

NOTES

An oath by Torah law – שבועה דאורייתא: Rashi, and to a certain extent the Rivan, maintain that oaths by Torah law differ from oaths by rabbinic law both in their level of severity and in the manner in which each is performed. One who takes an oath by Torah law holds an item of sanctity, like a Torah scroll, in his hand, and pronounces the Divine Name or one of His appellations. By contrast, an oath by rabbinic law does not include either of these elements, and is in effect nothing more than the acceptance of a curse upon one who lies.

However, most early commentaries disagree with this opinion. They claim that all oaths that are described in the Mishna, in contrast to oaths that were established later, by *amora'im*, require an item of sanctity and the pronouncement of the Divine Name. According to *Tosafot*, there are other differences between oaths required by Torah law and oaths established by the Sages. One difference is that an oath from the Torah cannot be reversed. This means that the party obligated to take the oath cannot propose that instead the other litigant should take the oath and take the money. Although this point is generally correct, many commentaries contend that it is not relevant in this context. Despite the fact that an oath by rabbinic law can be reversed if the other side takes an oath and is exempt, this is not the case if he takes an oath and claims the money. Other commentaries emphasize another difference between the two categories: In the case of an oath by Torah law, if the one obligated to take an oath refuses to do so, he loses his claim and must pay, whereas with regard to an oath by rabbinic law this is not always the case.

A further difference concerns the issue of one suspected of taking false oaths (see Ramban and Ra'ah). With regard to an oath by Torah law, if the person who is obligated to take an oath is not trusted to do so, he is not allowed to take an oath and the other party must do so instead. This is not the case with regard to an oath by rabbinic law. In the case of this Gemara, if the woman is obligated to take an oath and cannot do so because she is suspected of taking false oaths, some say that the court relies on the document and that she may collect the sum it specifies.

One interpretation, attributed to the Ra'avad, is that the issue here is not that an oath by Torah law is more severe than an oath by rabbinic law. The point is that in addition to the woman having to take an oath by rabbinic law before she can receive her marriage contract, she must take another oath. The second oath is by Torah law, in order to exempt herself from the husband's claim, supported by one witness, that she owes him a debt (see Ra'avad on *Sefer HaMaor*).

If he informs them – הוא דמדוע להו: One explanation is that he informs the witnesses in the woman's presence that he is paying her this money for her marriage contract, so that she cannot later claim that it was for some other document or for a different marriage contract (*Talmidei HaRashba*).

Most commentaries are of the opinion that in order to obligate her to take an oath he has only to tell the witnesses he has already paid her marriage contract and he is paying it a second time (see Ritva). The Rivan explains that he informs the judges of his plan.

They may not collect from the orphans even with an oath – אף בשבועה לא יפרעו: This is puzzling. Why should this claim be accepted against a document and an oath? The Ritva explains that since this man issues the statement on his deathbed, it is assumed that he is not lying. This case is different from a standard case of one who claims to have paid his debt, where he is not deemed credible because he might not remember that he did not hand over the entire amount.

אי פיקח הוא – מיייתי לה לידי שבועה דאורייתא; יהיב לה כתובתה באפי חד סהדא, וסמין סהדא קמא אסהדא בתרא, ומוקים לה להנך קמאי במלוה.

מתקיף לה רב שישא בריה דרב אידי: היאך סמין סהדא קמא אסהדא בתרא? אלא, אמר רב שישא בריה דרב אידי: יהיב לה כתובתה באפי סהדא קמא וסהדא בתרא, ומוקים לה להנך קמאי בהלוואה.

מתקיף לה רב אשי: אפתי יכולה למימר: שתי כתובות הוא! אלא אמר רב אשי: הוא דמדוע להו.

"מנכסים משועבדים". תנן התם: וכן היתומים לא יפרעו אלא בשבועה.

ממאן? אילימא מלוה – השתא אביהן שקיל בלא שבועה, ואינהו בשבועה! אלא הכי קאמר: וכן היתומים מן היתומים – לא יפרעו אלא בשבועה.

אמר רב זריקא אמר רב יהודה: לא שנו אלא שאמרו יתומים: אמר לנו אבא "לוייתי ופרעתי", אבל אמרו: אמר לנו אבא "לא לוייתי" – אף בשבועה לא יפרעו.

