מתני׳ הַכּוֹתֵב לְאִשְׁתּוֹ ״דִּין וּדְבָרִים אֵין לִי בְּנָכְסַיִךְ״ – הֲרֵי זֶה אוֹכֵל פֵּרוֹת בְּחַיֶּיהָ, וְאִם מֵתָה – יוֹרְשָׁהּ. אִם כֵּן לָמָּה כָּתַב לָהּ ״דִּין וּדְבָרִים אֵין לִי בְּנָכְסַיִךְ״? שֶׁאִם מָכְרָה וְנָתְנָה – קַיָּים.

MISHNA

One who writes for his wife in a document the declaration: **I have no legal** dealings **or involvement with your property,**[H] thereby relinquishing his rights to her possessions, **may** nevertheless **consume the produce** of her property **in her lifetime. And if she dies** before him, **he inherits** from **her. If** this is **so,** if he still retains his rights, **why** would he **write for her: I have no legal** dealings **or involvement with your property?** The result of this declaration is **that if she sold or gave** away her property, the transaction is **binding,**[N] and he cannot claim it.

כָּתַב לָהּ ״דִּין וּדְבָרִים אֵין לִי בְּנָכְסַיִךְ וּבְפֵירוֹתֵיהֶן״ – הֲרֵי זֶה אֵינוֹ אוֹכֵל פֵּרוֹת בְּחַיֶּיהָ, וְאִם מֵתָה – יוֹרְשָׁהּ. רַבִּי יְהוּדָה אוֹמֵר: לְעוֹלָם אוֹכֵל פֵּירֵי פֵּירוֹת, עַד שֶׁיִּכְתּוֹב לָהּ ״דִּין וּדְבָרִים אֵין לִי בְּנָכְסַיִךְ וּבְפֵירוֹתֵיהֶן וּבְפֵירֵי פֵּירוֹתֵיהֶן עַד עוֹלָם״.

If **he writes for her: I have no legal** dealings **or involvement with your property or with its produce,**[H] **he may not consume the produce** of her property **during her lifetime, but if she dies he** still retains the right to **inherit** from **her. Rabbi Yehuda says: He always consumes the produce of the produce.** Although he has waived his rights to consume the produce itself, it becomes her usufruct property, whose yield belongs to him. He remains entitled to the produce of the produce **until he writes for her: I have no legal** dealings **or involvement with your property, or with its produce, or with the produce of its produce forever.**

כָּתַב לָהּ ״דִּין וּדְבָרִים אֵין לִי בְּנָכְסַיִךְ וּבְפֵירוֹתֵיהֶן וּבְפֵירֵי פֵּירוֹתֵיהֶן בְּחַיַּיִךְ וּבְמוֹתֵךְ״ – אֵינוֹ אוֹכֵל פֵּירוֹת בְּחַיֶּיהָ, וְאִם מֵתָה – אֵינוֹ יוֹרְשָׁהּ. רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר: אִם מֵתָה – יְרָשָׁנָּה, מִפְּנֵי שֶׁמַּתְנָה עַל מַה שֶּׁכָּתוּב בַּתּוֹרָה, וְכָל הַמַּתְנָה עַל מַה שֶּׁכָּתוּב בַּתּוֹרָה – תְּנָאוֹ בָּטֵל.

If **he writes for her: I have no legal** dealings **or involvement with your property or with its produce, or with the produce of its produce,**[H] **in your lifetime and after your death, he may not consume the produce** of her property **in her lifetime. And if she dies, he does not inherit** from **her. Rabban Shimon ben Gamliel says: If she dies, he does inherit** from **her, because** he **stipulates counter to that which is written in the Torah.** According to Rabban Shimon ben Gamliel, a husband inherits from his wife by Torah law, **and whoever stipulates counter to that which is written in the Torah, his stipulation is void.**

גמ׳ תָּנֵי רַבִּי חִיָּיא: הָאוֹמֵר לְאִשְׁתּוֹ.

GEMARA

Rabbi Ḥiyya taught in a *baraita*: **One who says**[HN] **to his wife;** he did not teach: One who writes for his wife, as the mishna stated. This indicates that this condition can be stated verbally and does not need to be written in a contract.

וְכִי כָּתַב לָהּ הָכִי מַאי הָוֵי? וְהָתַנְיָא: הָאוֹמֵר לַחֲבֵירוֹ ״דִּין וּדְבָרִים אֵין לִי עַל שָׂדֶה זוֹ, וְאֵין לִי עֵסֶק בָּהּ, וְיָדַי מְסוּלָּקֶת הֵימֶנָּה״ לֹא אָמַר כְּלוּם!

The Gemara asks about the ruling of the mishna: **And if he wrote this to her, what of it?** How does such a stipulation, written or otherwise, take effect? **But isn't it taught** in a *baraita*: **One who says,** whether verbally or by written communication, **to another** person with whom he shares property: **I have no legal** dealings **or involvement with this field, or I have no dealings with it, or my hands are removed from it, has not said anything?** This is because statements that waive rights without transferring them to another have no legal standing.

