

HALAKHA

בעל חוב – פרוזבול – *prosbol*: A creditor is deemed credible if he claims after the Sabbatical Year that he had a *prosbol* but lost it. Furthermore, if he comes to court without a *prosbol*, the court suggests to him that perhaps he had one and it was lost, in accordance with the opinion of Rav Yehuda in tractate *Gittin* (37b). If he admits that he never had a *prosbol*, he forfeits his debt. The Rema, citing the Rashba, writes that in a case where he left the court without making this claim, and subsequently returned saying that he once had a *prosbol* and lost it, he is deemed credible if this occurred before a verdict was issued. Afterward, his claim is not accepted (Rambam *Sefer Zera'im, Hilkhot Shemitta VeYovel* 9:24; *Shulhan Arukh, Hoshen Mishpat* 67:33).

LANGUAGE

Prosbol – פרוזבול: Although this word is derived from Greek, its exact source is unclear. Some suggest it is from *προβολή*, *probolē*, referring to the delivery of a message before a court or assembly of people, as well as to a loan. Others say it is related to *προσβολή*, *prosbolē*, the completion of a sale.

גובה כתובתה.

כתובתה ואין עמה גט, היא אומרת "אבד גיטתי" והוא אומר "אבד שוברי", וכן בעל חוב שהוציא שטר חוב ואין עמו פרוזבול – הרי אילו לא פרענו.

רבן שמעון בן גמליאל אומר: מן הספנה ואילך, אשה גובה כתובתה שלא בגט, ובעל חוב גובה שלא בפרוזבול.

גמ' שמע מינה: כותבין שובר. דאי אין כותבין שובר – ילוש דלמא מפקא לה לכותבתה, ונבניא בה?

she collects payment of her marriage contract,^N and he cannot claim that he already paid it.

If she produced a marriage contract, and it was unaccompanied by a bill of divorce, and she says: My bill of divorce was lost,^N and he says: Just as your bill of divorce was lost, so too my receipt for the payment of your marriage contract was lost; and likewise, in a case of a creditor who produced a promissory note after the Sabbatical Year, unaccompanied by a document that prevents the Sabbatical Year from forgiving an outstanding debt [*prosbol*],^{HLN} and demanded payment of the debt, these debts may not be collected.

Rabban Shimon ben Gamliel says: From the time of danger and onward, after the ruling authorities banned the performance of mitzvot, people would destroy a bill of divorce or a *prosbol* immediately after they were signed, a woman collects payment of her marriage contract without a bill of divorce, and a creditor collects debts owed to him without a *prosbol*. The assumption is that due to the circumstances these documents were written but were not preserved.

GEMARA Conclude from the mishna that when one repays a debt, the creditor writes a receipt^N and gives it to the debtor as proof of payment, as, if one does not write a receipt, then in the case in the mishna where she receives payment of her marriage contract by producing her bill of divorce, let us be concerned lest she produce her marriage contract in a different court and collect payment with it a second time. In the absence of a receipt, the husband cannot prove that the debt was paid.

NOTES

גובה כתובתה – פרוזבול: Rashi and the other commentaries explain that this *halakha* is based on Rabbi Yohanan's principle that any claim after a court action is of no account. A marriage contract carries the status of a court action, as a husband's obligation to pay his wife's marriage contract is based on the enactment of the Sages and not on the document itself. It would therefore seem that if the wife provides proof that she is entitled to a marriage contract her husband cannot claim to have paid it, even if she does not produce the document itself. Although Rabbi Meir's ruling that a husband is obligated to write a marriage contract for his wife is accepted as *halakha*, this is in order to provide her with a sense of security that she is not merely engaging in licentious relations; however, the financial obligation itself is not dependent upon a written document.

Nevertheless, it is questionable whether Rabbi Yohanan's principle was universally accepted. The authorities likewise discuss whether an additional sum listed in the marriage contract is also considered a court action. If it is, then if the wife brings witnesses that her marriage contract included an additional sum she can claim it without the aid of the document. If not, then the additional sum is considered a private obligation like any other document of debt.

היא אומרת אבד גיטתי וכו' – כותבין שובר: According to Rashi and most commentaries, the woman claims that the bill of divorce she received from her husband is lost. She explains that she never used it to claim her marriage contract, similar to the previous case of one who presented a bill of divorce without a marriage contract, and that she is therefore entitled to the sum of her marriage contract. Meanwhile, the husband contends that the wife has already used the bill of divorce to collect payment for her marriage contract. He further claims that she gave him a receipt, but he too has lost the document.

An alternative explanation, suggested by the Ritva, is that

when she says her bill of divorce is lost, he replies that she has already collected her marriage contract by means of the bill of divorce, and the receipt was inscribed onto the bill of divorce itself. Therefore, when the bill of divorce was lost, the receipt was lost with it. The Rivan suggests that this is the husband's cynical way of expressing doubt over the woman's claim, by saying that if she can claim that she lost her bill of divorce, he too can claim that he had a receipt that he lost.