If the husband is perspicacious, he can induce her to become obligated to take an oath by Torah lawⁿ even in a case where only one witness saw the payment of the marriage contract, as follows: He now gives her the payment of her entire marriage contract in the presence of one witness, and joins the first witness to the last witness, so that there are now two witnesses to the payment of the entire marriage contract. And then, he establishes this first payment, about which the first witness had testified, as a loan, and claims payment of that sum from her, supported by the testimony of the first witness. With regard to this claim, her oath would serve the purpose of exempting her from payment, and it is not connected with a lien on land. Therefore, the witness can obligate her in an oath by Torah law.

Rav Sheisha, son of Rav Idi, objects to this: How can he join the first witness to the last witness when their testimonies do not refer to the same action? Rather, Rav Sheisha, son of Rav Idi, said: He now gives her the payment of her entire marriage contract in the presence of both the first witness and the last witness. And then, he establishes this first payment, about which the first witness had testified, as a loan, and claims payment of that sum from her, supported by the testimony of the first witness.

Rav Ashi objects to this: The woman can still say: I had two marriage contracts. She can claim that he wrote two marriage contracts and she collected the payments at two separate points in time, but there was never a loan. Rather, Rav Ashi said: It is possible for him to obligate her to take an oath if he informs the two witnessesⁿ that on this occasion he is paying her for the one marriage contract that he wrote. She is then unable to claim that it was a different marriage contract, and he can compel her to take an oath by Torah law about the first payment, which is now established as a loan.

S The mishna teaches that if a woman comes to claim her marriage contract from **liened property** that had been sold to a third party, she must first take an oath. **We learned** in a mishna there (*Shevuot 45a*): **And similarly, orphans can collect payment only by means of an oath.**

The Gemara asks: **From whom** can the orphans collect payment only by means of an oath? **If we say** that they can collect payment only with an oath **from one who borrowed** money from their father, then it is difficult to understand how this can be so. **Now**, can it be that **their father**, the lender, had the right to take payment from the borrower **without an oath** by relying on the document, **and they**, the orphans, with regard to whom the Sages were lenient, can claim the loan **only by means of an oath**? **Rather, this is what the mishna is saying: And similarly, the orphans^h of the lender who come to collect payment from the orphans of the borrower can collect only by means of an oath.**

Rav Zerika said that Rav Yehuda said: **It was taught** that those who take an oath can collect a debt from orphans **only if the borrower's orphans said: Our father said to us: I borrowed and repaid. However, if the orphans said: Our father said to us: I did not borrow, then they may not collect** from the orphans even with an oath.ⁿ

HALAKHA

And similarly, the orphans, etc. – וכן היתומים וכו': All the *halakhot* that apply to the borrower, when the lender's heirs come to claim from him, apply equally to the borrower's heirs, if he has died and the lender's heirs come to claim from them.

In addition, the lender's heirs must take an oath that they did not receive any indication from their father that the debt had been paid (Rambam *Sefer Mishpatim, Hilkhot Malve VeLoveh* 17:2; *Shulhan Arukh, Hoshen Mishpat* 108:9).

אָמַר לָנוּ אָבֵא לֹא – Father said to us, I did not borrow – לְוִיתִי: If a lender or his heirs come to collect a debt from the borrower's heirs, and the borrower's heirs claim that their father told them he never borrowed this sum of money, the lender or his heirs may collect the debt without taking an oath if they produce proof that the loan had taken place, in accordance with the final explanation of Rav Yehuda's opinion (Rambam *Sefer Mishpatim, Hilkhot Malve VeLoveh* 17:6; *Shulhan Arukh, Hoshen Mishpat* 108:15).

Even a creditor – אָפִילוּ בַעַל חוּב – In the case of a lender who came to collect a debt on the basis of a ratified document in the borrower's absence, if the court can inform the borrower to come to court, they send him a message. This is done only if the borrower is close enough for a messenger to go to him and back within thirty days. The lender covers the cost of the messenger and later claims it from the borrower. If the borrower cannot be reached within this time, the lender takes an oath that the debt has not been paid and collects the debt from the borrower's property, as stated by Rava.

