הֲדוּר שְׁלָחוּהָ קַמֵּיהּ דְּרַב מְנְיוּמִי בְּרֵיהּ דְּרַב נַחוּמֵי. אֲמַר לְהוּ: הָכִי אֲמַר רַב יוֹסֵף בַּר מְנְיוּמִי אֲמַר רַב נַחְמָן: זוֹ אֵינָהּ מִשְׁנָה.

They once **again sent** this question **before Rav Minyumi, son of Rav Naḥumi. He said to them: So said Rav Yosef bar Minyumi** that **Rav Naḥman said: This *baraita* is not a mishna**[N] and therefore is not authoritative. Consequently, no proof may be adduced from it.

מַאי טַעֲמָא? אִילֵימָא מִשּׁוּם דְּהָווּ לְהוּ מִטַּלְטְלֵי, וּמִטַּלְטְלֵי לִכְתוּבָּה לָא מְשַׁעְבְּדִי – דְּלְמָא רַבִּי מֵאִיר הִיא, דַּאֲמַר: מִטַּלְטְלֵי מְשַׁעְבְּדִי לִכְתוּבָּה.

The Gemara inquires: **What is the reason** that this *baraita* is rejected? **If we say** it is **because** the money he owes **is** considered **movable property,** as it is not present, **and movable property is not mortgaged to a marriage contract,** as only land can be mortgaged for this purpose, such an argument does not negate the *baraita*. **Perhaps it is** in accordance with the opinion of **Rabbi Meir,**[N] **who said** that **movable property is mortgaged to a marriage contract.**

וְאֶלָּא מִשּׁוּם דַּאֲמַר לָהּ: אַתְּ לָאו בַּעֲלַת דְּבָרִים דִּידִי אַתְּ,

Rather, the reason for doubting the reliability of the *baraita* is **because he says to her: You are not my litigant.** There is no legal dispute between the man and the *yevama*. He claims that she is not a party to this suit, as he owes money to his late brother. Therefore, she cannot claim the money from him by arguing that it is mortgaged for her marriage contract.

NOTES

Is not a mishna – אֵינָהּ מִשְׁנָה: Although elsewhere Rashi explains this expression differently, his interpretation here seems the most likely one. He states that this phrase means that the text of the *baraita* is corrupt and was never taught this way at all. Therefore, it cannot be cited as proof (see *Shita Mekubbetzet*).

Perhaps it is in accordance with Rabbi Meir – דִּלְמָא רַבִּי מֵאִיר הִיא: The Ritva states simply that proving this teaching to be in accordance with the opinion of one *tanna* suffices to negate the assumption that it is not a mishna. Rashi and *Tosafot* add that not only is this a valid mishna, but it can even serve as proof of the *halakha*. This is because even if the *halakha* is not in accordance with Rabbi Meir with regard to movable property, and for such property the *baraita* would in fact not be authoritative, nevertheless, there is no reason to reject the principle that the act of a *yavam* who sells property that is mortgaged to the marriage contract is of no consequence. Since the incident in Pumbedita involved land, which everyone agrees is mortgaged to the marriage contract, the sale should be void, as stated by Rav Yosef.

Perek **VIII**
Daf **82** Amud **a**

דִּלְמָא רַבִּי נָתָן הִיא, דְּתַנְיָא, רַבִּי נָתָן אוֹמֵר: מִנַּיִן לְנוֹשֶׁה בַּחֲבֵירוֹ מָנֶה, וַחֲבֵירוֹ בַּחֲבֵירוֹ, מִנַּיִן שֶׁמּוֹצִיאִין מִזֶּה וְנוֹתְנִין לָזֶה – תַּלְמוּד לוֹמַר ״וְנָתַן לַאֲשֶׁר אָשַׁם לוֹ״.

However, this still does not prove conclusively that the *baraita* is corrupt, as **perhaps it is** the opinion of **Rabbi Natan. As it is taught** in a *baraita* that **Rabbi Natan says: From where** is it derived **that** in the case of one who **claims one hundred dinars of another,**[H] **and the other** claims money **of another, that one appropriates** the money **from this one,** the last borrower, **and gives it to this one,** the first lender, without each party claiming the money from the one with whom he did business? **The verse states: "And he shall give it to him in respect of whom he has been guilty"** (Numbers 5:7). The words "whom he has been guilty" are expounded to mean that the borrower pays the one who is owed by his creditor, since the borrower is a party to this case despite the fact that he never incurred direct liability to him. It is possible to explain the *baraita* cited by Rav Yosef based on this reasoning as well.

אֶלָּא, לָא אַשְׁכַּחַן תַּנָּא דְּמַחְמִיר תְּרֵי חוּמְרֵי בִּכְתוּבָּה, אֶלָּא – אִי כְּרַבִּי מֵאִיר, אִי כְּרַבִּי נָתָן.