NOTES

That if she sold or gave away her property, the transaction is binding – שֶׁאִם מָכְרָה וְנָתְנָה קַיָּים: The Ramban asks: This mishna appears to refer to property the woman inherited while she was still betrothed. If so, why is such a condition necessary? After all, the *halakha* is that even without such a stipulation, any transaction she makes with regard to that property is binding after the fact. The Ramban concludes that the mishna is referring to property that came into her possession once she was married, and the mishna teaches that the husband's declaration is effective even with regard to such property.

However, the Ramban himself notes that this issue is addressed in the Jerusalem Talmud. The discussion there indicates that when a couple is still betrothed, the man cannot waive his rights to property the woman will receive once they are married. Since this property was not in her possession when his stipulation was made, there is nothing to which the declaration applies. The Ramban resolves this apparent contradiction by explaining that in the Jerusalem Talmud the reference is to a husband who made this stipulation after the marriage commenced. Rabbi Aharon HaLevi agrees with the opinion of the Ramban. The Rashba and the Rosh maintain that discussion in the Jerusalem Talmud should be taken at face value. The Rashba presents a different answer to the Ramban's question, explaining that in a standard case of a betrothed woman, Beit Hillel rule that she may not sell her property *ab initio*; whereas in this case, because of her husband's stipulation, there is no objection at all to the betrothed woman selling her property.

Rabbi Ḥiyya taught: One who says – תָּנֵי רַבִּי חִיָּיא: הָאוֹמֵר: Rabbi Ḥiyya does not appear to teach anything new, as the impediment to this clause taking effect is due to its phrasing, and there is no difference between a written and a verbal stipulation. The writing of the condition serves only evidentiary purposes; it does not have the force of an act of acquisition. The Ra'ah, therefore, explains that Rabbi Ḥiyya's goal is to point out that this stipulation, even when put in writing, does not have the force of an act of acquisition. He teaches: One who says, to emphasize that the case is one of either mere speech or a written condition without an act of acquisition (Ritva; Ran; Maharsha).

HALAKHA

Legal…involvement with your property – דִּין וּדְבָרִים...בְּנָכְסַיִךְ: If a man wrote to his wife: I have no claim to your property, and she sold or gave the property away, her action is valid. However, he has the right to consume the produce of her property as long as it is in her possession, and if she dies first he inherits from her (Rambam *Sefer Nashim*, *Hilkhot Ishut* 23:2; *Shulḥan Arukh*, *Even HaEzer* 92:1).

I have no legal dealings or involvement with your property or with its produce – דִּין וּדְבָרִים אֵין לִי בְּנָכְסַיִךְ וּבְפֵירוֹתֵיהֶן: If a man wrote to his wife: I have no claim to your property or to its produce, he may not consume the produce of her property. However, the produce is sold and the proceeds are used for the acquisition of land, whose produce he may consume (Rambam *Sefer Nashim*, *Hilkhot Ishut* 23:3; *Shulḥan Arukh*, *Even HaEzer* 92:4).

With your property or with its produce or with the produce of its produce – בְּנָכְסַיִךְ וּבְפֵירוֹתֵיהֶן וּבְפֵירֵי פֵּירוֹתֵיהֶן: If a man stipulated to his wife that he has no claim to her property, or the produce of her property, or the produce of its produce forever, both during her lifetime and after her death, he may not consume any produce. However, upon her death he inherits from her, as the *halakha* is in accordance with the opinion of Rabban Shimon ben Gamliel (Rambam *Sefer Nashim*, *Hilkhot Ishut* 23:7; *Shulḥan Arukh*, *Even HaEzer* 92:8).

Rabbi Ḥiyya taught: One who says – תָּנֵי רַבִּי חִיָּיא: הָאוֹמֵר: If a husband stipulates to his wife that he will derive no benefit from her property or its produce, his statement is effective whether it was made as a written or a verbal stipulation, as stated by Rabbi Ḥiyya (Rambam *Sefer Nashim*, *Hilkhot Ishut* 23:2; *Shulḥan Arukh*, *Even HaEzer* 92:1).

BACKGROUND

Betrothed and married – אֲרוּסָה וּנְשׂוּאָה: There are two stages in a Jewish marriage. Betrothal is the first stage of the marriage process. After betrothal, a woman requires a divorce before she can marry another man, and sexual intercourse with other men is considered adulterous and is punishable by death. At this stage, the betrothed couple may not yet live together as man and wife, and most of the couple's mutual obligations do not yet apply.

The second stage of the process, marriage, is effected by having the bride and groom come under the bridal canopy, and it immediately confers upon the newlywed couple both the privileges and the responsibilities associated with marriage. After marriage, if one spouse dies, all the *halakhot* of mourning for a close blood relative apply to the surviving spouse. If the wife of a priest dies, he is obligated to make himself ritually impure to bury her. All the monetary rights and obligations that apply to married couples take effect after marriage.

