

## And even in the first one

## ואפילו בקמייתא -

### Overview

The משנה stated that if a man said to a woman become מקודשת to me with this date and with this date, etc. if all the dates together are worth a פרוטה, she is מקודשת. However (as the גמרא explains), if (in the case of בזו ובזו ובזו) she was eating them, she is מקודשת only if one of the dates alone was worth a פרוטה (but not if all of them together are worth a פרוטה [since she was consuming them]). The גמרא asked is she מקודשת even if just the first date was worth a פרוטה, but not the last date? תוספות cites רש"י's explanation of the גמרא and reconciles it with a seemingly contradictory גמרא.

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פירש בקונטרס אפילו הראשונה או השניה שוה פרוטה -

רש"י explained the גמרא's question; is she מקודשת even if only the first or second date is worth a פרוטה -

אף על גב דאין באחרונה שוה פרוטה מקודשת -

Even though the last date is not a פרוטה שוה, and nevertheless she is מקודשת -

והא מלוה היא כיון דהקידושין לא נגמרו עד שתקבלם כולם<sup>1</sup> -

But how can that be, for it is a loan, since the קידושין were not completed until she received all of them -

והיא אכלה הראשונה כבר קודם שתקנה<sup>2</sup> אותה בקידושין הויין מלוה גבה -

And she already ate the first date before she acquired it as קידושין, so it is a loan to her, and one cannot be מקודשת with a loan.

תוספות asks (on פרש"י):

ואם תאמר כיון דבתורת קידושין אתו לידה היכי הוה מלוה<sup>3</sup> -

<sup>1</sup> Let us assume he wants to be מקדש her with three dates (and he says בזו ובזו ובזו), the קידושין do not become effective until she receives all three dates. When she received the third date she already ate the first two dates (and when she ate them the קידושין did not take effect yet). This means that at this point she owes him the value of those two dates [for if he would not give her the third date (so there is no קידושין), she has to return the value of the dates she ate]. One cannot be מקדש a woman by forgiving her a loan which she owes him (see ו,ב), so even if he forgives her the loan of the dates she ate, that cannot be considered קידושין since it is a forgiveness of a loan. Now if the third date is not a פרוטה שוה how is she מקודשת, it cannot be with the first dates because they are a loan, it cannot be with the last date because it is not a פ"פ, so how can she be מקודשת?! This the question of the גמרא (according to פרש"י).

<sup>2</sup> The הגהות הב"ח amends this to read שתקנה (instead of שתקנה).

<sup>3</sup> תוספות is distinguishing between a loan which a woman owes a man previously (that money was not given for קידושין and it belongs completely to the woman, so) that by forgiving this loan there is no קידושין (since forgiving a loan is not considered as if he gave her קידושין), and our case here where there was never an actual loan since the money (dates) were given as קידושין payment.

**And if you will say; since the dates came to her possession as payment, how is it considered a loan?!**

**הא אמרינן לקמן בפרק האומר (דף נט, א) האומר לאשה התקדשי לי לאחר ל' יום<sup>4</sup> -**

**For state later in פרק האומר (on the משנה that) if one says to a woman;**

**'become to me after thirty days', so comment - רב ושמואל**

**אפילו נתאכלו המעות מקודשת<sup>5</sup> אלמא לאו מלוה נינהו היכא דבתורת קידושין אתו לידה -**

**Even if the money was eaten up (she spent the money) before the thirty days**

**were over, nevertheless she is מקודשת (after the thirty days passed); it is evident**

**from this ruling that if the money came into her possession as money, it**

**is not a loan, so why here is it considered a loan.**

answers: תוספות

**ויש לומר דיש לחלק דהתם הרי הדיבור<sup>6</sup> נגמר קודם שנתאכלו<sup>7</sup> -**

**And one can say; that it is possible to differentiate between the two cases, for**

**there (by the thirty days), the saying of קידושין was completed before the money**

**was consumed (therefore the money is not considered a loan, but קידושין (כסף קידושין) -**

**אבל הכא דלא נגמרו הקידושין עד אחר מסירה אחרונה<sup>8</sup> -**

**However here (by the dates) the קידושין were not complete until the last**

**transfer<sup>9</sup> of the last date -**

**ובתוך כך אכלה הראשונה והשניה איכא למימר דמלוה הן אצלה:**

**And during that time (before the act of קידושין was completed) she ate the first**

**and second dates, in such a case we can say that the eaten dates are a loan which**

**she owes, and therefore not eligible for קידושין money.**

<sup>4</sup> The קידושין do not go into effect now, but rather only after thirty days have passed. (in the question) assumes that this is similar to our case where she received only two dates (and ate them), so the קידושין are not in effect yet.

<sup>5</sup> Just as in the case of נתאכלו המעות, she is מקודשת with the original money (even though when the קידושין become effective [after thirty days] there is no money available) because the monies were given to her קידושין (and therefore are not considered to be a loan), similarly here too, she should be מקודשת with the first dates once the קידושין become effective (when she receives all the dates) since they were given to her קידושין (so they should not be considered as if he is מקדש her with a loan). How can we distinguish between these two cases?!

<sup>6</sup> See footnote # 9

<sup>7</sup> The entire act of קידושין took place already; he said the הרי את וכו' and he gave her all the money; what is lacking is merely the effectiveness of the קידושין, but not any action, therefore the money she received is קידושין (כסף קידושין).

<sup>8</sup> The קידושין are not complete until she receives all the dates, since he said וכו' ובזו ובזו וכו'. Therefore until the קידושין are complete, anything (dates) that she receives are merely a פקדון (until the קידושין process is over), but if she ate them (before the קידושין process finished) it becomes a loan, with which he cannot be מקדש her.

<sup>9</sup> It is apparent from these words, that here (by the dates) even if the דיבור was completed (he said ובזו ובזו וכו'), nevertheless since the מעשה הקידושין were not completed (she ate the dates before she received the last one), it is considered a loan. [We will need to say that when תוס' wrote הרי הדיבור נגמר וכו', he did not mean merely the דיבור, but rather the entire מעשה הקידושין was completed (see footnote # 6 & 7). See (however) מפרשי התלמוד 116-9.]

### **Summary**

Monies which were given for קידושין and are in the woman's possession after the entire מעשה הקידושין was completed do not have to be 'there' when the קידושין become effective (the case of לי לאחר ל' יום); however monies which were received before the מעשה קידושין was completed need to be 'there' when the מעשה קידושין is completed; otherwise it is a loan (the case of the dates).

### **Thinking it over**

Does תוספות mean that in the case of לי לאחר ל', since all the money was there after the completion of the מעשה קידושין, the monies are not considered a loan and therefore there is a חלות קידושין, or that since the מעשה הקידושין was without a loan so it does not matter that the חלות הקידושין is through a loan?<sup>10</sup>

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<sup>10</sup> See נחלת משה.