פרוזבול – פרוזבול: The institution of the *prosbol* was enacted by Hillel the Elder. When Hillel observed that people were reluctant to lend their money, out of concern that the debts would be canceled by the Sabbatical Year, he instituted a *prosbol*. This meant that every person could write a simple document stating that the court is authorized to collect all his debts, as opposed to having to hand over his documents of debt to the court to prevent them from being abrogated by the seventh year. This made the process far easier and accessible to all.

As for one's credibility with regard to a *prosbol*, the early commentaries note that this is a dispute of *tanna'im* in tractate *Gittin* (87b). Whereas the mishna here is based on the assumption that a creditor cannot simply claim to have written a *prosbol*, the *halakha* is in accordance with the other opinion, that it is assumed that the creditor drafted a valid *prosbol*. This is because the court presumes that one would not neglect an easily available, permitted option and choose instead to violate a prohibition.

כותבין שובר – כותבין שובר: There is a dispute of *tanna'im* as to whether a creditor who comes to claim his loan must return the document itself to the borrower in order to receive his money, or whether it is sufficient that the borrower receives a receipt of the payment from the lender after the borrower pays the loan. The reasoning for the first opinion is that the borrower should not be forced to hold on to the receipt in perpetuity to prevent a situation where the creditor uses the document of debt to claim payment for the loan a second time.

שיטות רב ושמאל – The opinions of Rav and Shmuel – The Ra'ah summarizes the two opinions in the following manner: According to Rav, in a place where marriage contracts are written, the wife must produce a marriage contract in order to collect her payment. Even if she provided proof that he did not write one for her, it is assumed that he did so later. The court relies on the fact that a marriage contract is an enactment of the court only if they live in a place where it is not the practice to write a marriage contract.

According to Shmuel, if the husband brings proof that he wrote a marriage contract for his wife, the *halakha* is like that of a place where a marriage contract is written, and she can demand payment only if she produces her marriage contract. If in a place where marriage contracts are written she provides proof that he did not write one for her, the *halakha* is like that of a place where marriage contracts are not written, and she claims payment without having to produce a marriage contract.

By contrast, Rabbi Yoḥanan in tractate *Bava Metzia* (17a) maintains that even in a place where marriage contracts are written, the husband must bring proof that he wrote one. If he fails to do so the woman can claim her marriage contract as an enactment of the court.

במקום שכותבין – To a place where one writes, etc. – According to the Ramban, there is no difference between a divorcée and a widow with regard to these *halakhot*. By contrast, it is explained in the Meiri that these *halakhot* were stated only in the case of a divorcée, who has the option of producing a bill of divorce. However, in a place where marriage contracts are written, a widow can claim her marriage contract through witnesses to her husband's death only if she produces the document. If she lost the document, she receives nothing (see *Tosafot*).

HALAKHA

במקום – In a place where one does not write, etc. – **שאיין כותבין וכו'** In the case of a woman who produced a bill of divorce without a marriage contract and demanded that her husband pay her marriage contract, if the custom of the place is not to write a marriage contract, she may claim the main sum by means of the bill of divorce. If it is the custom to write a marriage contract, she must produce this document into order to receive any part of it. If she does not produce the document, the husband takes an oath of inducement with regard to his claim that he paid her and is exempt, in accordance with the opinion held by Shmuel and Rav Anan (Vilna Gaon). In a place where the custom is not to write marriage contracts but there are witnesses that he wrote one, some authorities maintain that she can claim payment only by means of the marriage contract, while others rule that she can collect payment with the bill of divorce alone (Rambam *Sefer Nashim, Hilkhot Ishut* 16:28; *Shulḥan Arukh, Even HaEzer* 100:9, 12).

Where there are no witnesses to the divorce present there – כשאיין שם עדי גירושין – If a man claims to have paid his ex-wife the entire sum of her marriage contract and to have lost the receipt that proves that this took place, then since he could have claimed that he never divorced her, in which case he would not have to pay her any additional sum listed in the marriage contract, he is deemed credible. She must, while holding a sacred object, take an oath that she has not received the main sum, and he must pay her that sum. As for the additional sum listed in the marriage contract, he takes an oath of inducement from the Sages and is exempt from paying it. The *halakha* follows the opinion of Rav Yosef, in accordance with the conclusion of the Gemara (Rambam *Sefer Nashim, Hilkhot Ishut* 16:27; *Shulḥan Arukh, Even HaEzer* 100:11).

אמר רב: במקום שאין כותבין כתובה עסקינן. ושמואל אמר: אף במקום שכותבין כתובה.