Rather, a different justification exists for rejecting the *baraita*: **We have not found a *tanna* who is stringent** with these **two stringencies with regard to a marriage contract. Rather,** one rules **either in accordance with** the opinion of **Rabbi Meir** that movable property is mortgaged for a marriage contract, **or in accordance with** the opinion of **Rabbi Natan.** No one accepts both of these stringencies, and yet this *baraita* can be explained only by a combination of the two opinions. It must therefore be rejected as non-authoritative.

HALAKHA

One who claims one hundred dinars of another, etc. – הַנּוֹשֶׁה בַּחֲבֵירוֹ מָנֶה וכו׳: If Levi owes Shimon one hundred dinars and Shimon owes Reuven the same sum, the money is collected from Levi and transferred directly to Reuven. It makes no difference whether Levi owed Shimon at the time when Shimon became indebted to Reuven or afterward. In this regard the *halakha* of a verbal loan is the same as that of a document. This *halakha* also applies to all other obligations, whether in the form of a loan, a sale, or a hiring, in accordance with the statement of Rabbi Natan (Rambam *Sefer Mishpatim*, *Hilkhot Malve VeLoveh* 2:6; *Shulḥan Arukh*, *Ḥoshen Mishpat* 86:1).

אֲמַר רָבָא: אִם כֵּן הַיְינוּ דְּשָׁמַעְנָא לֵיהּ לְאַבַּיֵי דַּאֲמַר ״זוֹ אֵינָהּ מִשְׁנָה״, וְלָא יָדַעְנָא מַאי הִיא.

Rava said: If so, that is the meaning of that **which I heard from Abaye, who said: This is not a mishna,**[N] **and I did not know what it is.** Rava initially did not understand why the teaching should be dismissed, but he subsequently realizes what Abaye was saying.

הַהוּא גַּבְרָא דְּנָפְלָה לֵיהּ יְבָמָה בְּמָתָא מְחַסְיָא, בָּעָא אֲחִיהּ לְמִיפְסְלָהּ בְּגִיטָּא מִינַּיהּ. אֲמַר לֵיהּ: מַאי דַּעְתָּךְ? אִי מִשּׁוּם נִכְסֵי – אֲנָא בְּנִכְסֵי פָּלֵיגְנָא לָךְ. אֲמַר לֵיהּ: מִסְתַּפֵּינָא דְּעָבְדַתְּ לִי כִּדְעָבֵיד פּוּמְבְּדִיתָאָה רַמָּאָה. אֲמַר לֵיהּ: אִי בָּעֵית – פְּלוֹג לָךְ מֵהָשְׁתָּא.

The Gemara relates a similar incident: There was **a certain man who had a *yevama* happen before him** for levirate marriage **in** the town of **Mata Meḥasya,**[B] and **his brother wanted to disqualify her from him by** means of **a bill of divorce.** The man **said to** his brother: **What is your opinion?** Why are you doing this? **If** you are doing this **due to the property** of the dead brother, **I will divide the property with you.** The brother **said to him: I am scared that you will do to me like the swindler from Pumbedita**[B] **did,** in the above story, when the man from Pumbedita promised he would share the inheritance and later retracted. The man **said to him: If you wish, divide it for yourself from now.**[N] I am prepared for you to take the property already, although the acquisition will take effect only after I marry the *yevama*.

אֲמַר מָר בַּר רַב אַשִׁי: אַף עַל גַּב דְּכִי אֲתָא רַב דִּימִי אֲמַר רַבִּי יוֹחָנָן: הָאוֹמֵר לַחֲבֵירוֹ ״לֵךְ וּמְשׁוֹךְ פָּרָה זוֹ וְלֹא תִּהְיֶה קְנוּיָה לְךָ אֶלָּא לְאַחַר שְׁלֹשִׁים יוֹם״ – לְאַחַר שְׁלֹשִׁים יוֹם קָנָה, וַאֲפִילּוּ עוֹמֶדֶת בָּאֲגַם.

Mar bar Rav Ashi said that **although when Rav Dimi came** from Eretz Yisrael **he said** that **Rabbi Yoḥanan** said: In the case of **one who says to another: Go and pull this cow and it will be acquired**[H] **for you only after thirty days, after thirty days he has acquired** it through the act of pulling, **and** this is the *halakha* **even** if at the end of the thirty days the cow **was standing in a meadow,**[N] i.e., a distant place that does not belong to the one acquiring the cow. This indicates that the present act of pulling is effective for later. Despite this *halakha*, Mar bar Rav Ashi claims that a difference exists between that case and the one currently under discussion.

הָתָם – בִּידוֹ, הָכָא – לָאו בִּידוֹ.

