who died and left behind sons and daughters, the sons inherit the estate and they provide sustenance to their sisters until the sisters mature or are betrothed. This arrangement applies when the estate is sufficient for both the sons and the daughters until they become grown women. However, if the estate is not that large, the court first extracts funds from it for the daughters' sustenance. If nothing remains from the estate, the daughters will be provided for while the sons must beg for their livelihood. The *halakha* is in accordance with the unattributed mishna, not the opinion of Admon, as the discussion in *Bava Batra* 139b is not in accordance with his ruling. All of this applies if the father left behind real estate. However, if he left behind only movable property, there is a later enactment that daughters must be sustained even from movable property, but this enactment does not apply if it would mean that the sons would forfeit their inheritance completely. Consequently, in that case the children would divide all the assets equally (Rambam *Sefer Nashim*, *Hilkhot Ishut* 19:17–18; *Shulḥan Arukh*, *Even HaEzer* 112:11–12).

NOTES

Admon says, etc. – אַדְמוֹן אוֹמֵר וכו׳: Some commentaries maintain that Admon does not disagree with the opinion of the Rabbis but is simply expressing his astonishment at this ruling (Rabbeinu Tam in *Tosafot*; Rosh).

I lose out – הִפְסַדְתִּי: Some maintain that Admon does not mean that the daughters' sustenance should be taken away from them entirely. Rather, he is saying that instead of the sons losing their entire inheritance, the sons and the daughters should divide the estate between them and live off of it for as long as they can (Rashbam on *Bava Batra* 139b).

מתני׳ הַטּוֹעֵן אֶת חֲבֵירוֹ כַּדֵּי שֶׁמֶן וְהוֹדָה בִּקְנָקִנִּים, אַדְמוֹן אוֹמֵר: הוֹאִיל וְהוֹדָה בְּמִקְצָת הַטַּעֲנָה – יִשָּׁבַע, וַחֲכָמִים אוֹמְרִים: אֵין הוֹדָאַת מִקְצָת מִמִּין הַטַּעֲנָה. אָמַר רַבָּן גַּמְלִיאֵל: רוֹאֶה אֲנִי אֶת דִּבְרֵי אַדְמוֹן.

MISHNA The mishna cites another case involving a dispute between Admon and the Rabbis. With regard to **one who claims** that **another** owes him **jugs of oil, and** the other **admits to** the claim of **pitchers**[N] but not the oil, **Admon says: Since he made a partial admission to the claim, he takes an oath** swearing that he owes only what he has admitted to and no more. **And the Rabbis say: The partial admission** in this case **is not of the same type as the claim,** as the claim specified oil and the admission referred to pitchers. **Rabban Gamliel said: I see** as correct **the statement of Admon.**

גמ׳ שְׁמַע מִינָּהּ לְרַבָּנַן: טָעָנוּ חִטִּין וּשְׂעוֹרִין וְהוֹדָה בִּשְׂעוֹרִין – פָּטוּר.

GEMARA One can **conclude from here** that according **to** the opinion of **the Rabbis,** if one **claimed** that another owed him **wheat and barley, and** the other party partially **admitted** that the claim was true only with regard **to the barley,** he is **exempt,** just as he is exempt in this case when the claim was for jugs of oil and the admission referred only to jugs.

לֵימָא תֻּיְיהֵי תִּיּוּבְתָּא דְּרַב נַחְמָן אָמַר שְׁמוּאֵל, דְּאָמַר רַב נַחְמָן אָמַר שְׁמוּאֵל: טָעָנוּ חִטִּין וּשְׂעוֹרִים וְהוֹדָה לוֹ בְּאֶחָד מֵהֶן – חַיָּיב!

The Gemara suggests: **Let us say that it is a conclusive refutation of** the opinion that **Rav Naḥman** said that **Shmuel said. As Rav Naḥman said** that **Shmuel said:** If one **claimed against** another that he owed him **wheat and barley, and** the other **admitted to** owing **one**[H] **of** the types, **he is obligated** to take an oath, as he partially admitted to the claim.

אָמַר רַב יְהוּדָה אָמַר רַב: בְּטוֹעֲנוֹ מִדָּה. אִי הָכִי, מַאי טַעֲמָא דְּאַדְמוֹן?

Rav Yehuda said that **Rav said:** The mishna is not referring **to** a case where one claimed that another owed him oil and pitchers. Rather, **he claimed** that another owed him a certain **measure** of oil, i.e., an amount of oil that would fill a certain number of jugs, while he did not claim the jugs at all. Consequently, the admission was not of the same type as the claim at all. The Gemara asks: **If so, what is the rationale** for the ruling **of Admon** that he must take an oath? Clearly, the admission and the claim do not refer to the same objects.