Today betrothal and marriage are both performed in a single ceremony, but in talmudic times, there was usually a yearlong gap between the two.

HALAKHA

To one who writes such a statement for her while she is still betrothed – בְּכוֹתֵב לָהּ וְעוֹדָהּ אֲרוּסָה: A husband's stipulation that he will not benefit from the produce of his wife's property is effective only if he made the condition when they were betrothed, in accordance with the opinion of Rabbi Yannai (Rambam *Sefer Nashim*, *Hilkhot Ishut* 23:2; *Shulḥan Arukh*, *Even HaEzer* 92:1).

An inheritance that comes to a person from another place – נַחֲלָה הַבָּאָה לְאָדָם מִמָּקוֹם אַחֵר: If one inherits property from a source outside of his own family, before he gains possession of it, he can stipulate that he will not inherit it. Consequently, if a man stipulates to his betrothed that he will not inherit from her, his condition is valid. If, however, he makes the condition once they are married, it is invalid (Rambam *Sefer Nashim*, *Hilkhot Ishut* 23:6; *Shulḥan Arukh*, *Even HaEzer* 69:7, 92:3, 7).

אָמְרִי דְּבֵי רַבִּי יַנַּאי: בְּכוֹתֵב לָהּ וְעוֹדָהּ אֲרוּסָה, כִּדְרַב כָּהֲנָא. דַּאֲמַר רַב כָּהֲנָא: נַחֲלָה הַבָּאָה לְאָדָם מִמָּקוֹם אַחֵר – אָדָם מַתְנֶה עָלֶיהָ שֶׁלֹּא יִירָשֶׁנָּה, וְכִדְרָבָא. דְּאָמַר רָבָא: הָאוֹמֵר "אֵי אֶפְשִׁי בְּתַקָּנַת חֲכָמִים כְּגוֹן זוֹ" – שׁוֹמְעִין לוֹ.

The Sages from **the school of Rabbi Yannai say:** The mishna is referring **to one who writes** such a statement **for her while she is still betrothed.**[BHN] Since the property was not yet in the husband's possession when he wrote this condition, he was able to forgo any rights that he would later receive. This is **in accordance with** the opinion of **Rav Kahana, as Rav Kahana said:** Concerning **an inheritance that comes to a person from another place,** [HN] i.e., he did not inherit it directly but rather through his wife or by means of a gift, **the person can stipulate with regard to it that he will not inherit it.** In this case, his statement is effective, although one cannot waive a right one already has. **And** this ruling is **in accordance with** the opinion of **Rava, as Rava said:** With regard to **one who says: I do not want** to avail myself of **an ordinance of the Sages** that was instituted for my benefit, **such as this** one, one **listens to him.**

מַאי "כְּגוֹן זוֹ"? כִּדְרַב הוּנָא אָמַר רַב. דַּאֲמַר רַב הוּנָא אָמַר רַב: יְכוֹלָה אִשָּׁה שֶׁתֹּאמַר לְבַעְלָהּ "אֵינִי נִיזּוֹנֶת וְאֵינִי עוֹשָׂה".

The Gemara asks: **What** is meant by: **Such as this** one? The Gemara explains: Rava is referring to **that** statement **of Rav Huna,** who said that **Rav said** a certain ruling. **As Rav Huna said** that **Rav said** that **a woman is able say to her husband: I will not be sustained** by you and, in turn, **I will not work,** i.e., you will not keep my earnings. The Sages instituted that a husband must provide sustenance for his wife, and in exchange is entitled to her wages. Since this was instituted for the benefit of the wife, she is able to opt out of this arrangement. Similarly, the husband may opt out of the arrangement granting him the right to the produce of his wife's land.

אִי הָכִי אֲפִילּוּ נְשׂוּאָה נַמִּי!

The Gemara asks: **If that is so,** and Rava's opinion that one can waive a right instituted by the Sages for his own benefit is accepted, then **even** if he relinquished his rights to his wife's property once she was already **married,** his stipulation should **also** be valid. Why, then, was it necessary for Rabbi Yannai to explain that the stipulation in the mishna was made only in the case of a betrothed woman?

אָמַר אַבַּיֵי: נְשׂוּאָה – יָדוֹ כְּיָדָהּ. רָבָא אָמַר: יָדוֹ עֲדִיפָא מִיָּדָהּ. נָפְקָא מִינָּה – לִשּׁוֹמֶרֶת יָבָם.

Abaye said: In the case of **a married** woman, **his hand,** i.e., his right to the property, **is like her hand.** Since the husband is considered a partner in her property, he cannot forfeit his ownership by declaration. **Rava said:** If they are married, **his hand is preferable to her hand,** i.e., he has more rights to her property than she does. The Gemara comments: The **practical difference** between the opinions of Rava and Abaye concerns the case **of a widow awaiting her brother-in-law** [***yavam***][N] to perform levirate marriage. If the husband's rights are greater than the wife's, then the rights of the *yavam* can be judged to be at least equal to that of the wife. If the husband and wife have equal rights in her property, then the rights of the *yavam* are inferior to the wife's.