Mar bar Rav Ashi elaborates: **There,** with regard to the cow, it is **in** the seller's **power** to transfer ownership at the present time, when the instruction to pull the cow is given, and therefore he can delay the acquisition. **Here,** however, it is **not in his power**[N] to divide up the property, as he has yet to perform levirate marriage and the brother's property does not belong to him. Consequently, he cannot transfer its ownership at the present time.

וְהָא כִּי אֲתָא רָבִין אָמַר רַבִּי יוֹחָנָן: לָא קָנֵי! לָא קַשְׁיָא; הָא דַּאֲמַר לֵיהּ ״קְנֵי מֵעַכְשָׁיו״ הָא דְּלָא אֲמַר לֵיהּ ״קְנֵי מֵעַכְשָׁיו״.

The Gemara asks: **But when Ravin came** from Eretz Yisrael **he said** that **Rabbi Yoḥanan** said: If one is instructed to pull a cow, but the acquisition will take effect only after thirty days, he has **not acquired** it. This contradicts Rabbi Yoḥanan's own ruling. The Gemara answers: This is **not difficult,** as **this** case, when one acquires it, is referring to a situation **when he says to him: Acquire** it **from now,**[N] so that once thirty days have passed it should belong to him retroactively, but **that** case, when one does not acquire it, is **when he did not say to him: Acquire** it **from now.** If the acquisition does not take effect now, it cannot take effect later.

בָּעוּ מִינֵּיהּ מֵעוּלָּא: יִבֵּם וְאַחַר כָּךְ חִילֵּק מַהוּ? לֹא עָשָׂה וְלֹא כְּלוּם. חִילֵּק וְאַחַר כָּךְ יִבֵּם מַהוּ? לֹא עָשָׂה וְלֹא כְּלוּם.

They inquired of Ulla: If the *yavam* **performed levirate marriage** with the woman **and afterward divided** the property he promised to share with his brother, **what is** the *halakha*? He replied: **He has done nothing.** They further asked: If **he divided** the property **and afterward performed levirate marriage, what is** the *halakha*? He once again responded: **He has done nothing.**

NOTES

This is not a mishna – זוֹ אֵינָהּ מִשְׁנָה: Despite this claim of the Gemara, the Rif cites the *baraita* verbatim, implying that he does accept it as *halakha*. The Ra'avad disagrees with the opinion of the Rif due to this statement of the Gemara. The Ramban writes in *Sefer HaZekhut* that although the Gemara rejects the *baraita* because no *tanna* maintains both of these opinions, both are in fact followed as practical *halakha*: Rabbi Natan's opinion is accepted, and the ordinance of the *ge'onim*, that nowadays a marriage contract is collected from movable property effectively renders the *halakha* in accordance with Rabbi Meir's opinion, which means that in practice, this *baraita* is in fact accepted. The Rambam rules in accordance with the opinion of some *ge'onim* that although a marriage contract is collected from movable property, nevertheless this ordinance does not have the status of actual rabbinic law.

Divide it for yourself from now – פְּלוֹג לָךְ מֵהָשְׁתָּא: According to Rashi, the man instructed his brother to take possession of his share now with the intention of acquiring it after the levirate marriage. The Ritva notes that this explanation is logical in light of the Gemara's subsequent comparison to the case of one who pulled a cow.

And even if it was standing in a meadow – וַאֲפִילּוּ עוֹמֶדֶת בַּאֲגַם: According to the Rashba and the Ritva, a meadow is mentioned merely as an example of a place where a cow usually grazes, but the animal is acquired even if it is located in the public domain. It would appear that in their opinion the act of acquisition is completed when the cow is pulled, especially since the Gemara below qualifies this case as one when the seller says that after thirty days the act of acquisition should take effect starting from now. The seller's addition of the phrase: After thirty days, is therefore merely an additional stipulation. However, the Meiri maintains that this *halakha* applies only to a meadow or similar location, which has the status of an alleyway, a non-public place where the acquisition can be performed. But if it is in the public domain, the animal is not acquired at all.

Here it is not in his power – הָכָא לָאו בִּידוֹ: The Rivan writes that Mar bar Rav Ashi appears to disagree with Rabbi Abba, as Mar bar Rav Ashi bases his ruling that the acquisition is ineffective on the fact that the brother was unable to give it at the time. This indicates that if he were to do so later, after the levirate marriage, it would take effect. The Rivan adds that it is nevertheless possible that Mar bar Rav Ashi agrees with Rabbi Abba but maintains that the latter was only speaking *ab initio*, and that if one sold the property after the levirate marriage the transaction would be valid.

Acquire it from now – קְנֵי מֵעַכְשָׁיו: The Ritva explains that this means: Acquire the body of the cow now, but its produce shall belong to the purchaser only after thirty days.