If the borrower granted credibility to the lender, allowing him to collect the debt in his absence, the lender may collect the debt without taking an oath. The Rema, citing the Rivash, writes that he may collect the money only in the absence of the borrower himself, but if the borrower died, he must go to where the heirs are living (Rambam *Sefer Mishpatim, Hilkhot Malve VeLoveh* 13:1; *Shulhan Arukh, Hoshen Mishpat* 106:1).

BACKGROUND

Antioch – אַנטִיּוֹכְיָא: Antioch was the most important of the cities built by Seleucus I Nicator in honor of his father, Antiochus, around the year 300 BCE. This city was established on the eastern side of the Orontes River, about 25 km from the Mediterranean Sea. Its location at the crossroads of major trade routes promoted its development until it became one of the largest cities in the ancient world. Today the city is known as Antakya in southern Turkey, near the Syrian border.

From the time of its establishment under the Greeks, Antioch was an important center of Jewish life, and it remained so under Roman and Byzantine rule. It appears that its Jewish inhabitants were in close contact with the Jewish community in Eretz Yisrael and its Sages.



Location of Antioch

מִתְקִיף לָהּ רַבָּא: אַדְרָבָה, כָּל הָאוֹמֵר לֹא לְוִיתִי" כְּאוֹמֵר "לֹא פָרַעְתִּי" דְּמִי!

Rava objects to this: On the contrary, there is a principle in the *halakhot* of claims that anyone who says: I did not borrow is considered like one who says: I did not repay. Therefore, when there is evidence that he did borrow, he must pay the entire amount without the lender having to take an oath.

אֵלֶּא, אִי אֲתִמֵּר הֵכִי אֲתִמֵּר, אָמַר רַב זְרִיקָא אָמַר רַב יְהוּדָה: לֹא שָׁנוּ אֶלְיָא שְׁאָמְרוּ יְתוּמִים: אָמַר לָנוּ אָבֵא "לְוִיתִי וּפְרַעְתִּי" – אָבֵל אָמְרוּ: אָמַר לָנוּ אָבֵא "לֹא לְוִיתִי" – נִפְרַעְתִּין שְׁלֵא בְּשִׁבּוּעָה, שְׁכָּל הָאוֹמֵר "לֹא לְוִיתִי" כְּאוֹמֵר "לֹא פָרַעְתִּי" דְּמִי.

Rather, the Gemara emends the above statement: If it was stated, it was stated like this: Rav Zerika said that Rav Yehuda said: They taught this *halakha* only if the orphans said: Our father said to us: I borrowed and repaid. However, if they said: Our father said to us: I did not borrow,^H those who collect debts from them can collect even without an oath, for anyone who says: I did not borrow is considered like one who says: I did not repay.

"וְנִפְרַעַת שְׁלֵא בְּפָנָיו לֹא תִפְרַע אֶלְיָא בְּשִׁבּוּעָה". אָמַר רַב אֲחָא שֵׁר הַבְּרִיה: מַעֲשֶׂה בָּא לְפָנֵי רַבִּי יִצְחָק בְּאַנְטוֹכְיָא, וְאָמַר: לֹא שָׁנוּ אֶלְיָא לְכַתּוּבַת אִשָּׁה, מִשּׁוּם חֵינָא. אָבֵל בַּעַל חוּב – לֹא.

The mishna teaches that one who comes to collect her marriage contract when not in her husband's presence can collect it only by means of an oath. Rav Aḥa Sar HaBira said: An incident came before Rabbi Yitzḥak in Antioch,^B and he said: They taught this *halakha* only with regard to the wife's marriage contract; she may collect her marriage contract in her husband's absence, because the Sages wanted men to find favor in the eyes of women. In order to ensure that women would want to marry, the Sages instituted decrees with regard to a marriage contract that are for the woman's benefit. However, a creditor does not have the right to collect his debt even with an oath if the borrower is absent, in case he has already been paid.