ולשמואל כותבין שוברים? אמר רב ענן: לדידי מפירשא לי מניה דמר שמואל: במקום שאין כותבין, ואמר "כתבתי" – עליו להביא ראיה. במקום שכותבין, ואמרה "לא כתב לי" – עליה להביא ראיה.

ואף רב הדר ביה, דאמר רב: בין במקום שכותבין, בין במקום שאין כותבין, גט – גובה עיקר, כתובה – גובה תוספת, וכל הרוצה להשיב יבא וישיב.

תנן: כתובה ואין עמה גט, היא אומרת: "אבד גיטי" והוא אומר "אבד שוברי", וכן בעל חוב שהוציא שטר חוב ואין עמו פרוזבול – הרי אלו לא יפרעו.

בשלמא לשמואל – מוקי לה במקום שאין כותבין, ואמר "כתבתי", דאמרין ליה: אייתי ראיה. ואי לא מייחתי ראיה – דאמרין ליה: זיל פריעה.

אלא לרב, נהי דעיקר לא גביא, תוספת מיהא תגיבי!

אמר רב יוסף: הכא במאי עסקינן – כשאין שם עדי גירושין, מיגו דיכול למימר: לא גירשתיה.

Rav said: That is no proof, as we are dealing with a place where one does not write a marriage contract. In those places, there is a general stipulation of the Sages that a husband must pay his wife the sum of the marriage contract even if no document was written. Therefore, there is no concern lest she produce the marriage contract at a later stage. And Shmuel saidⁿ that the mishna is referring even to a place where one writesⁿ a marriage contract, which she claims to have lost.

The Gemara asks: And according to Shmuel, does one in fact write a receipt? Rav Anan said: It was explained to me personally by the Sage Shmuel himself: The mishna is addressing two different cases. In a place where one does not writeⁿ a marriage contract and the husband said: I wrote a marriage contract, it is incumbent upon him to bring proof that he wrote one. In that case, she cannot collect payment without producing the document. In a place where one writes a marriage contract and she said: He did not write one for me, she must bring proof that he did not write a marriage contract. Only then can she collect payment without one.

And even Rav retracted his interpretation of the mishna, as Rav said the following ruling: Both in a place where one writes a marriage contract and in a place where one does not write a marriage contract, if she produces only a bill of divorce, she collects the main sum of the marriage contract. The Sages established minimum sums to serve as the principal payment of the marriage contract: Two hundred dinars for a virgin and one hundred for a non-virgin. If she produces a marriage contract that specifies a larger sum, she collects only the additional sum and not the main sum, as there is a concern that she collected the main sum previously by producing the bill of divorce. And whoever wishes to challenge this solution, let him come and challenge it. There is no longer any possibility of deceit, as she will gain nothing by producing the marriage contract in a second court after having collected her marriage contract by producing her bill of divorce in a first court.

The Gemara objects: We learned in the mishna: If she produced a marriage contract, and it was unaccompanied by a bill of divorce, and she says: My bill of divorce was lost, and he says: Just as your bill of divorce was lost, so too my receipt for the payment of your marriage contract was lost; and likewise, in a case of a creditor who produced a promissory note after the Sabbatical Year, unaccompanied by a *prosbol*, and demanded payment of the debt, these debts may not be collected.

The Gemara presents the question: Granted, according to Shmuel, this is reasonable. He establishes the mishna as referring to a place where the common practice is that one does not write a marriage contract, and the husband previously had said: I wrote one, and therefore did not want to pay the marriage contract when she produced the bill of divorce, as he was concerned that she would later produce the marriage contract and demand payment again. As in that case we say to him, according to Shmuel: Bring proof that you wrote a marriage contract, and if he does not bring proof, we say to him: Go and pay her based on the bill of divorce. Now, when she produces her marriage contract and the husband claims that he paid her by means of the bill of divorce and has lost the receipt, the mishna rules that this debt cannot be collected.

The Gemara completes the question: However, according to Rav, why does the mishna state that the debt cannot be collected? Although she cannot now collect the main sum of her marriage contract, because he can claim that she already received this sum in a different court by means of her bill of divorce, she should be able to collect the additional sum by virtue of the marriage contract, as she could not have received that by producing the bill of divorce alone.

Rav Yosef said: With what are we dealing here? It is a case where there are no witnesses to the divorce present there.^h Since the husband can say: I did not divorce her and she is entitled to nothing,

BACKGROUND

The mishna is incomplete and is this is what it is teaching – תספורי מיחפרא והכי קתני – This method of explanation is often found in the Gemara. The addition introduced by the Gemara is an elaboration upon that which is written in the mishna, based on various difficulties raised in the Gemara that render the mishna in its original form incoherent or inconsistent with another authoritative source. The addition provides the necessary clarification.

