

And the division is only in the value

ויחלוקו נמי לדמי –

OVERVIEW

The גמרא explains that when the ברייתא ruled (concerning שטר בשטר) that ויחלוקו, it meant לדמי; for the money. There can be two ways to interpret this גמרא. The גמרא can mean that we do not physically divide the שטר, but rather we divide the money of the שטר; meaning that the לווה pays (only) half of the amount to the מלוה. Our תוספות rejects this interpretation and offers an alternate explanation of the phrase ויחלוקו נמי לדמי.

גמרא explains the תוספות:

ואין חולקין את החוב¹ כמו שכתוב בשטר² –

And we do not divide the debt as it is written in the שטר -

אלא כמו ששוה לו למכור מזה יפרע החצי –

But rather the לווה pays the מלוה half of what is the resale value of the שטר.

גמרא continues to interpret the continuation of the תוספות:

דאי לא תימא הכי אלא חצי החוב ממש³ גבי טלית מי חולקין ממש הא אפסודה⁴ –

For if you will not agree to this, but rather maintain that the לווה pays half the loan, concerning a טלית do we actually divide the טלית? This will destroy the טלית, but rather we divide its resale value, similarly by שטר we divide its resale value and not the face value.

תוספות cites the other explanation and גירסא, and rejects it:

ולא גרסינן⁵ לא דפסקינן לשטרא-

And our texts should not read; 'not that we divide the שטר in two', but rather we divide the money.

תוספות explains why this גירסא and interpretation are incorrect:

דאם כן⁶ מה מביא מטלית אדרבה בטלית אם יחתכנו לשנים אין פסידא כל כך –

¹ According to תוספות, the גמרא never even had a אמינא that we divide the שטר in two.

² If the amount the לווה owes the מלוה is a hundred זוז, however if the מלוה would want to sell the שטר, he could receive for it (only) eighty זוז, the לווה pays the מלוה forty זוז; half its resale value.

³ We may want to insist that the term ויחלוקו refers to the item, not to its resale value, so therefore by שטר we should divide its face value and not its resale value; however we see from טלית that the term ויחלוקו can apply even to the resale value, not to the item itself.

⁴ See 'Thinking it over'.

⁵ The גירסא which תוספות rejects understood that the גמרא is negating the idea that we actually cut the שטר in two. Therefore that גירסא spelled it out; the גמרא reads 'לדמי אלא לשטרא לא דפסקינן לשטרא'.

⁶ The word ויחלוקו is written by טלית and by שטר. We are proving that ויחלוקו by שטר means לדמי, since it

For if this is indeed so (that we are negating the concept of cutting the שטר, and we prove it from טלית) **what proof is there from טלית, on the contrary, regarding a טלית there is not such a great loss if it is cut into two pieces -**

ואם יחתוך השטר לא ישוה לכלום –

However if they would cut the שטר it would be worthless!⁷

גירסא offers an additional reason why we cannot accept this:

ועוד דפשיטא הוא⁸ דלא יחלוקו השטר לשנים –

And furthermore it is obvious that we do not cut the שטר into two parts -

דאוקימנא לעיל פלוגתא דרבי ורבי שמעון בן גמליאל במודה בשטר שכתבו⁹ –

For we have previously established that the dispute of רבי ורשב"ג is concerning מודה בשטר שכתבו -

אלא כדפרישית:

Therefore we must **rather** interpret the גמרא as I explained it.

SUMMARY

The גמרא negates that we do not divide the face amount, only the resale value.

THINKING IT OVER

What is the proof from טלית;¹⁰ by טלית there is no other option, for if we divide it there is a loss; however by שטר why should we not divide the amount of the loan?¹¹

certainly means טלית by לדמי. However according to this גירסא that we are trying to prove that we do not cut the שטר into two, then logic dictates that the opposite is true. It is more obvious that we do not cut the שטר than we do not cut the טלית. If we cut the שטר it is completely worthless; however if we cut the טלית it still may retain value. Therefore how is the גמרא proving שטר from טלית when it should be the reverse! We should prove טלית from שטר!

⁷ According to תוספות however the proof from טלית is understood. We derive (from טלית) that we divide the resale value and not the face value. This is more obvious by a טלית, for there is a greater difference between the values of a טלית if we divide it instead of selling it (for dividing it makes it lose most of its value), than the difference by a שטר whether we divide the face value as opposed to the resale value.

⁸ טלית. תוספות is adding that it was always obvious that we do not cut the שטר in two, even before טלית.

⁹ We cannot be negating that we do not cut up the שטר. The גמרא previously explained that according to רבי יחלוקו only if the שטר is מקויים and according to רשב"ג we always say יחלוקו. If, we are to cut up the שטר, what difference is it if it is מקויים or not. We should always give the מלוה half the שטר. [The reason רבי maintains that the מלוה does not receive his half (if it is not מקויים) is since the לווה has a מיגו of מלוה; if the לווה would claim מזוייף then the מלוה would receive the entire שטר (for the לווה admits that he never wrote it), so why does רבי maintain that the מלוה does not receive half unless it is מקויים!]

¹⁰ See footnote # 3 & 4.

¹¹ בל"י אות ריה.