וְרַבָּא אָמַר רַב נַחֲמָן: אָפִילוּ בַעַל חוּב, שְׁלֵא יִהְיֶה כָּל אֶחָד וְאֶחָד נוֹטֵל מֵעוֹתָיו שֶׁל חֲבֵרוֹ, וְהוֹלֵךְ וְיוֹשֵׁב בְּמִדְיַת הַיָּם, וְאֲתָהּ נוֹעַל דְּלֵת בְּפָנֵי לוֹוִין.

And Rava said that Rav Naḥman said: Even a creditor^{HH} can collect payment with an oath in the borrower's absence, so that each and every person will not take his friend's money by means of a loan and go and reside in a country overseas to prevent the lender from collecting the money from his property. And if that were to occur, you would be locking the door in the face of borrowers, as no one would be willing to lend them money.

"רַבִּי שִׁמְעוֹן אוֹמֵר: כָּל זְמַן שְׁתוּבַעַת כְּתוּבָתָהּ" וְכו'. רַבִּי שִׁמְעוֹן אֵהֵיִיא? אָמַר רַבִּי יִרְמְיָה: אֵהֵיא: "וְנִפְרַעַת שְׁלֵא בְּפָנָיו לֹא תִפְרַע אֶלְיָא בְּשִׁבּוּעָה" – לֹא שָׁנָא לְמוֹזְנִי וְלֹא שָׁנָא לְכַתּוּבָה, וְאֲתָא רַבִּי שִׁמְעוֹן לְמִימְרֵי: כָּל זְמַן שְׁתוּבַעַת כְּתוּבָתָהּ – יוֹרְשִׁיהָ מִשְׁבִּיעִין אוֹתָהּ,

The mishna teaches: Rabbi Shimon says: Whenever she claims her marriage contract, the heirs administer an oath to her. The Gemara asks: To which statement in the mishna is Rabbi Shimon referring? Rabbi Yirmeya said: He is referring to this statement: And one who comes to collect her marriage contract when not in her husband's presence can collect it only by means of an oath. This implies that the *halakha* is no different if she comes to claim money from the orphans for sustenance, and it is no different if she demands payment for her marriage contract. And Rabbi Shimon comes to say that whenever she claims her marriage contract the heirs can administer an oath to her that she has not taken anything of theirs.

NOTES

Even a creditor – אָפִילוּ בַעַל חוּב – Most commentaries rule in accordance with the opinion of Rav Naḥman, the later authority. However, Rabbeinu Ḥananel maintains that the custom is not to collect a debt in the absence of the borrower (see *Tosafot*). In this regard, they rely to a large extent on the Jerusalem Talmud, which expands on this discussion about whether it is permitted for a creditor to collect a debt in the absence of the debtor. It is explained in the Jerusalem Talmud that the context of the discussion is the case of a document that includes interest, which means that the debt was owed to a gentile, who is permitted to claim interest. Yet most authorities contend that this is a dispute

between the Babylonian Talmud and the Jerusalem Talmud. It is clear from the Gemara in tractate *Arakhin* (22a) that the Babylonian Talmud disagrees with the Jerusalem Talmud, and the *halakha* is ruled in accordance with the Babylonian Talmud.

The Ritva writes that according to Rav Naḥman's reasoning, a creditor is allowed to collect his debt in the borrower's absence only if it was the borrower who left to go somewhere else. However, if the lender sought to claim the money from the borrower's property in a place other than where the transaction was conducted, he is not permitted to do so if the borrower is not present (see *Responsa* of Rivash).

HALAKHA

The oath of a steward – שבועת אפוטרופוס: If a steward was appointed by the court to handle the orphans' affairs, he transfers their father's estate to them when they reach majority. He does not have to present them with a book of his accounts, but he must, while holding a sacred object, take an oath that he did not steal anything from them. However, if the steward was assigned by the father of the orphans, he does not have to take an oath for an uncertain claim. The *halakha* is in accordance with the opinion of Abba Shaul, as ruled by the Gemara in tractate *Gittin*. The Rema, citing *Mordekhai*, writes that some maintain that a steward who does not take an oath must provide an account of his expenses (Rambam *Sefer Mishpatim, Hilkhot Nahalot* 11:5; *Shulhan Arukh, Hoshen Mishpat* 290:16).

