

We are concerned perhaps he appeased

חיישינן שמא פייס –

OVERVIEW

ר"ל ruled that when ר"ש stated that ביום ונחתם בלילה it is a גט כשר that is limited to that case only, however, if the חתימה took place ten days later it is not a גט כשר, because we are concerned פייס.¹ Our תוספות qualifies when we are concerned for שמא פייס and when not.

anticipates the following question:

ואין להקשות בגיטין הבאים ממדינת הים ובמשליש גט לאשתו אמאי לא חיישינן שמא פייס משליש גט גיטין that come from overseas and by גט was not signed yet, and also when he is appeased there is no publicity,² why are we not concerned there that שמא פייס?³

replies:

דהכא הוא דחיישינן טפי לפי שעדיין לא נחתם⁴ וכי מתפייס נמי ליכא קלא⁵ –
For only here (where it was נכתב and not נחתם) we are more concerned that he will be appeased because the גט was not signed yet, and also when he is appeased there is no publicity -

וכן כי אמר לעשרה חתומו וחתום בי תרי ביומיה דבסמוך⁶ –
And similarly the case which the גמרא states shortly, where he told ten witnesses to sign, and only two signed on that first day, in that case as well -

רגיל להתפייס כיון דלא חתמו כל הצריכים לחתום וכי מפייס נמי ליכא קלא⁷ –
It is usual for the husband to be appeased since all those that were required to sign did not sign, and also when he appeases there is no קול -
אבל כשכבר חתמו כל העדים בגט ומזומן לינתן אין רגיל להתפייס –

¹ According to (ד"ה שמא) רש"י the concern of שמא פייס is that he was מתייחד with her after the הגט, which makes it a גט ישר. According to (בד"ה שמא) תוספות the concern is perhaps the husband was מבטל the גט.

² גט משליש means he deposited the signed גט by a third party (המשליש) and instructed him not to give the גט to his wife until a certain time.

³ Perhaps in the duration between the giving of the גט to the שליח or שליח, and the woman receiving it, the husband was מפייס.

⁴ If the גט is not signed it is not finalized in the husband's mind that he is divorcing her. He may reconsider.

⁵ When the גט is signed the עדים are מוציא a קול that this woman is being divorced (even before she receives the גט). When people notice them reconciling, there is a קול and even if the גט is produced later, it will be challenged, because everyone is aware as to what happened. However, if the עדים did not sign, so people are not aware that there is a divorce process, and they will make no note of the פיוס (they will merely think this is their normal relationship), so when the גט is produced later, no one will comment.

⁶ See bottom of this עמוד. The גמרא there asks how can it be כשר according to ר"ל, there is the concern of שמא פייס [even though there two עדים signed already].

⁷ See footnote # 4 (& 5). The גט is not finalized since it is as if no one signed.

However, in the cases of גיטין הבאין ממדה"י and לאשתו גט המשליש גט where all the witnesses signed the גט already and it is ready to be given to the wife, it is not usual that he will be appeased -

וכשחוזר ומתפייס הכל מרגישים -

And when he will retract and become appeased everyone is aware.⁸

asks: תוספות

אבל קשה דבפרק כל הגט (לקמן דף כט, ב) גבי ההוא דשדר גיטא לדביתהו -

However there is a difficulty, for in פרק כל הגט regarding the incident where a person sent a גט to his wife -

ואמר ליה לשליח לא תיתביה ניהלה עד תלתין יומין פריך עלה וניחוש שמא פייס -

And he said to the שליח, 'do not give it to her until thirty days (from now), and there asks on this, 'פייס perhaps -

וכן אהיה אם לא באתי מכאן עד י"ב חדש -

And similarly the concern of שמא פייס applies to that משנה where a person says, 'this is your גט if I do not come from now until twelve months'; seemingly in these two cases the גט was already signed and תוספות just concluded that when the גט is signed there is no concern of פייס -

⁹ resolves (part of) this difficulty: תוספות cites how רש"י

ובקונטרס פירש שם¹⁰ דבשולח גט ממדינת הים ליכא למיחש שמא פייס -

שמא פייס there explains that by גט ממדה"י שולח גט there is no concern of פייס רש"י And דמימר אמר הבעל השליח קדמני וכבר הגיע גט לידה ולא עקר נפשיה מספיקא¹¹ -

Because the husband assumes that the שליח preceded me, and the גט is already in her possession, and because of this doubt he will not uproot himself from his place to be מפיס his wife. תוספות acknowledges that this explanation resolves why there is no concern of פייס by גיטין הבאין ממדה"י שמא פייס -

אבל מהמשליש גט לאשתו¹² קשה וגם לרבי יוחנן¹³ דהכא¹⁴ -

⁸ See footnote # 5.

⁹ רש"י offers a different explanation why by גיטין הבאין ממדה"י there is no concern of פייס; not because the גט is already signed as תוספות explained previously.