NOTES

To one who writes such a statement for her while she is still betrothed – בְּכוֹתֵב לָהּ וְעוֹדָהּ אֲרוּסָה: The Ran states that such a stipulation, written or verbal, is effective only if the couple was betrothed, when there is some sort of connection between them. If he wrote it before their betrothal, his stipulation is meaningless. This opinion is accepted as *halakha*.

An inheritance that comes to a person from another place – נַחֲלָה הַבָּאָה לְאָדָם מִמָּקוֹם אַחֵר: Rashi indicates, and *Tosafot* state explicitly, that Rav Kahana's opinion explains why the husband is able to renounce his rights in this manner. It is because the inheritance of a husband is by rabbinic law. In a case where he receives an inheritance by Torah law, he would not be able to renounce his rights to it.

In contrast, the Ramban and his students maintain that the decisive factor is not whether the *halakha* that bequeaths the inheritance is by Torah law or by rabbinic law. Even if Torah law establishes that the husband inherits from his wife, there is a difference between an inheritance from a blood relative and an inheritance from a wife. In the case of an inheritance from a blood relative, the heir is considered to have had rights to the property from his birth, whereas in the case of an inheritance from a wife, there was a time when the inheritance would not have gone to him. Therefore, he can renounce his claim on the property of his wife, as long as it has not yet entered his possession.

The practical difference concerns the case of a widow awaiting her *yavam* – נָפְקָא מִינָּה לִשּׁוֹמֶרֶת יָבָם: Rashi explains that the practical difference between the two opinions manifests itself in a situation where a woman awaiting levirate marriage dies, and the dispute is with regard to who inherits from her. According to this opinion, this case is mentioned here only incidentally, as it is connected with the quote of Rav Huna's statement. However, the opinion cited in the Meiri maintains that the case of a widow waiting for her *yavam* mentioned here is directly relevant to the discussion in the Gemara, and that the mishna is referring to one who writes for a woman awaiting levirate marriage that he will have no claim on her property. The question is whether she is considered betrothed or married (see *Penei Yehoshua*).

אִיבַּעְיָא לְהוּ: קָנוּ מִיָּדוֹ מַהוּ? אָמַר רַב יוֹסֵף: מִדִּין וְדִבְרִים קָנוּ מִיָּדוֹ. רַב נַחְמָן אָמַר: מִגּוֹפָהּ שֶׁל קַרְקַע קָנוּ מִיָּדוֹ. אֲמַר אַבַּיֵי: מִסְתַּבְּרָא מִילְּתָא דְּרַב יוֹסֵף

A dilemma was raised before the Sages: **What is** the *halakha* if one not only wrote a declaration relinquishing his rights to his partner's property, but they also **performed an act of acquisition** transferring the rights **from him?**[N] **Rav Yosef said: They acquired from him** only his promise of: **I have no legal** dealings **or involvement** with your property. Therefore, the transaction is no more effective than the promise itself. **Rav Naḥman said:** The transaction is effective and **they acquired the land itself from him.**[H] **Abaye said:** The **statement of Rav Yosef is reasonable**

HALAKHA

They acquired the land itself from him – קָנוּ מִגּוֹפָהּ שֶׁל קַרְקַע קָנוּ מִיָּדוֹ: If, during marriage, a husband and wife stipulate that he will renounce any right to which he is entitled, this stipulation takes effect only if they performed an act of acquisition to formalize the stipulation. If he stated during betrothal that he has no claim to her property, and they performed an act of acquisition to formalize this statement, he then relinquishes all of his rights to the land, and he is not entitled to its produce, or the produce of the produce. In this case, Rav Hai Gaon holds that he retains the right to inherit from her, while the Rosh holds that he does not (Rambam *Sefer Nashim*, *Hilkhot Ishut* 23:1; *Shulḥan Arukh*, *Even HaEzer* 92:3).

NOTES

What is the *halakha* if they performed an act of acquisition transferring the rights from him – קָנוּ מִיָּדוֹ מַהוּ: It is not clear from the Gemara what Rav Yosef is referring to, and the commentaries disagree about the context of the question. According to Rashi and the Rivan, Rav Yosef is referring to the *baraita* where one says to another that he has no claim to their field. *Tosafot* point out difficulties with this opinion. Other commentaries maintain that Rav Yosef is speaking of one who made these conditions with his wife once they were already married. This is the explanation of *Tosafot* and two of the *ge'onim*, Rav Tzemaḥ and Rav Naḥshon Gaon. Conversely, Rav Hai Gaon and others contend that the context is a case where one made these conditions when his wife was betrothed to him.

Following this interpretation, the Rashba states that if the husband does not perform an act of acquisition during betrothal, he does not transfer ownership of the property itself to her, nor does he transfer ownership of its produce or his right of inheritance. He transfers to her only the right to sell the property. Accordingly, Rav Yosef is saying that even if he performs an act of acquisition, it has no more effect than the statement: I have no claim, by which he gives his wife the right to sell her possessions. Rava, meanwhile, maintains that the act of acquisition transfers ownership of the land itself, including all her rights to it.