אֶלָּא אֲמַר רָבָא: דְּכוּלֵּי עָלְמָא, הֵיכָא דַּאֲמַר לֵיהּ ״מְלֵא עֲשָׂרָה כַּדֵּי שֶׁמֶן יֵשׁ לִי בְּבוֹרֵךְ״ – שֶׁמֶן קָטָעִין לֵיהּ, קַנְקַנִּים – לָא קָטָעִין לֵיהּ. ״עֲשָׂרָה כַּדֵּי שֶׁמֶן מְלֵאִים יֵשׁ לִי אֶצְלֶךָ״ – שֶׁמֶן וְקַנְקַנִּים קָטָעִין לֵיהּ.

Rather, Rava said: Everyone agrees that in a case **where he said to him: I have ten jugfuls of oil in your pit,**[N] **he is claiming oil from him** and **he is not claiming pitchers from him** at all. In this case, it is clear that admitting to owing pitchers is not a partial admission whatsoever that would lead to an obligation to take an oath. Similarly, if he said to him: **I have ten full jugs of oil with you, he is claiming from him** both **oil and pitchers,** and therefore if the other party concedes to owing pitchers, this is a partial admission to the claim and everyone agrees that he must take an oath.

כִּי פְּלִיגִי – הֵיכָא דַּאֲמַר לֵיהּ ״עֲשָׂרָה כַּדֵּי שֶׁמֶן יֵשׁ לִי אֶצְלֶךָ״; אַדְמוֹן אוֹמֵר: יֵשׁ בַּלָּשׁוֹן הַזֶּה לְשׁוֹן קַנְקַנִּים, וְרַבָּנַן סָבְרִי: אֵין בַּלָּשׁוֹן הַזֶּה לְשׁוֹן קַנְקַנִּים.

When they disagree in the mishna is in a case **where he said to him** simply: **I have ten jugs of oil with you. Admon says: This expression includes** a reference to the **pitchers,** while **the Rabbis hold** that **this expression does not include** a reference to the **pitchers.**

אֶלָּא טַעְמָא – דְּאֵין בַּלָּשׁוֹן הַזֶּה לְשׁוֹן קַנְקַנִּים, הָא יֵשׁ בַּלָּשׁוֹן הַזֶּה לְשׁוֹן קַנְקַנִּים – חַיָּיב. לֵימָא תֻּיְיהֵי תִּיּוּבְתָּא דְּרַבִּי חִיָּיא בַּר אַבָּא, דְּאָמַר רַבִּי חִיָּיא בַּר אַבָּא: טָעָנוּ חִטִּין וּשְׂעוֹרִים וְהוֹדָה לוֹ בְּאֶחָד מֵהֶם – פָּטוּר!

The Gemara infers: **Rather, the reason** for the ruling of the Rabbis **is** specifically **that the expression does not include** a reference to **pitchers,** which indicates that if **the expression includes** a reference to **pitchers,** one is **obligated** to take an oath. If so, **let us say** that **this is a conclusive refutation of** the opinion of **Rabbi Ḥiyya bar Abba. As Rabbi Ḥiyya bar Abba said:** If one **claimed** against another that he owed him **wheat and barley, and** the other **admitted to one of** the types, **he is exempt** from an oath.

NOTES

Jugs of oil, and he admits to pitchers – כַּדֵּי שֶׁמֶן וְהוֹדָה בִּקְנָקַנִּים: Some commentaries ask why the mishna initially spoke of jugs and subsequently referred to pitchers. They explain that the term jug can mean a measure of volume or a vessel, whereas the term pitcher invariably refers to a receptacle and never means a measure of volume. Therefore, the ambiguity in the claim does not occur in the admission, which refers solely to the receptacles (*Shita Mekubbetzet*; *Melekhet Shlomo*).

I have…in your pit – יֵשׁ לִי בְּבוֹרֵךְ: The later commentaries note the textual variants here, as some omit the phrase: In your pit. Apparently, those who accept that reading maintain that the phrase: I have ten jugfuls of oil, is enough to indicate that one is referring only to oil, not to the containers, and there is no need to stress the fact that the oil is not in pitchers but is still in the pit (see Rambam).