אינה תובעת כתובתה – אין יורשין משביעין אותה. וקמיפלגי בפלוגתא דחנן ובני כהנים גדולים. דתנן: מי שהלך למדינת הים, ואשתו תובעת מזונות; חנן אומר: תשבע בסוף, ולא תשבע בתחלה.

נחלקו עליו בני כהנים גדולים, ואמרו: תשבע בתחלה ובסוף. רבי שמעון – בחנן, רבנן – כבני כהנים גדולים.

מתקוין לה רב ששט: האי יורשין משביעין אותה? בית דין משביעין אותה מבעי ליה!

אלא אמר רב ששט: אהא, הלכה מקבר בעלה לבית אביה, או שתורה לבית חמיה, ולא נעשית אפוטרופיא – אין היורשים משביעין אותה. ואם נעשית אפוטרופיא – יורשין משביעין אותה על העתיד לבא, ואין משביעין אותה על מה שעבר. ואתא רבי שמעון למימר: כל זמן שתובעת כתובתה – יורשין משביעין אותה, אינה תובעת כתובתה – אין היורשין משביעין אותה.

וקמיפלגי בפלוגתא דאבא שאול ורבנן. דתנן: אפוטרופוס שמינהו אבי יתומים – ישבע, מינהו בית דין – לא ישבע. אבא שאול אומר: חילוף הדברים, מינהו בית דין – ישבע, מינהו אבי יתומים – לא ישבע.

If she does not claim her marriage contract, the heirs do not administer an oath to her. And they disagree with regard to the issue that is the subject of the dispute of Hanan and the sons of the High Priests, as we learned in a mishna (104b): With regard to one who went to a country overseas and his wife claims money for sustenance, Hanan says: She takes an oath at the conclusion, when she comes to claim her marriage contract, that her husband did not leave her with any money and that she took from his estate only what she needed for her sustenance. And she does not take an oath at the beginning, when she takes the allowance for her sustenance from his estate.

The mishna continues: The sons of the High Priests disagreed with him, and said: She takes an oath that her husband did not leave her any money at the beginning, when she comes to take money for sustenance, and at the conclusion, when she comes to claim her marriage contract. Rabbi Yirmeya suggests: Rabbi Shimon holds like Hanan, that she takes an oath only when she comes to collect her marriage contract. And the Rabbis, who disagree, hold like the sons of the High Priests, that she must also take an oath when she collects money for her sustenance.

Rav Sheshet objects to Rabbi Yirmeya's statement: If the dispute is with regard to a woman who comes to collect money for her sustenance while her husband is away, why would the mishna employ this phrase: The heirs administer an oath to her? It should have said that the court administers an oath to her, as this oath would be administered by the court.

Rather, Rav Sheshet said that Rabbi Shimon's statement is referring to this earlier mishna (86b): If a woman who was exempted from an oath by her husband went from her husband's grave, immediately after her husband's death, to her father's house, without handling her late husband's property, or in a case where she returned to her father-in-law's house and did not become a steward, then the heirs cannot administer an oath to her with regard to her actions in their father's lifetime. And if she became a steward, the heirs may administer an oath to her about the future, i.e., anything she did with the property after the death of her husband, but they cannot administer an oath to her with regard to what took place in the past, during her husband's lifetime. And Rabbi Shimon came to say that whenever she claims her marriage contract the heirs can administer an oath to her, but if she does not claim her marriage contract, the heirs do not administer an oath to her.

Rav Sheshet explains: And they disagree with regard to the issue that is the subject of the dispute of Abba Shaul and the Rabbis, as we learned in a mishna (*Gittin* 52a): A steward who was appointed by the father of orphans to take care of their property must take an oath^H when the orphans come of age and he returns their property. He takes an oath that he did not appropriate anything for himself. If the court appointed him steward, he need not take an oath. The Sages exempted him from an oath so that people would not refrain from serving as stewards. Abba Shaul says: The matters are reversed. If the court appointed him, he must take an oath; if the father of orphans appointed him, he need not take an oath. It is an honor to be appointed steward by the court, and to receive this honor he would not mind being obligated to take an oath. If he was appointed by the father, it is clear that the father trusted him and relied on him.