Perek **IX**
Daf **83** Amud **b**

בְּעוֹרֵר, אֲבָל בְּעוֹמֵד מִגּוֹפָהּ שֶׁל קַרְקַע – קָנוּ מִיָּדוֹ.

in the case of **one who** immediately **objects** when the other comes to claim the portion he was promised, saying that he wrote what he did only in order to avoid a quarrel. **However, in** the case of **one who waits** while the other takes possession of the land before regretting his decision and requesting its return, the *halakha* is that **one acquired from him the land itself,** as he cannot retract his statement at this late stage.

אֲמַר אַמֵימָר: הִלְכְתָא, מִגּוֹפָהּ שֶׁל קַרְקַע קָנוּ מִיָּדוֹ. אֲמַר לֵיהּ רַב אַשִׁי לַאֲמֵימָר: בְּעוֹרֵר אוֹ בְּעוֹמֵד? לְמַאי נָפְקָא מִינָּה – לְכִדְרַב יוֹסֵף. אֲמַר לֵיהּ: לָא שְׁמִיעַ לִי, כְּלוֹמַר לָא סְבִירָא לִי.

Ameimar said: The *halakha* is that **one acquired from him the land itself. Rav Ashi said to Ameimar:** Do you mean to teach this *halakha* **with regard to one who** immediately **objects or with regard to one who waits?** The Gemara comments: **With regard to what** opinion **is** there **a practical difference?** There is a difference according **to** Abaye's explanation of the opinion **of Rav Yosef.** However, according to Rav Naḥman, in either case the other retains possession of the land. Ameimar **said to him: I did not hear** about Abaye's explanation of the opinion of Rav Yosef. **That is to say, I do not hold** in accordance with it. I do not distinguish between these two cases.

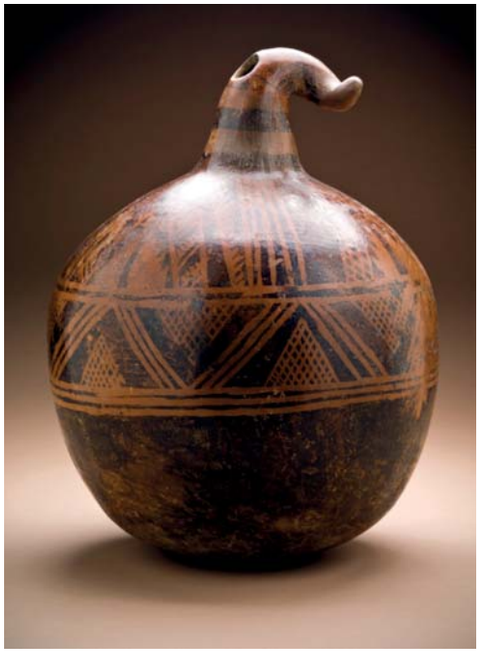
״אִם כֵּן לָמָּה כָּתַב לָהּ״ וכו׳. וְתֵימָא לֵיהּ: מִכָּל מִילֵּי סְלִיקְתְּ נַפְשָׁךְ! אֲמַר אַבַּיֵי: יַד בַּעַל הַשְּׁטָר עַל הַתַּחְתּוֹנָה.

§ The mishna taught that if a husband says: I have no claim to your property, then he has not relinquished his right to benefit from the produce of the property or to inherit from his wife. The mishna asks: **If** this is **so,** and he still retains his rights, **why** would he **write for her:** I have no legal dealings or involvement with your property, and explains that his statement grants her permission to sell the property if she so wishes? The Gemara asks: **And** why does the wife not **say to him: You removed yourself from everything?** He wrote a general statement, which could be understood as a renouncement of all of his rights. **Abaye said:** There is a principle that **the owner of the document is at a disadvantage.** A document is always interpreted as narrowly as possible, to impose only the most limited obligations. Therefore, in this case, the husband is assumed to have relinquished only some of his rights.

BACKGROUND

Cucumber – בּוּצִינָא: This term refers to the cucumber, or *Cucumis sativus*, a widely cultivated plant in the gourd family. The cucumber is a creeping vine that roots in the ground and grows along trellises or other supporting frames, wrapping around supports with thin, spiraling tendrils. The plant has large leaves that form a canopy over the fruit. The fruit of the cucumber is roughly cylindrical, elongated with tapered ends, and may be as large as 60 cm long and 10 cm in diameter.

Gourd – קְרָא: The specific type of gourd referred to here is probably the bottle gourd or *Lagenaria siceraria*, this leafy summer vegetable from the gourd family usually grows extended along the ground, but at times it is trellised on trees. The greenish-white gourd produced by the plant is sizable, 40–50 cm long and 25–30 cm wide, and shaped like a jug or a bottle. The young fruit is generally eaten cooked, and its seeds are eaten as dessert. Since gourds become hard after being dried, they are often used to create various vessels and musical instruments.



