

In truth is was the ליה who claimed it was a שטר אמנה and this is according to רב הונא, etc.

OVERVIEW

גמרא ruled that the claim of אמנה is not acceptable. The גמרא initially questioned who claimed that it was an אמנה. Was it the ליה, the מלוה, or the עדים? In *each* case there was a difficulty in explaining the ruling of ר"י. ר"י answered that it was the ליה who claimed that it was a שטר אמנה, and he is not believed (with a מגו) even if the שטר was not מקויים. This ruling follows the opinion of ר"ה that a מגו is ineffective against a שטר.

asks: תוספות

ואם תאמר ואמאי לא קאמר נמי לעולם דקאמרי עדים וכדרב הונא -

And if you will say; and why did not רבא also answer that in truth the עדים claimed that it is a שטר אמנה; and the reason they are not believed even if ר"ה who maintains that a מגו is not effective against a שטר. Therefore when עדים claim שטר אמנה they are not believed even though they have a שאסר.¹

answers: תוספות

ויש לומר² דלא ניחא ליה לאוקמי דלא כרבנן דאמרי אלימי עדים לאורועי שטרא:

And one can say; that it is not appealing to רבא to establish the ruling of רבא and claim that **עדים are sufficiently powerful to invalidate the שטר** with a שאסר; even if the ליה is not. According to the רבנן if the עדים claim שטר אמנה they will be believed according to רבא.³

SUMMARY

רבא did not want to answer that the עדים claimed שטר אמנה הוא, for the רבנן maintain that they will be believed since לאורועי לשטרא.

¹ See previous footnote # 9 where it seems that תוספות may be of the opinion that ר"ה maintains that ממשאצ"ל is a universal law which applies to all type of claims. The wording of the answer here seems to support this contention. תוספות states 'כרבנן' but not that ר"ה is מודה in a case of עדים. ודו"ק.

² See 'Thinking it over'.

³ This seems to be in contradiction with רבא who maintain (on יטב) that even שטר אמנה הוא are not believed to claim.

THINKING IT OVER

What was תוספות question initially?⁴ Did not תוספות state previously that the
?!⁵ אלימי עדים לאורועי שטרא maintain that רבנן

⁴ See footnote # 2.

⁵ See footnotes # 1 & 3.