HALAKHA

From the danger and onward, etc. – מן הספנה ואילך וכו' – In a place where the practice was not to write a bill of divorce due to the dangers of persecution, a woman can claim the entire sum of her marriage contract even without a bill of divorce. The Rambam writes that if the husband claims that he did not divorce his wife, he has to pay her only the main sum but not the additional sum, unless she provides evidence to the contrary (*Tur, Even HaEzer* 100).

יכול למימר: גירשתיה ונתתי לה כתובתה.

he can also say: I divorced her and gave her the payment of her marriage contract.

הא מדקתני סיפא. רבן שמעון בן גמליאל אומר: מן הספנה ואילך אשה גובה כתובתה שלא בגט, ובעל חוב שלא בפרוזבול – בדאיכא עדי גירושין עסקינן, דאי ליכא עדי גירושין – במאי גביא?

The Gemara asks: From the fact that the last clause of the mishna teaches that Rabban Shimon ben Gamliel says: From the time of danger and onward, a woman collects payment of her marriage contract without a bill of divorce, and a creditor collects payment without a *prosbol*, apparently we are dealing with a case when there are witnesses to the divorce. As, if there are no witnesses to the divorce, with what proof does she collect the marriage contract? The mishna must be referring to a case where there are witnesses present, and therefore the husband cannot claim that he never divorced her.

אלא, כולה רבן שמעון בן גמליאל היא, וחסורי מיחפרא והכי קתני: הרי אלו לא יפרעו. במה דברים אמורים – בשאיין שם עדי גירושין, אבל יש שם עדי גירושין – גביא תוספת. ועיקר: אי מפקא גיטא – גביא, ואי לא מפקא גיטא – לא גביא.

Rather, the Gemara rejects the previous explanation and explains: The entire mishna is according to the opinion of Rabban Shimon ben Gamliel, and the mishna is incomplete and is this is what it is teaching:⁸ These debts may not be collected. In what case is this statement said? It is when there are no witnesses to the divorce present there. However, if there are witnesses to the divorce present there, she collects the additional sum listed in the document and not the main sum, lest she later produce the bill of divorce and demand payment a second time. And as for the main sum of the marriage contract, if she produces a bill of divorce, she collects it. But if she does not produce a bill of divorce, she does not collect it.

ומן הספנה ואילך, אף על גב דלא מפקא גיטא – גביא. שרבן שמעון בן גמליאל אומר: מספנה ואילך, אשה גובה כתובתה שלא בגט, ובעל חוב שלא בפרוזבול.

The Gemara continues the modified version of the mishna: And from the time of danger and onward, even if she does not produce a bill of divorce, she collects the main sum of her marriage contract as well, as Rabban Shimon ben Gamliel says: From the time of danger and onward⁹ a woman collects payment of her marriage contract without a *prosbol*.

אמרי ליה רב כהנא ורב אסי לרב: לדידך, דאמרת: גט – גובה עיקר, אלמנה מן הנשואין במאי גביא? בעדי מיתה. וליחוש דלמא גירשה, ומפקא לגיטא וגביא ביה! ביושבת תחת בעלה.

Rav Kahana and Rav Asi said to Rav: According to your opinion, that you said that a woman who produces a bill of divorce collects the main sum, then in the case of a widow from marriage, with what proof does she collect the main sum of her marriage contract, as she has no bill of divorce? She can claim the main sum with witnesses to his death. But shouldn't we be concerned that perhaps he divorced her before he passed away, and after receiving her marriage contract by means of the witnesses to his death, she will produce the bill of divorce he gave her and collect payment with it a second time? Rav answered: She can collect payment with witnesses to her husband's death only when she was living under the jurisdiction of her husband the entire time, and it is clear that he did not divorce her.

ודלמא סמוך למיתה גירשה! איהו הוא דאפסיד אנפשיה.

The Gemara raises a difficulty: But perhaps he divorced her near his death, in which case it is not known that she was divorced. She could then demand payment for her marriage contract twice. The Gemara answers: In that case, it is he who caused his own loss, by failing to inform others of the divorce, and it is not necessary to be concerned that such a situation could occur.

אלמנה מן האירוסין במאי גביא? בעדי מיתה. וליחוש דלמא גירשה, ומפקא גיטא וגביא!

Rav Kahana and Rav Asi asked Rav another question: With what proof can a widow from betrothal collect her marriage contract? She can collect the payment with witnesses to his death. But once again, shouldn't we be concerned that perhaps he divorced her beforehand, and after receiving her marriage contract based on the evidence of the witnesses, she will produce the bill of divorce he gave her and collect a second time with it? Since a betrothed woman does not live with her husband, there would be no indication that he had divorced her.