Gourd used as a vessel

וְאֵימָא מִפֵּירֵי! אֲמַר אַבַּיֵי: בּוּצִינָא טַב מִקְּרָא.

The Gemara asks: **And** if this is so, why not **say** that the husband has merely withdrawn his rights **from the produce?** A gift or sale of the entire land is a significant matter, certainly in relation to the minor value of its produce. Why, then, is his statement not understood as a renunciation of his rights to the produce? **Abaye said:** There is a proverb that **a cucumber**[B] in one's possession **is better than a gourd**[B] one will have only later. There is an assumption that the husband's current access to the produce is more important to him than the future ability to sell the field.

וְאֵימָא מֵירוּשָּׁה! אֲמַר אַבַּיֵי: מִיתָה – שְׂכִיחָא, מְכִירָה – לָא שְׂכִיחָא. וְכִי מְסַלֵּיק אִינִישׁ נַפְשֵׁיהּ מִמִּילְּתָא דְּלָא שְׂכִיחָא, מִמִּילְּתָא דְּשְׂכִיחָא – לָא מְסַלֵּיק אִינִישׁ נַפְשֵׁיהּ. רַב אַשִׁי אָמַר: ״בִּנְכָסַיִךְ״ – וְלֹא בְּפֵירוֹתֵיהֶן: ״בִּנְכָסַיִךְ״ – וְלֹא לְאַחַר מִיתָה.

The Gemara continues to inquire: **And** why not **say** that the husband has withdrawn his rights **from the inheritance?** This is the least important right of the husband, as he might die before her. **Abaye said: Death** is **common,**[N] whereas **a sale** is **not common,** as one does not usually sell one's ancestors' inheritance. **And when a person removes himself,** it is assumed that he does so **from an uncommon matter.** However, **a person does not remove himself from something that is common. Rav Ashi said** a different reason: The wording of the document is: I have no claim **to your property,** indicating: But I am **not** relinquishing my claim **to its produce.** Similarly, the statement: **To your property,** means during your lifetime, indicating: **But** I am **not** relinquishing my claim to it **after** your **death.**

רַבִּי יְהוּדָה אוֹמֵר: לְעוֹלָם הוּא אוֹכֵל פֵּירֵי פֵּירוֹת״, תָּנוּ רַבָּנַן: אֵלּוּ הֵן פֵּירוֹת וְאֵלּוּ הֵן פֵּירֵי פֵּירוֹת? הִכְנִיסָה לוֹ קַרְקַע וְעָשְׂתָה פֵּירוֹת – הֲרֵי הֵן פֵּירוֹת. מָכַר פֵּירוֹת וְלָקַח מֵהֶן קַרְקַע, וְעָשְׂתָה פֵּירוֹת – הֲרֵי הֵן פֵּירֵי פֵּירוֹת.

§ The mishna taught that if a husband wrote: To your property and to its produce, he may not eat the produce. However, **Rabbi Yehuda says: He always consumes the produce of the produce. The Sages taught** with regard to the statement of Rabbi Yehuda: **Which is** considered the **produce, and which is** considered the **produce of the produce?** If **she brought** into the marriage **for** her husband **land that produced produce, this is produce.** If he **sold** the **produce and purchased land from their** sale, **and** this land **produced produce, this is the produce of the produce.**

אִיבַּעְיָא לְהוּ: לְרַבִּי יְהוּדָה: ״פֵּירֵי פֵּירוֹת״ דַּוְקָא, אוֹ דִלְמָא ״עַד עוֹלָם״ דַּוְקָא, אוֹ דִלְמָא תַּרְוַיְיהוּ דַּוְקָא?

A dilemma was raised before the Sages: **According to Rabbi Yehuda,** who maintains that the husband renounces his rights to his wife's property by writing: To their produce and the produce of the produce forever, is it **specifically** the phrase **produce of the produce** that makes his statement effective, and it is sufficient if he writes only this phrase? **Or, perhaps** he must **specifically** write **forever,** and that alone is sufficient. **Or perhaps** it is effective only if he **specifically** writes **both of the** statements.

אִם תִּמְצֵי לוֹמַר ״פֵּירֵי פֵּירוֹת״ דַּוְקָא – ״עַד עוֹלָם״ לָמָּה לִי? הָא קָא מַשְׁמַע לָן: כֵּיוָן דְּכָתַב לָהּ ״פֵּירֵי פֵּירוֹת״ – כְּמַאן דְּכָתַב לָהּ ״עַד עוֹלָם״ דָּמֵי,

The Gemara elaborates: **If you say** that it is **specifically** the phrase **produce of the produce** that makes the statement of the husband effective, **why do I** need the mishna to include the word **forever?** The Gemara suggests: **This** word **teaches us** that **since he wrote to her: Produce of the produce, it is** considered **as though he wrote to her** the term **forever,** but it does not matter if in practice he omitted this word.