BACKGROUND

Mata Meḥasya – מָתָא מְחַסְיָא: Mata Meḥasya was a town adjacent to the city of Sura. In its day, Sura was a large city, even serving as the capital of the Parthian kingdom. By comparison, Mata Meḥasya was small, and it seems that most of its inhabitants were Jews. It is possible that it was inhabited by Jews even from the first days of Jewish settlement in Babylonia. In the time of Rav Ashi, the yeshiva in Sura was transferred to Mata Meḥasya. Due to the proximity of the two places, their names were often interchanged in the days of the *ge'onim*, and the Yeshiva of Sura was at times called the Yeshiva of Meḥasya. Regardless, the town of Meḥasya never grew to the size of a city.

The swindler from Pumbedita – פּוּמְבְּדִיתָאָה רַמָּאָה: This derisive name for a man from Pumbedita was based on the prevalence of swindlers and thieves in that city. The Talmud similarly states (*Ḥullin* 127a): If a man from Pumbedita lends you money, change your place of residence so he does not come and steal from you.

HALAKHA

Pull this cow and it will be acquired, etc. – מְשׁוֹךְ פָּרָה זוֹ וְלֹא תִּהְיֶה קְנוּיָה וכו׳: In the case of one who says to another: Pull this cow and it will be acquired by you only after thirty days, even if he pulled the animal he has not acquired it by this act. However, if he said: Acquire it from now and after thirty days, it belongs to him after thirty days, even if it is standing in a meadow on the thirtieth day, as stated by Rabbi Yoḥanan and in accordance with the interpretation of his teaching suggested at the conclusion of the Gemara. With regard to the clause stating that it is standing in a meadow, the same is certainly true if it is in the purchaser's domain or in a place that belonged to both the purchaser and the seller, but not if it was located in the public domain or on the seller's property (Rambam *Sefer Kinyan*, *Hilkhot Mekhira* 2:9; *Shulḥan Arukh*, *Even HaEzer* 197:7 and *Sma* there).

מַתְקִיף לָהּ רַב שֵׁשֶׁת: הָשְׁתָּא יִבֵּם וְאַחַר כָּךְ חִילֵּק – לֹא עָשָׂה וְלֹא כְלוּם, חִילֵּק וְאַחַר כָּךְ יִבֵּם מִבָּעְיָא?! שְׁנֵי מַעֲשִׂים הָווּ.

Rav Sheshet objects to this version of the discussion: **Now** if, when **he performed levirate marriage and afterward divided** the property when it was in his possession, Ulla answered that **he has done nothing,** then in a case where he **divided** it **and afterward performed levirate marriage, is it necessary** to inquire as to the *halakha*? It is obvious that such an action is of no consequence. The Gemara answers: Ulla was not asked these two questions on the same occasion. Rather, **there were two incidents** in which people raised these issues before Ulla, and he answered each inquiry separately.

כִּי אֲתָא רָבִין אָמַר רֵישׁ לָקִישׁ: בֵּין יִבֵּם וְאַחַר כָּךְ חִילֵּק, בֵּין חִילֵּק וְאַחַר כָּךְ יִבֵּם – לֹא עָשָׂה וְלֹא כְלוּם. וְהִלְכְתָא: לֹא עָשָׂה וְלֹא כְלוּם.

When Ravin came from Eretz Yisrael **he said** that **Reish Lakish** said: **Whether he performed levirate marriage and afterward divided**[H] the property, or **whether he divided** the property and **afterward performed levirate marriage, he has done nothing.** The Gemara concludes: **And the** practical ***halakha*** is that **he has done nothing.**

״וַחֲכָמִים אוֹמְרִים פֵּירוֹת הַמְחוּבָּרִים לַקַּרְקַע שֶׁלּוֹ״. אַמַּאי? וְהָא כָּל נְכָסָיו אַחֲרָאִין וְעַרְבָאִין לִכְתוּבָּתָהּ – אֲמַר רֵישׁ לָקִישׁ, תְּנֵי: שֶׁלָּהּ.

§ The mishna states: **And the Rabbis say: Produce that is attached to the ground is his.** The Gemara asks: **Why** is this so? **Doesn't all of his property** serve as a **guarantee and security for her marriage contract? Reish Lakish said:** Emend the text and **teach:** Produce that is attached to the ground is **hers.**

״בְּנָסָהּ הֲרֵי הִיא כְּאִשְׁתּוֹ״. לְמַאי הִלְכְתָא? אָמַר רַבִּי יוֹסֵי בְּרַבִּי חֲנִינָא: לוֹמַר שֶׁמְּגָרְשָׁהּ בְּגֵט וּמַחֲזִירָהּ. ״מְגָרְשָׁהּ בְּגֵט״ – פְּשִׁיטָא!

The mishna further stated that if **he married her, she is like his** regular **wife.** The Gemara asks: **With regard to what *halakha*** was this stated? **Rabbi Yosei, son of Rabbi Ḥanina, said:** The mishna means **to say that he divorces her with a bill of divorce and** that **he may remarry her**[H] afterward without violating a prohibition. The Gemara asks: The *halakha* that **he divorces her with a bill of divorce** is **obvious;** how else can he divorce her?