כתובה – A marriage contract for a betrothed woman – לְאִרוּסָה: Several early commentaries maintain that it is obvious both to the questioner and to the Gemara itself that a betrothed woman receives a marriage contract by decree of the Sages. Mar the Elder was merely seeking a proof from a mishna or *baraita* for this well-known *halakha* (Rabbeinu Shimshon; Ramban; Ra'ah). However, the Rambam and the Ra'avad rule that the *halakha* is that a betrothed woman does not receive a marriage contract.

He does not receive the status of an acute mourner, etc. – לֹא אוֹנֵן וְכוּ': Although many laws and stringencies apply to an acute mourner, one whose close relative has died but has not yet been buried, it seems that the Gemara here is referring primarily to an acute mourner's prohibition with regard to offerings. If he is an Israelite or Levite, he is prohibited from eating second tithes and offerings of lesser sanctity. If he is a priest, in addition to the prohibition against eating offerings, he is also prohibited from serving in the Temple during his period of acute mourning.

Nor becomes impure – לֹא מִטְמָאָה: It is clear why it is necessary to state this *halakha* with regard to a man, as a priest must become impure for his wife although he is generally prohibited from coming in contact with the dead. What is not clear is why it is stated with regard to women, as the daughter of a priest is not prohibited from becoming impure through contact with the dead. The Rivan explains that the *baraita* is speaking about the Festival period, when everyone is obliged to remain in a state of purity, and it comes to teach that any woman whose betrothed husband has passed away is prohibited from becoming impure.

אֶלָּא בְּמִקוּם דְּלֹא אָפְשָׁר – כְּתִיבִין שׁוֹבֵר. דָּאֵי לֹא תִּמְאָה הֵבִי – עֵדֵי מִיתָה גּוֹפִיִּיהוּ, נִחוּשׁ דְּלִמָּא מִפְּקָא עֵדֵי מִיתָה בְּהָאֵי בֵּי דִּינָא – וְגַבֵּיָא, וְהֵדֵר מִפְּקָא בְּבֵי דִּינָא אַחֲרֵינָא – וְגַבֵּיָא! אֶלָּא וְדָאֵי בְּמִקוּם דְּלֹא אָפְשָׁר – כְּתִיבִין שׁוֹבֵר.

אָמַר לִיה מַר קִישִׁישָׁא בְּרִיה דְּרַב חֲסָדָא לְרַב אֲשִׁי: אֲלִמְנָה מִן הָאִירוּסִין, מְנַלֵּן דְּאִית לָהּ כְּתוּבָה? אֵילִימָא מְהָא: נְתַרְמְלָה אוּ נְתַגְרָשָׁה, בֵּין מִן הָאִירוּסִין בֵּין מִן הַנְּשׁוּאִין – גּוֹבָה אֶת הַכֵּל. דְּלִמָּא דְּכָתַב לָהּ!

וְכִי תִּמְאָא: אֵי כְּתַב לָהּ מֵאֵי לְמִימְרָא? לְאִפּוֹקֵי מִדְּרַבֵּי אֲלֵעוֹר בֶּן עֲזַרְיָה, דְּאָמַר: שְׂלֵא כְּתַב לָהּ אֶלָּא עַל מְנַת שְׁהוּא בּוֹנְסָה.

דִּיקָא נִמְי דְּקִתְנֵי: גּוֹבָה אֶת הַכֵּל. אֵי אָמַרְתָּ בְּשִׁלְמָא, דְּכָתַב לָהּ – מִשּׁוּם הֵבִי גּוֹבָה אֶת הַכֵּל, אֶלָּא אֵי אָמַרְתָּ דְּלֹא כְּתַב לָהּ – מֵאֵי גּוֹבָה אֶת הַכֵּל? מִנָּה מְאִתִּים הוּא דְּאִית לָהּ!

וְאֶלָּא מִדְּתַנֵּי רַב חֵיָא בַּר אֲבִין: אֲשַׁתּוּ אִירוּסָה – לֹא אוֹנֵן וְלֹא מִיטְמָא לָהּ, וְכֵן הִיא – לֹא אוֹנֵנָת וְלֹא מִיטְמָאָה לָהּ. מִתָּה – אֵינּוּ יוֹרְשָׁה, מִתּ הוּא – גּוֹבָה כְּתוּבָתָה.

דְּלִמָּא דְּכָתַב לָהּ. וְכִי תִּמְאָא: אֵי כְּתַב לָהּ מֵאֵי לְמִימְרָא? מִתָּה אֵינּוּ יוֹרְשָׁה אֵי צִטְרִיכָא לִיה.