וְאִם תִּמְצֵי לוֹמַר ״עַד עוֹלָם״ דַּוְקָא: ״פֵּירֵי פֵּירוֹת״ לָמָּה לִי? הָא קָא מַשְׁמַע לָן: אַף עַל גַּב דְּכָתַב לָהּ ״פֵּירֵי פֵּירוֹת״, אִי כָּתַב לָהּ ״עַד עוֹלָם״ – אִין, אִי לָא – לָא.

Conversely, the Gemara asks: **And if you say** that he must **specifically** write the word **forever, why do I** need the mishna to include the phrase: **Produce of the produce?** The Gemara suggests: **This** phrase **teaches us** that **although he wrote to her: Produce of the produce, if he** also **wrote to her** the word **forever,** then **yes,** he has renounced his rights. However, **if** he did **not** write this, then he has **not** withdrawn his rights from her property, and he may consume the produce of the produce of the produce.

NOTES

Death is common – מִיתָה שְׂכִיחָה: Rashi and *Tosafot* explain that the death of a wife is a more likely occurrence than that of a husband, due to the dangers of childbirth. This assumption is contested in the Meiri, where it is argued that this is not necessarily correct, as men face risks when they travel and engage in war. Furthermore, a husband is usually older than his wife. The Meiri and the Ritva, therefore, explain that the Gemara means that death is a more common occurrence than the sale of land, as Rashi states it is rare for a woman to sell her ancestors' land.

וְאִם תִּמְצֵי לוֹמַר תַּרְוַיְיהוּ דְּוָקָא, תַּרְתֵּי לָמָּה לִי? צְרִיכָא, דְּאִי כָּתַב לָהּ ״פֵּירֵי פֵּירוֹת״ וְלֹא כָּתַב לָהּ ״עַד עוֹלָם״ – הֲוָה אָמֵינָא פֵּירֵי פֵּירוֹת הוּא דְּלָא אָכֵיל, אֲבָל פֵּירָא דְּפֵירֵי פֵּירוֹת – אָכֵיל, לְהָכִי אִיצְטְרִיךְ ״עַד עוֹלָם״. וְאִי כָּתַב לָהּ ״עַד עוֹלָם״ וְלֹא כָּתַב לָהּ ״פֵּירֵי פֵּירוֹת״, הֲוָה אָמֵינָא: לְעוֹלָם – אַפֵּירוֹת קָאֵי, לְהָכִי אִיצְטְרִיךְ פֵּירֵי פֵּירוֹת.

And if you say that it is effective only if he **specifically** writes **both of the** statements, **why do I** need **two** expressions? The Gemara answers: It is **necessary** to include both phrases, **for if he had written for her** only: **Produce of the produce, and not written for her: Forever, I would say** that **it is the produce of the produce that he may not consume, but the produce of the produce of the produce he may consume. For this** reason, it was **necessary** to also write **forever. And if he had written for her** only: **Forever, and** had **not written for her: Produce of the produce, I would say** that **forever is referring to the produce,**[N] i.e., the husband permanently relinquishes his claim to the produce itself, but he retains his right to the produce of the produce. **For this** reason, it was also **necessary** to specify **produce of the produce.**

אִיבַּעְיָא לְהוּ: כָּתַב לָהּ ״דִּין וּדְבָרִים אֵין לִי בִּנְכָסַיִךְ וּבְפֵירֵי פֵּירוֹת״ מַהוּ שֶׁיֹּאכַל פֵּירוֹת? מִפֵּירֵי פֵּירוֹת – סָלֵיק נַפְשֵׁיהּ, מִפֵּירֵי – לָא סָלֵיק נַפְשֵׁיהּ, אוֹ דִלְמָא: מִכָּל מִילֵּי סָלֵיק נַפְשֵׁיהּ?

A dilemma was raised before the Sages: If **the husband wrote to his wife: I have no claim to your property or to the produce of your produce, what is** the *halakha* with regard to the possibility **that he may consume the produce** itself? Has **he removed himself from the produce of the produce,** but **from the produce** itself, which he failed to mention, **he has not removed himself? Or perhaps he has removed himself from all matters,** as the produce of the produce includes the produce itself?

פְּשִׁיטָא דְּמִכָּל מִילֵּי סָלֵיק נַפְשֵׁיהּ, דְּאִי אָמְרַתְּ מִפֵּירֵי פֵּירוֹת סָלֵיק נַפְשֵׁיהּ, מִפֵּירֵי לָא סָלֵיק נַפְשֵׁיהּ, כֵּיוָן דְּאָכְלִינְהוּ לְפֵירוֹת – פֵּירֵי פֵּירוֹת מֵהֵיכָא?