HALAKHA

One claimed against another wheat and barley, and he admitted to one, etc. – טָעָנוּ חִטִּין וּשְׂעוֹרִים וְהוֹדָה לוֹ בְּאֶחָד וכו׳: If one claims that another owes him two different types of items and the other admits that he owes him one of those types, this is considered an admission of debt of the same type that was claimed, and therefore the one who admitted must take an oath with regard to the rest of the debt. For example, if one claims that another owes him wheat and barley, and the other party concedes that he owes him wheat but not barley, he is obligated to take an oath to that effect. The *halakha* is in accordance with the opinion of Shmuel (Rambam *Sefer Mishpatim*, *Hilkhot To'en VeNitan* 3:11; *Shulḥan Arukh*, *Ḥoshen Mishpat* 88:12).

HALAKHA

Ten jugs of oil, etc. – עֲשָׂרָה כַּדֵּי שֶׁמֶן וכו': If one said to another: I have ten jugfuls of oil in your pit, and the other admitted to the pitchers alone, he is exempt from an oath, as the claim referred to oil and he admitted to owing pitchers. However, if one claimed: I have ten jugs of oil in your possession, and the other concedes to the containers, he must take an oath. The *halakha* is in accordance with the opinion of Admon, as stated on 109a (*Maggid Mishne*). Some commentaries (Rema; *Tur*, based on Rosh) claim that if one said: Ten jugs of oil, this refers to oil alone, not to the containers (Rambam *Sefer Mishpatim*, *Hilkhot To'en VeNitan* 3:13; *Shulḥan Arukh*, *Ḥoshen Mishpat* 88:18).

NOTES

And he went bankrupt – וּפָשַׁט לוֹ אֶת הָרֶגֶל: This expression, which literally means: And he stretched his leg toward him, is interpreted in several ways. Rashi offers two possibilities, while the Rivan suggests three. One explanation is that it is a form of derision, as though one stretches his leg toward the other and says: Take the mud off the sole of my foot, as I will not give you any more. Alternatively, he is saying: Even if you hang me from a tree by my foot, I cannot give you anything (Rashi). A third possibility is: You can take my foot, but I do not have any money to give you (Rivan). Yet another suggestion is that it means that he has gone off to another place, i.e., the father has left the area and is no longer available to pay the promised sum (Rambam; Ra'avad; Ritva). Finally, it might mean that he stretched out his foot and died, i.e., an expression of death, similar to: He kicked the bucket (Meiri).

אָמַר רַב שִׁימִי בַּר אַשִׁי: נַעֲשֶׂה כְּמִי שֶׁטָּעָנוּ רִימּוֹן בִּקְלִיפָּתוֹ. מַתְקִיף לָהּ רָבִינָא: רִימּוֹן בְּלֹא קְלִיפָּתוֹ – לָא מִינְטַר, שֶׁמֶן – מִינְטַר בְּלֹא קַנְקַנִּים!

Rav Shimi bar Ashi said: The case of the mishna is not similar to that of wheat and barley, as those two types are not connected to one another. Rather, the case of jugs of oil **is** more **like** that of **one who claimed** that **the other** owed him **a pomegranate in its peel,** as the jugs are as necessary for the oil as the peel of a pomegranate protecting its fruit. **Ravina strongly objects to this:** The comparison between these cases does not bear close scrutiny. **A pomegranate without its peel cannot be preserved,** and therefore it is obvious that when one claims a pomegranate, he must be referring to the peel as well. By contrast, **oil can be preserved without** the **pitchers,** as it can be placed in another receptacle.

אֶלָּא הָכָא בְּמַאי עָסְקִינַן? דַּאֲמַר לֵיהּ: עֲשָׂרָה כַּדֵּי שֶׁמֶן יֵשׁ לִי אֶצְלְךָ, וַאֲמַר לֵיהּ אִידָךְ: שֶׁמֶן – לֹא הָיוּ דְּבָרִים מֵעוֹלָם, קַנְקַנִּים נַמִּי – חֲמִשָּׁה אִית לָךְ, וְחֲמִשָּׁה לֵית לָךְ.

Rather, here we are dealing with a case where one **said to** another: **I have ten jugs of oil**[H] **with you, and the other said to him:** With regard to the **oil, these matters never occurred;** I never borrowed oil from you. Concerning the **pitchers as well, you do have five** of them with me and these I admit I took from you, **but you do not have** the other **five** you claim.