Rather, it must be that **wherever it is not possible** otherwise to know if a woman already received her marriage contract, **one writes a receipt**, as if you do not say so with regard to the witnesses to his death themselves, **we should be concerned that perhaps she will bring out witnesses to his death in this court and collect payment for her marriage contract, and again bring out witnesses in a different court and collect payment for her marriage contract a second time.** This could continue many times. **Rather, it must certainly be the case that wherever it is not possible** otherwise to know if a woman already received her marriage contract, **one writes a receipt.**

Mar the Elder, son of Rav Hisda, said to Rav Ashi: From where do we know that a widow from betrothal has a marriage contract?^N Perhaps the Sages instituted the marriage contract only for married women. **If we say that it is derived from this mishna (54b): If a woman is widowed or divorced, whether from betrothal or whether from marriage, she collects the entire amount of her marriage contract, including the additional sum, this mishna is not proof. Perhaps the mishna is referring to a case where he wrote a marriage contract for her on his own accord.** That does not prove that there is an enactment of the Sages that a husband must write a marriage contract for his betrothed.

And if you would say in response that if that mishna is referring to a case where he wrote the marriage contract for her, what is the purpose of stating that she collects the entire sum, since it is clear that she receives the full amount, as she has the document in her possession; perhaps this is meant to exclude the statement of Rabbi Elazar ben Azarya, who said that a betrothed woman who was divorced or widowed is not entitled to the additional sum written in the marriage contract, as the groom wrote this additional amount for her only in order to marry her.

The Gemara comments: The language of the mishna is also precise, that it is referring to a case where he wrote the marriage contract for her, as it teaches: **She collects the entire amount. Granted, if you say that he wrote a marriage contract for her, it is due to that reason that she collects the entire amount, both the main sum and additional sum written in the marriage contract. But if you say that he did not write a marriage contract for her, and she collects a payment only because of the rabbinic ordinance, what is the meaning of: She collects the entire sum? She has only one hundred dinars or two hundred dinars, as enacted by the Sages, and no more.** The phrase: Entire sum, is inappropriate according to this opinion.

But rather, the proof that a widow from betrothal receives a marriage contract is from that which was taught by Rav Hiyya bar Avin: Upon the death of one's betrothed wife, he does not receive the status of an acute mourner,^N one whose close relative has died but has not yet been buried, **nor become impure** if he is a priest. **And likewise, she neither receives the status of an acute mourner nor becomes impure^N for him. If she dies, he does not inherit from her. If he dies, she collects payment of her marriage contract.** This shows that a widow from betrothal receives a marriage contract.

The Gemara refutes this proof in the same manner as before: **Perhaps this is referring to a case where he wrote a marriage contract for her on his own accord. And if you would say in response that if that mishna is referring to a case where he wrote the marriage contract for her, what is the purpose of stating that she collects the payment, as this is obvious and teaches nothing new; perhaps it was necessary for him to mention that despite the fact that the man wrote a marriage contract for her, if she dies, he does not inherit from her.** The discussion concludes without a source for the *halakha* that a widow from betrothal receives a marriage contract.

NOTES

According to Rav, who said if she produces a bill of divorce she can collect the main sum – לרב, דאמר גט – גובה עיקר: The Ramban writes that this difficulty applies only to Rav, as according to Shmuel she does not collect payment with a bill of divorce, but by virtue of the court enforcement of a marriage contract. The Ritva and others maintain that this difficulty also applies to Shmuel's opinion that in a place where they do not write marriage contracts, she must provide proof that she is divorced. In such a place, the court must ensure that she cannot claim payment several times. However, the difficulty is more acute for Rav.

Two documents, etc. – שני שטרות וכו': According to Rashi, this halakha applies to any two documents, irrespective of whether they are documents recording a sale or a loan. However, most early commentaries, including the Rif, the Ramban, and the Rosh, maintain that this halakha is referring to documents of sale, gifts, and marriage contracts, but not to documents recording loans. Their reasoning is that in the case of documents of sale and gifts, the seller does not mind writing a second document. Similarly, as it is prohibited to remain with one's wife without a marriage contract, the husband might write another one if it is temporarily misplaced. However, this logic does not apply to a loan, as the second document may be referring to a different loan, and one with two documents can claim payment for both of them (see Ramban and Meiri).

BACKGROUND

We tear it – דקריעין ליה: The tearing of the bill of divorce, which became a fixed practice over the generations for every bill of divorce that was properly written and delivered, is performed after it has been given to the woman. At this point, the bill of divorce is folded and its sides cut at an angle, so that it tears along its length and breadth. This type of tear shows that it was done by the court and that the bill of divorce is valid.

אמר ליה רב נחמן לרב הונא: לרב, דאמר: גט – גובה עיקר, ליהוש דלמא מפקא גיטא בהאי בי דינא וגביא, והדרא מפקא בבי דינא אחרינא וגביא! וכי תימא דקריעין ליה – אמרה: בעינא לאנסובי ביה!

