

And for one who nullifies a גט

ועל דמבטל גיטא –

OVERVIEW

After a גט has been written, if it was not yet received by the wife (or her שליח) it can be nullified (מבטל) by the husband. However it was frowned upon, and רב would punish anyone who was מבטל a גט. There is a dispute between רש"י and תוספות in understanding under which circumstances would רב mete out this punishment.

פירש הקונטרס כגון השולח גט לאשתו והגיע בשליח ואמר לו גט שנתתי לך בטל הוא- גט is for instance if a husband sends a גט מבטל גיטא explained the case of רש"י (before he reached the שליח) to his wife and the husband reached the שליח (with a שליח) and the husband said to the שליח, 'the גט which I gave you (to give to my wife) is nullified'. It is for such an act that רב would give מלקות -

ואיכא למיחש שמא יתנונו לה השליח לאחר שבטלו ותנשא בו –

For there is a concern that perhaps the שליח would give the woman the גט after the husband was מבטל it, and she will remarry with this גט as evidence of her divorce (even though in reality she is not divorced for the גט had been voided).

רב: רש"י disagrees with תוספות

ולא נהירא דאין סברא לומר שיתן לה השליח כיון שהוא מוחה בו –

And this interpretation is not correct, for it is not logical to assume that the שליח would give her the גט, since the husband is protesting it, and nullified it -

דאטו ברשיעי עסקינן¹ -

For are we discussing about wicked people who would do such a reprehensible act; tricking a married woman into thinking that she is divorced and cause her (and others) to transgress the איסור of אשת איש!

תוספות offers his explanation:

לכן נראה לומר כדאמר התם (גיטין דף לב,א) בראשונה היה עושה בית דין ומבטל לפנייהם- Therefore it is preferable to explain it as the משנה states there; 'initially the husband would assemble a בי"ד and would nullify the גט in their presence without the wife or the שליח being aware of this ביטול -

התקין רבן גמליאל שלא יהו עושין כן –

¹ There is therefore no reason to punish the husband (who was מבטל the השליח), since there will be no negative repercussions.

instituted that they should not do this (to be מבטל the גט not in the presence of the woman or the שליח), and רב would give מלקות if someone transgressed the תקנה of ר"ג and was מבטל a גט not in their presence.

אך פליגי התם² (דף לג,א) דאיכא למאן דאמר אם בטלו מבוטל –

However there is a dispute there what is the status of the גט if he was מבטל it **for there is one opinion that maintains that if** the husband **was מבטל**, the גט is indeed בטל and his wife remains an איש -

ולדידה ניהא שהרי אשה זו אינה יודעת³ שבטלו ותינשא –

And according to that מ"ד it is understood why רב gave מלקות to the husband for such an act, **since this woman** who received the גט from the שליח **is unaware that** her husband **was מבטל it, and she will remarry** (assuming that she is properly divorced).

ואפילו למאן דאמר התם אם בטלו אינו מבוטל מכל מקום הרי מוציא לעז על הגט:

And even according to the opinion which maintains there that the nullification is not effective and the גט is valid, and the woman is divorced if the שליח gave her the גט, so seemingly why should רב give מלקות to the husband, since no harm was done, for she is legally divorced and can marry whomever she pleases. תוספות explains that **nevertheless** רב gave the husband מלקות **for he is spreading false rumors concerning this גט**. People will [mistakenly] say that she is not divorced for the husband was מבטל the גט.

SUMMARY

רש"י maintains that the ביטול was in the presence of the שליח, and the concern is that the שליח will give her the מבטל גט. תוספות maintains that the ביטול was בטלו מבטל, she may remarry, or that there will be a לעז on this גט. תוספות cannot accept that if השליח בפני השליח that the שליח would give it to the wife.

THINKING IT OVER

Why did רש"י prefer his explanation over תוספות explanation?

² ביטול אינו מבוטל while רשב"ג maintains that מבטל, בטלו מבטל רבי.

³ The שליח is also unaware of the ביטול since it took place בפניו שליח.