¹⁰ דף כט, ב ד"ה ליחוש.

¹¹ According to רש"י we are always concerned for פייס שמא (even if the גט was signed), except where the שליח left already to deliver the גט. This explains why there is no concern of פייס שמא by גיטין הבאין ממדה"י.

¹² See footnote # 2.

¹³ (ר"ש) rules that even if the גט was not signed until ten days it is still כשר (according to ר"ש).

¹⁴ In these two cases the שליח is not leaving before the husband why is there no concern of פייס שמא (according to רש"י). What is the difference between the two cases (in פרק כל הגט) where we are חייש for פייס שמא, and המשליש גט (רש"י). This question is on תוספות (as well) [and according to ר"י מכהן ועד י' ימים].

However, there is still the difficulty from לאשתו גט המשליש and from the view of ר"י here in our גמרא –

offers his explanation why there is no concern of פייס, in the (two) aforementioned cases:

ונראה לרבינו תם דבהמשליש שהוא עמה בעיר¹⁵ ואינו הולך משם –

And it is the view of the ר"ת that by המשליש, where the husband is with his wife in the same city and he is not leaving from there so –

מסתמא מחמת קטטה מגרש ומה שקובע זמן בנתינת הגט לצעורה קא מכיין¹⁶ ולא להתפייס. Presumably he is divorcing her because of a conflict, so the reason he is setting a date for the giving is because he intends to cause her pain, but not to appease אבל בהנך דלקמן¹⁷ שהולך משם ואינו אצלה בעיר –

However by those cases mentioned later where he is leaving from there and he is not by her in the same city -

מסתמא לטובתה נתכוין שלא תתעגן¹⁸ וקובע זמן חיישינן שמא יבא בתוך כך ויתפייס – Presumably his intent is for her benefit that she should not be an עגונה, and that is why he is setting a time for the divorce, in those cases we are concerned that he will come within the allotted time and he will be מתפייס -

וכי יתפייס נמי ליכא קלא כיון שאינו מגרשה בשביל קטטה אפילו רבי יוחנן מודה התם: And in addition if he will be מתפייס there will be no קול since he is not divorcing her because of a conflict, even ר"י will admit in those cases, that there is the concern of פייס שמא.

SUMMARY

There is the concern of פייס שמא if the גט was not (completely) signed immediately after the כתיבה (according to ר"ל). If the גט was already signed then it depends if his intent was לצערה like המשליש then there is no concern of פייס שמא, however if גיטין (like לא באתי מכאן וכו') then there is the concern of פייס שמא. By שליח precedes him. there is no concern of פייס שמא because the הבאין ממדה"י

¹⁵ See 'Thinking it over' # 2. תוס' יח, א ד"ה המשליש.

¹⁶ The reason the husband is not giving her the גט immediately (even though they are both in the same city) is because the husband wants to avenge himself for the difficulty she caused him and exact his retribution by making her wait for the גט.

¹⁷ The cases of גיטא דשדר and חודש י"ב חודש והוא דשדר גיטא לדביתהו.

¹⁸ The husband is leaving the city and he is concerned that he may not return and his wife will remain an עגונה (a woman who cannot [re]marry because her marital status is unclear), therefore he instructs the שליח not to give her the גט immediately only after a certain amount of time (for he hopes that he will return within the allotted time).

THINKING IT OVER

1. It seems that by חושש for even תוספות agrees that we are not חושש, since the בעל presumes קדמני.¹⁹ However according to תוספות that means that the husband may be מבטל the גט,²⁰ so how is that averted by the argument of קדמני?!²¹

2. It appears from תוספות that we are not חושש for פיוס by לאשתו only in a case where he is בעיר עמה, not otherwise.²² Previously²³ תוספות mentioned that when רש"י stated that משליש is in a case where the husband לדרכו, so תוספות comments that פירש כן; however according to our תוספות it is not merely ובחנם²⁴! עמה בעיר, but rather we must be discussing only a case where he is בעיר עמה.

Summary of the cases

המציב	שמא פייס	הטעם
אינה עמה בעיר וקבע זמן	חיישינן	לא גמר בדעתו לגרש ולטובתה נתכוין
אינה עמה בעיר וחתמו ולא קבע זמן	לא חיישינן	השליח קדמני
עמה בעיר וחתמו כולם	לא חיישינן	גמר בדעתו לגרש ולצעורה קמכוין
עמה בעיר ולא חתמו [כולם]	מחלוקת ר"י ור"ל	קטטה – אבל לא קבע זמן

¹⁹ See footnote # 11. See however שי"ף in מהר"ם שמא in תוד"ה שמא, that ד"ה שמא פייס ובטל in תוד"ה שמא, disagrees with this explanation of רש"י.

²⁰ See footnote #1.

²¹ See נח"מ and מהרש"א [הארוך].

²² See footnote # 15.

²³ דף יח, א ד"ה המשליש.

²⁴ See מהרש"א (הארוך).