דקריעין ליה, וכתבין אגבייה: גיטא דנן קרענהו, לא משום דגיטא פסול הוא, אלא דלא תיהדר ותגבי ביה ומנא אחרינא.

מתני' שני גיטין ושתי כתובות – גובה שתי כתובות.

שתי כתובות וגט אחד, או כתובה ושני גיטין, או כתובה וגט ומיתה – אינה גובה אלא כתובה אחת. שהמגרש את אשתו והחזירה – על מנת כתובה הראשונה מחזירה.

גמ' אי בעיא בהאי – גביא, אי בעיא בהאי – גביא?

לימא תיהוי תיובתא דרב נחמן אמר שמואל, דאמר רב נחמן אמר שמואל: שני שטרות היוצאין בזה אחר זה – ביטל שני את הראשון!

Rav Nahman said to Rav Huna: According to Rav, who said that if she produces a bill of divorce she can collect the main sum^N of her marriage contract, shouldn't there be a concern lest she produce the bill of divorce in this court and collect with it, and again produce it in a different court and collect with it? And should you say that we tear it,^B as the court does to other documents that have been paid, she will not let us do so, for she will say: I do not want you to tear the bill of divorce because I need it, so that when I want to marry again I can prove with it that I am divorced.

Rav Huna responded: The solution is that we tear it and write the following on its back: We tore this bill of divorce, not because it is an invalid bill of divorce, but in order that she not return and collect with it another time.

MISHNA If a woman had two bills of divorce and two marriage contracts^H as a result of her divorce and remarriage to the same man, the fact that she is in possession of these documents proves that she was never paid for her first marriage contract, and she collects two marriage contracts.

If she was in possession of two marriage contracts and only one bill of divorce;^H or if she had one marriage contract and two bills of divorce;^H or if she had a marriage contract, a bill of divorce, and witnesses to her husband's death after their remarriage, she collects payment of only one marriage contract. This is because there is a presumption that one who divorces his wife and remarries her, remarries her with the intention of using her first marriage contract, and she agrees that she collects payment of only the original document. This is the presumption, unless he wrote another marriage contract for her.

GEMARA The mishna states that if she had two marriage contracts and one bill of divorce, she can collect only one marriage contract. However, it does not specify which marriage contract she can claim. Does this mean that if she desires, she can collect payment of the marriage contract with this one, and if she desires, she can collect payment with that one? In that case, if she prefers she can use the document that promises the larger sum, and if she prefers to use the marriage contract with the earlier date in order to be able to collect property that her husband had sold to others between the dates on the two documents, she may collect with that one.

The Gemara asks: If that is the case, let us say that it is a conclusive refutation of a statement that Rav Nahman said that Shmuel said, as Rav Nahman said that Shmuel said: If there are two documents^N that are issued one after the other, each recording the same transaction of a sale or a gift and they are separated by a few days, it is assumed that the second document cancels the first one. Why not say in this case as well that the second marriage contract voids the first one?

HALAKHA

שני גיטין – שני כתובות: If a woman produces two bills of divorce and two marriage contracts, and the date of the first marriage contract precedes that of the first bill of divorce, and likewise, the date of the second marriage contract precedes that of the second bill of divorce, she collects payment for her two marriage contracts (Rambam Sefer Nashim, Hilkhoh Ishut 16:29; Shulhan Arukh, Even HaEzer 100:13).

שתי כתובות – גיט אחד: If the woman produced two marriage contracts and one bill of divorce, she may collect only one marriage contract. Which of them can she claim? If they are identical, the second

cancels the first and she cannot collect from purchasers who acquired the husband's property prior to the date of the latter document. If the second specified a larger sum, without stating that it is in addition to the first, she can claim either the smaller sum of the first marriage contract, having the right to collect property sold by her husband after the earlier date, or the larger sum of the second contract, having the right to collect property sold by her husband only after the later date. If he wrote: And I add to you, she has the right to collect up to the sum of the first contract from property sold by her husband after the earlier date, and has the right to collect the additional amount from property sold by her husband only after the later date, in accordance with the opinion of Rav Pappa.

These halakhot apply only if both marriage contracts were written while they were betrothed or both were written while they were married. However, if one was from their betrothal and the other was from their marriage, she may claim payment only from the latter document (Rambam Sefer Nashim, Hilkhoh Ishut 16:29; Shulhan Arukh, Even HaEzer 100:14).

כתובה ושני גיטין: If a woman produced two bills of divorce and one marriage contract, she may claim only the marriage contract. This is because one who divorces a woman and remarries her, unless he specifies otherwise, does so with the intention of using her first marriage contract (Rambam Sefer Nashim, Hilkhoh Ishut 16:30; Shulhan Arukh, Even HaEzer 100:15).