Rather, Rav Pappa said – אֵלָא אָמַר רַב פַּפְּא: Rashi explains that Rav Pappa's answer is a continuation of Abaye's answer. Rav Pappa accepts Abaye's explanation with regard to the first part of Rabbi Shimon's statement, but adds that the second clause comes to exclude the opinion of Rabbi Eliezer and the Rabbis, who disagree with him.

The Ritva writes that although this interpretation makes sense, it does not fit with the word: Rather, which typically signals a complete rejection of the previous opinion. He notes that some versions of the text omit the word rather, fitting Rashi's interpretation. However, many commentaries maintain that the word rather is precise in this context, as Rav Pappa is suggesting a new interpretation, one that resolves both parts of Rabbi Shimon's statement.

In the first clause of his statement, Rabbi Shimon disagrees with the opinion of the first *tanna* that the husband cannot administer an oath to her about her dough, as he maintains that when she comes to claim her marriage contract the heirs can administer an oath to her even about the dough she prepared. In the second clause of his statement, Rabbi Shimon takes issue with both opinions in the mishna, as he rules that if she does not claim her marriage contract she does not even have to take an oath about her work as steward or her work in his store (see *Sefer HaZekhut*). The Ra'avad claims that Rabbi Shimon disagrees with the other *tanna'im* mainly about when she can be compelled to take an oath with regard to her spindle and dough (see Ritva).

These different understandings of Rabbi Shimon's opinion are especially important to those commentaries who accept his opinion as *halakha*. Rabbeinu Hananel, Rabbeinu Tam, and others rule in accordance with the opinion of Rabbi Shimon, as opposed to that of the first *tanna*, because all of the explanations suggested in the Gemara equate Rabbi Shimon's opinion with the opinion that is accepted as *halakha*. In the Jerusalem Talmud, it is explicitly stated that the *halakha* is in accordance with the opinion of Rabbi Shimon. However, the Rif and the Rambam maintain that this does not prove anything with regard to the *halakha*. This is emphasized by *Tosafot*, who explain that in light of the various interpretations offered for Rabbi Shimon's opinion, it is not clear which one is accepted as *halakha*.

HALAKHA

If she produced a bill of divorce and it was unaccompanied by a marriage contract – הוֹצִיָאָה גֵּט וְאִין – עִמּוּ כְּתוּבָה: In a case of a woman who produced a bill of divorce without a marriage contract, if the custom of the place is not to write a marriage contract, she may claim the basic sum by means of the bill of divorce. If it is the custom to write a marriage contract, she must produce this document in order to receive its payment. If she fails to do so, the husband takes an oath of inducement and is exempt from paying (Rambam *Sefer Nashim, Hilkhot Ishut* 16:28; *Shulhan Arukh, Even HaEzer* 100:12).

רבי שמעון – כָּאבָא שְׂאוּל, וְרַבְּנָן – כְּרַבְּנָן.

Rav Sheshet completes his explanation: **Rabbi Shimon holds in accordance with the opinion of Abba Shaul**, as the woman is comparable to a steward appointed by the father of the orphans. Therefore, she cannot be compelled to take an oath about the future, unless she comes to claim her marriage contract. **And the Rabbis here hold in accordance with the opinion of the Rabbis** there, that a steward appointed by the father is obligated to take an oath.

מִתְקִיף לָהּ אֲבִי: הֲאִי כֹל זְמַן שְׂתוּבַעַת כְּתוּבָתָהּ? אִם תּוּבַעַת מִיָּעַי לִיָּהּ!

Abaye objects to Rav Sheshet's statement: This phrase, that the heirs can administer an oath to her **whenever she claims her marriage contract**, is appropriate only if Rabbi Shimon is more stringent than the Rabbis, who exempt her from an oath in all cases. However, since according to Rav Sheshet his opinion is the more lenient one, **he should** have said: **If she claims**, meaning that she is required to take an oath only when she claims her marriage contract.