מַהוּ דְּתֵימָא: ״וְיִבְּמָהּ״ אָמַר רַחֲמָנָא, וְעַדַיִין יְבוּמִין הָרִאשׁוֹנִים עָלֶיהָ – לָא תִּיסְגֵּי לָהּ בְּגֵט, אֶלָּא בַּחֲלִיצָה, קָא מַשְׁמַע לָן.

The Gemara explains: It is necessary to state this **lest you say** that since **the Merciful One states** in the Torah: "And he will take her to him to be his wife **and consummate the levirate marriage"** (Deuteronomy 25:5), **and** here the status of **the first levirate marriage is still upon her,** this would mean that **it should not suffice for her** to leave **by a bill of divorce, but** rather she can leave him only **by** performing ***ḥalitza*** as well. The *tanna* therefore **teaches us** that *ḥalitza* is not required, as once he has married her she is like any other woman, who can be divorced by a bill of divorce alone.

״מַחֲזִירָהּ״ – פְּשִׁיטָא!

The Gemara asks with regard to the second part of the interpretation of Rabbi Yosei, son of Rabbi Ḥanina, that **he may remarry her:** It is **obvious** that he may remarry her if the couple chooses to do so.

Perek **VIII**
Daf **82** Amud **b**

מַהוּ דְּתֵימָא: מִצְוָה דִּרְמָא רַחֲמָנָא עֲלֵיהּ – עֲבָדָהּ, וְהָשְׁתָּא תִּיקּוּם עֲלֵיהּ בְּאִיסּוּר אֵשֶׁת אָח, קָא מַשְׁמַע לָן.

The Gemara explains: It is necessary **lest you say** that **he has performed** the **mitzva the Merciful One placed upon him** by means of levirate marriage, **and now** that he has divorced her **she should** once again **stand** in relation **to him with the prohibition** proscribing **a brother's wife,** which was her status before the mitzva of levirate marriage came into effect. The *tanna* therefore **teaches us** that since he performed levirate marriage with her, the prohibition proscribing a brother's wife no longer applies at all.

וְאֵימָא הָכִי נַמִי? אָמַר קְרָא ״וּלְקָחָהּ לוֹ לְאִשָּׁה״. כֵּיוָן שֶׁלְּקָחָהּ – נַעֲשֵׂית כְּאִשְׁתּוֹ.

The Gemara asks: **And say** that **indeed,** the prohibition proscribing a brother's wife should be in force once again. The Gemara explains: **The verse states: "And he will take her to him to be his wife"** (Deuteronomy 25:5), which indicates that once **he has taken her, she has become like his** regular **wife** in all respects.

HALAKHA

Whether he performed levirate marriage and afterward divided, etc. – בֵּין יִבֵּם וְאַחַר כָּךְ חִילֵּק וכו׳: If a *yavam* sold the property of his late brother, gave it away, or divided it with his brothers, whether he did so before or after levirate marriage, his act is of no account (Rambam *Sefer Nashim*, *Hilkhot Ishut* 22:11; *Shulḥan Arukh*, *Even HaEzer* 168:3).

That he divorces her with a bill of divorce and he may remarry her – שֶׁמְּגָרְשָׁהּ בְּגֵט וּמַחֲזִירָהּ: After the *yavam* has performed levirate marriage with the *yevama*, she is his wife in all respects. He divorces her by means of a bill of divorce alone and may subsequently remarry her, as stated by Rabbi Yosei, son of Rabbi Ḥanina (Rambam *Sefer Nashim*, *Hilkhot Yibbum VaḤalitza* 1:15; *Shulḥan Arukh*, *Even HaEzer* 168:1).

HALAKHA

If she does not have from the first – אִי לֵית לָהּ מֵרִאשׁוֹן: If a *yevama* does not have a marriage contract or if she decided to forgo her marriage contract, the *yavam* who marries her must write a marriage contract of one hundred dinars, like that of a regular widow (Rambam *Sefer Nashim*, *Hilkhot Ishut* 22:14; *Shulḥan Arukh*, *Even HaEzer* 168:8).

If he divorced her she has only her marriage contract – גֵּרְשָׁהּ אֵין לָהּ אֶלָּא כְּתוּבָּתָהּ: If a *yavam* divorced his *yevama* and remarried her before paying her the marriage contract, she is like any other woman who was divorced and remarried, and she is entitled to only one marriage contract (*Shulḥan Arukh*, *Even HaEzer* 168:2).