A bill of divorce, a marriage contract, and witnesses to death – **גט וכתובה ומיתה**: In the case of a woman who produced a bill of divorce and a marriage contract after her husband's death, if the date of the bill of divorce preceded that of the marriage contract, she collects the main sum of the marriage contract by means of the bill of divorce, and she also claims the entire sum specified in the marriage contract. If the date of the marriage contract is before the bill of divorce, she is entitled only to the entire sum of the marriage contract, as it is assumed that he remarried her with the intention of using the original marriage contract, as stated in the *baraita* (Rambam *Sefer Nashim, Hilkhhot Ishut* 16:30; *Shulhan Arukh, Even HaEzer* 100:16).

לאו אתמר עליה, אמר רב פפא: ומודה רב נחמן, דאי אוסיף ביה דיקלא – לתוספת כתוביה. הכא נמי – בדאוסוף לה.

The Gemara answers: **Was it not stated with regard to the halakha Shmuel quoted in the name of Rav Nahman that Rav Pappa said: And Rav Nahman concedes that if he added to the transaction detailed in the second document a palm tree that was not mentioned in the first document, this shows that he did not intend to cancel the first document. Rather, he wrote the second document as an addition to the first document. Here too, the Gemara is dealing with a case when he added an additional sum for her in the second marriage contract. This proves that he wanted to add to the first marriage contract, and not to void it.**

תנו רבנן: הוציאנה גט וכתובה ומיתה

The Sages taught: If she produced a bill of divorce, a marriage contract, and witnesses to her husband's death,^h

Perek IX

Daf 90 Amud a

אם גט קודם לכתובה – גובה שתי כתובות, כתובה קודמת לגט – אינה גובה אלא כתובה אחת. שהמגרש את אשתו והחזירה – על מנת כתובה הראשונה החזירה.

if the date of the bill of divorce precedes the date of the marriage contract, she collects payment for her two marriage contracts. She is entitled to the first marriage contract by virtue of the bill of divorce. She is entitled to the second one because she has shown that it was written for her when they remarried. If the date of the marriage contract precedes the date of the bill of divorce, she collects payment of only one marriage contract. This is because it is presumed that one who divorces his wife and remarries her, remarries her with the intention of using her first marriage contract, unless there is a reason to say otherwise.

מתני' קטן שהשיאו אביו – כתובתה קיימת, שעל מנת בן קיימה. גר שנתגיירה אשתו עמו – כתובתה קיימת, שעל מנת בן קיימה.

MISHNA In the case of a minor who was married off by his father, the wife's marriage contract that the minor wrote is valid even after the husband comes of age. He cannot excuse himself by saying that it was drafted when he was a minor, as it is on this condition, the terms of this marriage contract, that he maintained her as his wife upon his maturity. Similarly, in the case of a convert whose wife converted with him, the marriage contract that she had as a gentile is valid, for on this condition he maintained her as his wife.

גמי' אמר רב הונא. לא שנו אלא מנה מאתים, אבל תוספת – אין לה. ורב יהודה אמר: אפילו תוספת יש לה.

GEMARA Rav Huna said: They taught that the wife of a minor or convert receives payment only with regard to the main sum of one hundred dinars or two hundred dinars.^h However, she does not have the right to receive the additional sum that he wrote in her marriage contract, because this document is not legally binding, as it was written by a minor. She receives the main sum only as a result of an ordinance instituted by the Sages. **And Rav Yehuda said: She has even the additional sum.**

מיתבי: חידשו – נוטלת מה שחידשו. חידשו – אין, לא חידשו – לא!

The Gemara raises an objection against the opinion of Rav Yehuda from a *baraita*: If a minor who came of age or a gentile who converted then introduced an additional sum to the marriage contract, she takes the additional sum that they introduced. The Gemara infers: Yes, the woman receives what they introduced. However, if they did not introduce an additional sum, she does not collect, even if it was written in the original marriage contract.

HALAKHA

כתובת גרוקטן – The marriage contract of a minor and a convert: If a minor aged at least nine was married off by his father, his wife is not entitled to a marriage contract while he remains a minor. If he engaged in sexual intercourse with her after he reached the age of majority, then she receives the main sum of the marriage contract, two hundred dinars for a virgin and one hundred dinars for a widow, but she is not entitled to the additional sum he wrote for her in his minority. This ruling is in accordance with the mishna, as explained by Rav Huna. Even the main sum of her marriage

contract is hers only by virtue of the enactment of the court, not the marriage contract document. Consequently, she can claim payment only from free property but from not-pledged property that had been sold while he was a minor. The same *halakhot* apply to a convert whose wife converted with him, although the Rambam holds that the marriage contract of a female convert is always only one hundred dinars (Rambam *Sefer Nashim, Hilkhhot Ishut* 11:7; *Shulhan Arukh, Even HaEzer* 67:11).