

And even after a long time

ואפילו לזמן מרובה -

Overview

The גמרא cites a ברייתא that if a גט was found and the husband admitted that he gave it to her, we return the גט to the wife. The גמרא infers (since it does not state מצאו) that we return it to her, even if it was found a long time after it was lost (or after the date of the גט). תוספות explains the novelty of מרובה in this case.

asks: תוספות

תימה כיון שמודה נפל וכבר גירשה אמאי הוה לן למימר דלא יחזיר -

It is astounding! Since the husband admits that he already divorced her, and that she lost it, why would we think that it should not be returned to her -

כיון דנאמן לומר גרשתיה כדאמר פרק יש נוחלין (בבא בתרא דף קלד,ב) -

Since a husband is believed to say, 'I divorced her', as the גמרא states in פרק יש נוחלין, so therefore -

אפילו נפל מאחר נחזיר לה לראיה בעלמא¹ -

Even if it actually was lost from another person, nevertheless we should return this גט to her, merely as a proof that she is divorced.

answers: תוספות

ויש לומר דנאמן לומר גרשתיה ותהא מגורשת מכאן ולהבא הואיל ובידו לגרשה² -

And one can say; when we say that the husband is believed to say גרשתיה, that is only in regards from now and further; for the reason he is believed to say גרשתיה, is since he has the ability to divorce her, so since he can divorce her now, therefore when he claims, 'I divorced her', he is believed and she is considered divorced as of now, but not retroactive to the date which he claims that he divorced her³ -

אבל הכא שאומר שכבר גרשה מזמן הכתוב בגט -

However here when the husband claims that he already divorced her, from the (earlier) date which is written in the גט -

כמו שאינו נאמן למפרע כך אינו נאמן להבא -

¹ We know that she is divorced, for the husband agrees to it (and a husband is believed to say he divorced his wife, without any additional proof); she now needs this גט as proof that she is divorced so she can remarry. Even if this is not her גט, nevertheless what harm is there in giving her this גט as proof that she is divorced?!

² See the גמרא there in פרק יש נוחלין (רב מארי ורב זביד). There is a dispute there (between זביד ורב) in a case where the husband said 'I divorced her a while ago', whether he is believed for ולהבא, or not (it is dependent whether we say פלגינן or not). See footnote # 4.

³ She can collect the פירות (which the husband sold) only from the date he actually said גרשתיה, but not from the date which he claims he divorced her.

So just as he is not believed retroactively, so too he is not believed for the future that she should be considered divorced, even from now on⁴ –

ויחזיר לאשה דקתני היינו בעדים ותתגרש בו בחזרה זו⁵ responds to an anticipated difficulty:

And when the ברייתא stated יחזיר לאשה, it means it should be given to her now with witnesses and she will become divorced now through this ‘returning’ of the גט - **ולא חיישינן שמא מאחר נפל ואפילו לזמן מרובה:**

And the novelty is that we are not concerned that perhaps someone else lost it, and we return it even if a large amount of time elapsed since it was lost.

Summary

is only believed להבא, and in this case, just as he is not נאמן למפרע he is not נאמן להבא. The ‘return’ here means she becomes divorced now.

Thinking it over

posed a contradiction from this ברייתא (which maintains that we return the גט even (לזמן מרובה) to the משנה which rules that we return it only if it is found לאחר. Seemingly (according to תוספות) there is no contradiction, for in the ברייתא there is a ספק ספיקא להיתרא; firstly it is possible that the husband and wife are telling the truth (that she was already divorced), and secondly even if it is not true, perhaps this is the proper גט and he is being divorced now, however in the משנה there is no ספק ספיקא!⁷

⁴ It would seem that even according to the one who maintains (see footnote # 2) that he is נאמן להבא (if he said למפרע), for we say דיבורא דיבורא, however here where he claims he divorced her with this גט (which has a previous date), all agree that we cannot say דיבורא דיבורא. See ב"מ ד"ה בזמן. אות תרכז (here) בית לחם יהודה and תוס' גיטין כז,ב ד"ה בזמן.

⁵ We are now saying that in this case where he claims he divorced her previously, he is not believed even להבא, so how can we return this גט to the woman; we do not know that she is divorced.

⁶ We are not ‘merely’ returning the גט to her, but rather she is being divorced now with her receiving of this גט, either by the husband directly or by the husband appointing a שליח, and it needs to be given to her in the presence of עדים to validate the divorce.

⁷ See מלא הרועים.