אַדְמוֹן אוֹמֵר: יֵשׁ בַּלָּשׁוֹן הַזֶּה לְשׁוֹן קַנְקַנִּים, וּמִגּוֹ דְּקָמְשַׁתַּבַּע אַקַּנְקַנִּים – מְשִׁתַּבַּע נַמִּי אַשֶּׁמֶן, עַל יְדֵי גִּלְגּוּל, וְרַבָּנַן סָבְרִי: אֵין בַּלָּשׁוֹן הַזֶּה לְשׁוֹן קַנְקַנִּים, מַה שֶּׁטָּעָנוּ – לֹא הוֹדָה לוֹ, וּמַה שֶּׁהוֹדָה לוֹ – לֹא טָעָנוּ.

Admon says: This expression includes a reference to **pitchers, and since he takes an oath about the pitchers,** as he partially admitted to owing them, **he takes an oath about the oil as well, by means of an extension** of the first oath. **And the Rabbis hold** that **this expression does not include** a reference to the **pitchers,** and therefore **that which** the first person **claimed from him** the second person **did not admit to** at all, **and that which** the second person **admitted to,** the first person **had not claimed from him.** The second individual denied owing any oil, and as for his partial admission with regard to the pitchers, there was no claim about pitchers at all. Consequently, no oath is required whatsoever.

מתני' הַפּוֹסֵק מָעוֹת לְחָתְנוֹ, וּפָשַׁט לוֹ אֶת הָרֶגֶל

MISHNA The mishna states another case involving a ruling of Admon. With regard to one who promises and **apportions money for his son-in-law** as a dowry, **and he went bankrupt,**[N] and he now claims that he does not have the money to fulfill his financial obligations,

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HALAKHA

She can say, etc. – יְכוֹלָה הִיא שֶׁתֹּאמַר וכו': With regard to one who apportions money for his son-in-law and then goes abroad (Rambam) or subsequently does not have the money to pay (Rashi), the bride may say to her groom: I did not apportion the money for myself, so what can I do? Either marry me without a dowry or release me by means of a bill of divorce. This *halakha* is in accordance with the opinion of Admon (Rambam *Sefer Nashim*, *Hilkhot Ishut* 23:16; *Shulḥan Arukh*, *Even HaEzer* 52:1).

תֵּשֵׁב עַד שֶׁתַּלְבִּין רֹאשָׁהּ. אַדְמוֹן אוֹמֵר: יְכוֹלָה הִיא שֶׁתֹּאמַר: אִילּוּ אֲנִי פָּסַקְתִּי לְעַצְמִי – אֵשֵׁב עַד שֶׁתַּלְבִּין רֹאשִׁי, עַכְשָׁיו שֶׁאַבָּא פָּסַק – מָה אֲנִי יְכוֹלָה לַעֲשׂוֹת? אוֹ כְּנוֹס אוֹ פְּטוֹר. אָמַר רַבָּן גַּמְלִיאֵל: רוֹאֶה אֲנִי אֶת דִּבְרֵי אַדְמוֹן.

the betrothed woman can be left to **sit** unwed in her father's house **until her head turns white.**[N] If the groom does not wish to marry without a dowry he cannot be forced to do so, as the father failed to fulfill his promise. **Admon says** that **she can say:**[H] **Had I apportioned** the money **myself** and broken my promise, I would agree to **sit until my head turns white.** However, **now that** my **father** was the one who **apportioned** the dowry, **what can I do? Either marry** me **or release** me by a bill of divorce. **Rabban Gamliel said: I see** as correct **the statement of Admon.**

NOTES

Sit until her head turns white – תֵּשֵׁב עַד שֶׁתַּלְבִּין רֹאשָׁהּ: The commentaries ask why the court does not force the father to pay his obligations (*Tosafot*). Some state that according to the interpretation that the mishna is referring to a father who has no money, it is impossible to extract any money from him even by force or by taking over his property. However, according to those who say that the case involves a father who does not want to pay, the question remains difficult (Ritva). Furthermore, the Gemara stated earlier in the name of Rav Giddel (102a) that the sum of money that the father of a bride apportions for his daughter is acquired by verbal promise, which means that the groom already owns this money.

Several responses have been suggested in response to this last point. Some maintain that this form of acquisition is binding only if the betrothal is performed without delay, whereas in this case the betrothal did not happen immediately after the father's promise (Rashbam in *Tosafot*). Alternatively, as stated in the Jerusalem Talmud, this verbal acquisition applies only in the case of a first marriage.

With regard to the question of whether or not the father has money, some maintain that if he does have the funds it is easier to understand the ruling that she can say to the groom: Either marry me or release me, as the groom can sue the father and force him to pay (*Penei Yehoshua*, citing Ran). The later commentaries further discuss whether a father who does not have enough money for the dowry is considered the victim of an unavoidable accident to the extent that it is as though he has fulfilled the condition.