The Gemara answers: It is **obvious that he has removed himself from all matters, for if you say** that **he has removed himself** only **from the produce of the produce,** while **from the produce** itself **he has not removed himself, since he consumes the produce, from where** will there be **produce of the produce?**

וְלִיטַעֲמִיךְ, הָא דְּתָנֵן רַבִּי יְהוּדָה אוֹמֵר: לְעוֹלָם הוּא אוֹכֵל פֵּירֵי פֵּירוֹת כּוּ', כֵּיוָן דְּאָכְלִינְהוּ לְפֵירֵי – פֵּירֵי פֵּירוֹת מֵהֵיכָא? אֶלָּא – בִּדְשָׁיְירָא, הָכָא נַמִּי – בִּדְשָׁיֵיר.

The Gemara answers: **But according to your reasoning,** the same question could be asked about the case discussed in the mishna, **as we learned** in the mishna: **Rabbi Yehuda says: He always consumes the produce of the produce,** until he writes for her: Or to their produce, or to the produce of their produce forever. This indicates that if he did not write: To their produce, he would be allowed to consume the produce, just not the produce of the produce. Here too, it could be asked: **Since he consumes the produce, from where** will he have **produce of the produce? Rather,** it must be that this is referring **to one who left over** some of the produce, which he used to purchase land, of whose produce he consumes. If so, **here too,** this is a case **of one who left over** some of the produce, from which he acquired land, and it is the produce of this land to which he has no rights. The dilemma is left unresolved.

״רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אוֹמֵר״ כּוּ'. אָמַר רַב: הֲלָכָה כְּרַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל, וְלָא מִטַּעֲמֵיהּ.

§ The mishna taught: **Rabban Shimon ben Gamliel says:** Even if he wrote: I have no claim to your property, or to its produce, or to the produce of its produce, in your lifetime and after your death, he nevertheless inherits from her. This is because his condition is void, as it runs counter to what is written in the Torah. **Rav said:** The ***halakha* is in accordance with** the opinion of **Rabban Shimon ben Gamliel** that a husband inherits from his wife, **but not** because of **his** line of **reasoning.**

מַאי הֲלָכָה כְּרַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל וְלָא מִטַּעֲמֵיהּ? אִילֵימָא הֲלָכָה כְּרַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל, דְּאָמַר אִם מֵתָה יִירָשֶׁנָּה. וְלָאו מִטַּעֲמֵיהּ, דְּאִילּוּ רַבָּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל סָבַר: מַתָּנָה עַל מַה שֶּׁכָּתוּב בַּתּוֹרָה תְּנָאוֹ בָּטֵל, וְרַב סָבַר: תְּנָאוֹ קַיָּים. וְקָסָבַר: יְרוּשַׁת הַבַּעַל דְּרַבָּנַן, וַחֲכָמִים עָשׂוּ חִיזּוּק לְדִבְרֵיהֶם יוֹתֵר מִשֶּׁל תּוֹרָה.

The Gemara asks: **What is** the meaning of this statement: The ***halakha* is in accordance with** the opinion of **Rabban Shimon ben Gamliel, but not** because of **his** line of **reasoning?** What does Rav mean? **If we say** that Rav agrees that **the *halakha* is in accordance with** the opinion of **Rabban Shimon ben Gamliel, who said** that **if she dies he inherits** from **her, but** Rav maintains this opinion **not** because of Rabban Shimon ben Gamliel's line of **reasoning, as Rabban Shimon ben Gamliel holds** that if one **stipulates counter to that which is written in the Torah, his condition is void, and** then **Rav** must **hold** that **his condition is valid. But** that is not so. Rav accepts Rabban Shimon ben Gamliel's conclusion, **for he holds** that **the inheritance of a husband** is **by rabbinic** law, **and** for this reason his condition is void, as **the Sages reinforced their pronouncements with greater** severity **than** those of **Torah law** and decreed that the inheritance of a husband cannot be canceled in any manner.[H]

NOTES

Forever is referring to the produce – לְעוֹלָם אַפֵּירוֹת קָאֵי: Rashi explains that one might have thought that the husband is withdrawing his rights to the produce only for the first year of their marriage. It is therefore necessary to add to the stipulation the word forever.

Tosafot ask why one would think that there is any difference between the first and the second year. The *Ramat Shmuel* suggests that, according to Rashi, it is possible that he relinquishes his rights to the produce of the first year due to his great affection for his wife, but he does not extend his generosity to the subsequent years. In any case, *Tosafot* maintain that one might have thought that forever means that he will not eat that particular produce in her lifetime or after her death, but he still had rights to the produce of the produce.

HALAKHA

One who stipulates to his wife – הַמַּתְנֶה עִם אִשְׁתּוֹ: If a man made a condition with his wife that he would not inherit from her, his condition is void. Although a husband inherits from his wife by rabbinic law, the Sages reinforced their pronouncements with greater severity than those of Torah law. The *halakha* is in accordance with the opinion of Rav, according to the Gemara's conclusion as to the meaning of his statement (Rambam *Sefer Nashim*, *Hilkhot Ishut* 12:9 and *Sefer Mishpatim*, *Hilkhot Naḥalot* 1:8; *Tur*, *Even HaEzer* 69).