He remarries her on the basis of her first marriage contract – עַל מְנָת כְּתוּבָּה רִאשׁוֹנָה מַחֲזִירָהּ: In the case of one who divorces his wife and remarries her without any special stipulation, his remarriage is performed on the basis of her original marriage contract. Consequently, if a woman produces two bills of divorce and one marriage contract from the same husband, she is entitled to the payment of only a single marriage contract (Rambam *Sefer Nashim*, *Hilkhot Ishut* 16:30; *Shulḥan Arukh*, *Even HaEzer* 100:15).

״בִּלְבַד שֶׁתְּהֵא כְּתוּבָּתָהּ עַל נִכְסֵי בַּעְלָהּ הָרִאשׁוֹן״. מַאי טַעֲמָא? אִשָּׁה הִקְנוּ לוֹ מִן הַשָּׁמַיִם.

§ The mishna taught: She has the status of his wife in all respects after levirate marriage, **except that** the responsibility for **her marriage contract is upon the property of her first husband.** The Gemara inquires: **What is the reason** for this? It is that **from Heaven they acquired a wife for him.** Since he did not choose her but married her by force of a Torah commandment, he is not obligated to set aside for her a marriage contract of his own. Rather, he relies upon his brother's marriage contract.

וְאִי לֵית לָהּ מֵרִאשׁוֹן – אִית לָהּ מִשֵּׁנִי, כְּדֵי שֶׁלֹּא תְּהֵא קַלָּה בְּעֵינָיו לְהוֹצִיאָהּ.

The Gemara adds: **And if she does not have** anything **from the first**[H] husband, e.g., if he owned no property, **she** nevertheless **has** a marriage contract **from the second**[N] one, for the same reason that any wife is entitled to a marriage contract in the first place: **So that she will not be demeaned in his eyes such that** he will easily **divorce her.**

״לֹא יֹאמַר לָהּ הֵרֵי כְּתוּבָּתֵיךְ״. מַאי ״וְכֵן״?

The mishna further stated that the *yavam* **may not say to her: Here is your marriage contract,** and similarly, a man may not make such a statement to his wife. Rather, all of his property is mortgaged for her marriage contract. The Gemara asks: **What** is the relevance of the phrase: **And similarly,**[N] here? The *halakha* in both cases appears to be identical.

מַהוּ דְּתֵימָא: הָתָם הוּא, דְּלָא כָּתַב לָהּ ״דִּקְנַאי וּדְקָנֵינָא״ אֲבָל הָכָא דִּכְתַב לָהּ ״דִּקְנַאי וּדְקָנֵינָא״ אֵימָא סָמְכָה דַּעְתָּהּ, קָא מַשְׁמַע לָן.

The Gemara explains: It is necessary **lest you say** that this **is** the *halakha* only **there,** with regard to a *yevama*, **where** the *yavam* did **not write** a marriage contract **for her** and therefore never wrote: All property **that I have bought and that I will buy** is mortgaged to the marriage contract. **But here,** with regard to a regular wife, **where he did write** a marriage contract **for her** that included the clause: **That I have bought and that I will buy, say that she relies** upon that which he has set aside, and therefore there is no need for a full lien on all his property. The *tanna* therefore **teaches us** that this is not the case.

״גֵּרְשָׁהּ – אֵין לָהּ אֶלָּא כְּתוּבָּתָהּ״. גֵּרְשָׁהּ – אִין, לֹא גֵּרְשָׁהּ – לָא. קָא מַשְׁמַע לָן כִּדְרַבִּי אַבָּא.

§ The mishna states that if **he divorced her she has only her marriage contract.**[H] There is no lien upon the property, and he may therefore sell it. The Gemara infers: If **he divorced her, yes,** that is the case, but if **he did not divorce her, no,** it is not. The *tanna* here **teaches us** indirectly that the *halakha* is **in accordance with Rabbi Abba,** who claims that the only way he can gain full control of all the property is by divorcing her.

״הֶחֱזִירָהּ – הֵרֵי הִיא כְּכָל הַנָּשִׁים וְאֵין לָהּ אֶלָּא כְּתוּבָּתָהּ״. ״הֶחֱזִירָהּ״ מַאי קָא מַשְׁמַע לָן? תָּנֵינָא: הַמְגָרֵשׁ אֶת הָאִשָּׁה וּמַחֲזִירָהּ – עַל מְנָת כְּתוּבָּה רִאשׁוֹנָה מַחֲזִירָהּ!

It was further taught in the mishna that if he **remarried her, she is like all women, and she has nothing other** than **her marriage contract.** The Gemara asks: **What is** the *tanna* **teaching us** by mentioning the possibility that he **remarried her? We** already **learned** this: With regard to **one who divorces a woman and remarries her, he remarries her on the basis of** her **first marriage contract,**[H] and he need not write her a new one. Why is it necessary to emphasize this *halakha* in the case of a *yevama*?