אֵלָא אָמַר אֲבִי: אֵהָא, כָּתַב לָהּ נָגֵד וְשָׁבוּעָה אִין לִי עֲלִיךְ – אִינוּ יָכוֹל לְהִשְׁבִּיעָהּ כּוּ: "נָגֵד וְשָׁבוּעָה אִין לִי וְלֹא לְיֹרְשֵׁי וְלֹא לְבָאִים בְּרִשׁוּתִי, עֲלִיךְ וְעַל יֹרְשִׁיךְ וְעַל הַבָּאִין בְּרִשׁוּתְךָ" – אִין יָכוֹל לְהִשְׁבִּיעָהּ לֹא הוּא וְלֹא יֹרְשָׁיו וְלֹא הַבָּאִין בְּרִשׁוּתוֹ, לֹא הִיא וְלֹא יֹרְשֵׁיהָ וְלֹא הַבָּאִין בְּרִשׁוּתָהּ. וְאֵתָא רַבִּי שְׁמַעוֹן לְמִימְרֵ: כֹּל זְמַן שְׂתוּבַעַת כְּתוּבָתָהּ – יֹרְשֵׁין מִשְׁבִּיעִין אוֹתָהּ.

Rather, Abaye said that Rabbi Shimon's statement is referring to this clause of the mishna (86b): **If the husband wrote for her: I do not have the right to administer a vow or an oath upon you, he cannot administer an oath to her. If he wrote: Neither I, nor my heirs, nor those who come on my authority have the right to administer a vow or an oath upon you, or upon your heirs, or upon those who come on your authority, he cannot administer an oath to her or them; not he, nor his heirs, nor those who come on his authority may administer an oath, not to her, nor her heirs, nor those who come on her authority. And Rabbi Shimon came to say that whenever she claims her marriage contract the heirs can administer an oath to her.**

וְקִמְפִּלְגִי בְּפִלּוּגְתָא דְכָאבָא שְׂאוּל בֶּן אִימָא מִרְיָם וְרַבְּנָן. רַבִּי שְׁמַעוֹן – כָּאבָא שְׂאוּל, וְרַבְּנָן – כְּרַבְּנָן.

Abaye explains: **And they disagree with regard to the issue that is the subject of the dispute of Abba Shaul ben Imma Miriam and the Rabbis.** Rabbi Shimon holds in accordance with the opinion of Abba Shaul, that even if the husband exempted her from an oath she must still take an oath before she can collect from the property of orphans. **And the Rabbis here hold in accordance with the opinion of the Rabbis** there, that if he exempted her from all oaths she can collect payment without an oath.

מִתְקִיף לָהּ רַב פַּפְּא: הֲתִינַח כֹּל זְמַן שְׂתוּבַעַת כְּתוּבָתָהּ, אִינָה תּוּבַעַת כְּתוּבָתָהּ מֵאִי אִיכָא לְמִימְרֵ?

Rav Pappa objects to this: **This works out well in explaining Rabbi Shimon's disagreement with the Rabbis**, where he said that she must take an oath **whenever she demands** payment for her marriage contract. However, **what can be said about the second part of Rabbi Shimon's statement**, where he speaks of one who **does not demand** payment for her marriage contract? According to Abaye's explanation, that clause does not add or teach anything.

אֵלָא אָמַר רַב פַּפְּא: לְאִפּוּקִי מִדְּרַבִּי אֵלְיָעֹזֵר וּמַחְלֹקְתוֹ.

Rather, Rav Pappa said^N that Rabbi Shimon is not referring to that mishna. His opinion is **to the exclusion of Rabbi Eliezer and those who dispute him** (86b), all of whom agree that the woman can be compelled to take an oath that she did not appropriate anything from her husband's property. The Rabbis hold that she can be compelled to take an oath only if she was appointed steward, whereas Rabbi Eliezer holds that she can always be compelled to take an oath. Rabbi Shimon, who disagrees with both opinions, contends that the heirs can administer an oath to her only when she comes to collect her marriage contract, at which point they can administer an oath about other matters, including the work done with her spindle. However, if she does not claim her marriage contract, they cannot administer an oath to her even with regard to her work as steward or storekeeper.

מִתְנִי' הוֹצִיָאָה גֵּט וְאִין עִמּוּ כְּתוּבָה

MISHNA In a case where a woman produced a bill of divorce and it was unaccompanied by a marriage contract,^N and she demands that her husband pay her marriage contract,