NOTES

She has from the second – אִית לָהּ מִשֵּׁנִי: The early commentaries, including *Tosafot* in tractate *Yevamot*, ask the following question: Even if her marriage contract is collected from the property of the first husband, she will still take it from the second husband, as the second husband inherits all of the property of the first. If so, what difference does it make whether the marriage contract is from the first or the second husband? They answer that there are cases where practical differences exist between the two, e.g., if the property of only one of the brothers were lost, or if it were bound by a previous lien. The Ramban and the Rashba add another difference, which is also accepted by the Rambam: Her marriage contract from the first husband is two hundred dinars, the sum paid to a virgin, whereas the second writes for her a marriage contract worth only one hundred, the sum paid to a widow. However, the Ra'ah and the Rivash contend that the sum of the marriage contract remains the same, as the *yavam* writes a marriage contract whose sum is identical to that which the first husband had pledged to give.

What is the phrase: And similarly – מַאי וְכֵן: The Rivan explains the question to mean that this *halakha* is superfluous, as it is obvious that the same applies to a wife. In the *Shita Mekubbetzet* this is explained in accordance with the Rashbam, who maintains that every mention of the phrase: And similarly, does not merely link two issues but indicates that the second *halakha* involves an additional novelty.

מַהוּ דְּתֵימָא: אִשְׁתּוֹ הוּא, דְּאִיהוּ כָּתַב לָהּ כְּתוּבָּה מִינֵּיהּ, אֲבָל יְבִמְתּוֹ, דְּלָא אִיהוּ כָּתַב לָהּ – הֵיכָא דְּגַרְשָׁהּ וַאֲהַדְרָהּ, אֵימָא כְּתוּבָּתָהּ מִינֵּיהּ – קָא מַשְׁמַע לָן.

The Gemara answers: It is necessary **lest you say** that **it is** the *halakha* in the case of **a wife, since he writes for her a marriage contract from him,** and therefore when he remarries her he does so on the basis of the first marriage contract. **But** as for **his *yevama*, where he did not write for her** the marriage contract but it was written by his brother, in a case **where he divorced her and remarried her, say** that **her marriage contract** should be **from him** and he should write a new one using his own property. Therefore, the *tanna* **teaches us** that this is not required.

אָמַר רַב יְהוּדָה: בָּרִאשׁוֹנָה הָיוּ כּוֹתְבִין לִבְתוּלָה מָאתַיִם וְלִאַלְמָנָה מָנֶה. וְהָיוּ מַזְקִינִין וְלֹא הָיוּ נוֹשְׂאִין נָשִׁים. עַד שֶׁבָּא שִׁמְעוֹן בֶּן שָׁטַח וְתִיקֵּן: כָּל נְכָסָיו אַחֲרָאִין לִכְתוּבָּתָהּ.

§ The Gemara discusses the background for the rule that the husband's property is mortgaged for the marriage contract. **Rav Yehuda said: At first they would write for a virgin**[N] **two hundred** dinars **and for a widow one hundred dinars.** They would then demand that this amount be available in cash, **and** then the men **would grow old**[N] **and would not marry women,** as they did not all possess such large sums of money, **until Shimon ben Shataḥ came and instituted** an ordinance[H] that a man need not place the money aside in practice. Rather, **all of his property is guaranteed for her marriage contract.**

תַּנְיָא נַמִּי הָכִי: בָּרִאשׁוֹנָה הָיוּ כּוֹתְבִין לִבְתוּלָה מָאתַיִם וְלִאַלְמָנָה מָנֶה, וְהָיוּ מַזְקִינִין וְלֹא הָיוּ נוֹשְׂאִין נָשִׁים. הִתְקִינוּ שֶׁיְּהֵיוּ מַנִּיחִין אוֹתָהּ בְּבֵית אָבִיהָ. וַעֲדַיִין, כְּשֶׁהוּא כּוֹעֵס עָלֶיהָ אוֹמֵר לָהּ: לְכִי אֵצֶל כְּתוּבָּתֵךְ,

The Gemara comments: **That** opinion **is also taught** in a *baraita*: **At first they would write for a virgin two hundred and for a widow one hundred dinars, and they would grow old and would not marry women,** since the women were concerned that their marriage contract money would be wasted or lost, and they had no guarantee that it would be collected. The Sages therefore **instituted** an ordinance **that they should place it,** the sum of the marriage contract, **in her father's house,** thereby ensuring its safekeeping. **And still** problems arose, as **when he was angry at** his wife, he would **say to her: Go to your marriage contract,** as it was too easy for them to divorce.

הִתְקִינוּ שֶׁיְּהֵיוּ מַנִּיחִין אוֹתָהּ בְּבֵית חָמִיהָ. עֲשִׁירוֹת עוֹשׂוֹת אוֹתָהּ קֻלָּתוֹת שֶׁל כֶּסֶף וְשֶׁל זָהָב, עֲנִיּוֹת הָיוּ עוֹשׂוֹת אוֹתָהּ עֲבִיט שֶׁל מֵימֵי רַגְלַיִם.

Therefore, the Sages **instituted** an ordinance **that they would place it in her father-in-law's house,** i.e., in her husband's house. And **wealthy** women **would craft** their marriage contract money into **baskets of silver and of gold,** while **poor** ones **would craft it** into **a large vessel**[N] for the collection **of urine,**[N] as their marriage contract was large enough only for a small vessel.

וַעֲדַיִין, כְּשֶׁכּוֹעֵס עָלֶיהָ אוֹמֵר לָהּ: טְלִי כְּתוּבָּתֵךְ וּצְאִי, עַד שֶׁבָּא שִׁמְעוֹן בֶּן שָׁטַח וְתִיקֵּן שֶׁיְּהֵא כּוֹתֵב לָהּ ״כָּל נְכָסַי אַחֲרָאִין לִכְתוּבָּתָהּ״.

And still, when he was angry at her he would **say to her: Take your marriage contract and leave, until Shimon ben Shataḥ came and instituted** an ordinance **that** he does not actually give her the money for her marriage contract. Rather, **he should write to her: All my property is guaranteed**[N] **for her marriage contract,** and it is not localized to a particular place or object. Consequently, he would need to sell some of his property if he wished to divorce her, and would therefore think carefully before undertaking such a drastic course of action.

NOTES

They would write for a virgin, etc. – הָיוּ כּוֹתְבִין לִבְתוּלָה וכו׳: The commentaries dispute the details of this account. Some say that the initial practice was to write a sum for the wife's marriage contract and give it to her immediately, whereas the Rivan claims that although they would specify an amount of money, the contract did not contain a lien for this sum, and it was possible for the husband to sell his property and leave the woman with nothing from which to claim her debt. The Ritva suggests a similar explanation to that of the Rivan but maintains that even if the lien on his property is not explicitly stated, it is still in effect. Consequently, he adds that husbands would specify that the marriage contract was without responsibility. The Ra'ah contends that they would omit the clause that responsibility for payment of the marriage contract is from the time the contract is written, which meant that if his property were sold the woman would have no means of claiming it.

And the men would grow old – וְהָיוּ מַזְקִינִין: According to most commentaries, this means that women did not rely on such marriage contracts and were unwilling to marry. However, Rabbeinu Ḥananel indicates that men did not have enough money available for the payment of the marriage contract, and therefore they were reluctant to marry.

Baskets of silver and gold…a large vessel – קֻלָּתוֹת שֶׁל כֶּסֶף וְשֶׁל זָהָב...עֲבִיט: *Tosafot* explain that these vessels were available for use, and the husband therefore had the option of using them as collateral in a time of need. Consequently, he would be more hesitant before divorcing her than if the money were left in its current state in her father's house.

Craft it into a large vessel [*avit*] of urine – עוֹשׂוֹת אוֹתָהּ עֲבִיט שֶׁל מֵימֵי רַגְלַיִם: Rashi's comment that the vessel was used for urine indicates that this detail was not mentioned in his version of the text. In fact, many of the texts of early commentaries read simply: *Avit*, a large vessel that served a variety of functions, e.g., a container for produce. Alternatively, based on Rabbeinu Tam's reading in *Tosafot*, it may refer to a copper pot. The Ritva adds that Rashi's interpretation is problematic, as a large vessel used for urine would certainly not be worth two hundred dinars or even one hundred. However, others (*Talmidei Rabbeinu Yona*) defend Rashi's explanation by suggesting that they would buy several different vessels with their marriage contract money, one of which was this vessel.

All my property is guaranteed – כָּל נְכָסַי אַחֲרָאִין: In the Jerusalem Talmud this ordinance is formulated as: He would engage in commerce using the money for her marriage contract. The reason for this is that once he begins using the money for commerce, he may not be able to easily get it back and pay his wife her marriage contract, and will therefore not be able to divorce his wife easily. The Ritva maintains that at first, even after the enactment of Shimon ben Shataḥ that all his property is guaranteed for her marriage contract, they continued to set aside movable property for her marriage contract and simply added the lien on the rest of his possessions. Later Sages, however, instituted an ordinance that he not designate particular objects for the marriage contract at all, so that she will not be demeaned in his eyes such that he will easily divorce her.

HALAKHA

The ordinance of Shimon ben Shataḥ – תַּקָּנַת שִׁמְעוֹן בֶּן שָׁטַח: The Sages instituted an ordinance that a husband write in the marriage contract that all his property is guaranteed for his wife's marriage contract. Even if he neglected to specify this in the marriage contract she can collect the sum from all his property due to this ordinance. This is the ordinance of Shimon ben Shataḥ mentioned here (Rambam *Sefer Nashim*, *Hilkhot Ishut* 16:10; *Shulḥan Arukh*, *Even HaEzer* 100:1).