

Wherefrom is there צדקה

צדקה מנין –

OVERVIEW

פסוק¹ from the משכון derives that a בע"ח acquires (ownership in) the משכון. The תורה orders the מלוה to return the משכון to the לווה when the לווה needs it (at night, etc.), and, in turn, this will be considered a צדקה for the מלוה. This proves (according to ר' יצחק) that the מלוה acquires the משכון; for if he does not acquire it and it still belongs (entirely) to the לווה, why is this considered as a צדקה for the מלוה when he is returning to the לווה the משכון which belongs to the לווה. Our תוספות questions and explains this logic.

תוספות asks:

ואם תאמר איכא צדקה ממה שיחזיר לו לשכב עליו² –

And if you will say; but there is צדקה on account that he returns the משכון so the לווה can lie on it!

תוספות answers:

ויש לומר דדייק מדכתיב (דברים כז) ושכב בשלמתו וברכך –

And one can say; that ר' יצחק infers that the קונה בע"ח is, from משכון, from that which is written previously in the same פסוק, 'and he will lie with his garment and will bless you'; this proves that the קונה בע"ח is the משכון -

ואי לא הוי קונה ליה אם כן כשמברכו העני הוי ליה רבית דברים³ –

For if the קונה בע"ח is not the משכון, it will then turn out that when the לווה blesses the מלוה it will be considered usury with words.⁴

¹ דברים (תצא) כז, יג.

² The מלוה received this משכון to secure his debt. He is entitled to hold on to it, unless the לווה pays him. The לווה did not pay him yet and still the מלוה is returning the משכון. Therefore even though the מלוה may not own it, but he certainly has a right to keep it; the fact that he is returning it should certainly be considered a צדקה. [One cannot argue that it is not considered a צדקה, since the תורה commands him to return it, for then even if he is the קונה the משכון, it should not be considered a צדקה, since the תורה commands him to do so.]

³ The לא תשיך לאחריך וגו' כל דבר אשר (דברים [תצא] כז, כ) derives from the ב"מ עה, ב in ברייתא. The אסור רבית דברים is even ישך. The ברייתא explains this to mean that if the לווה was not accustomed to greet the מלוה, he is not permitted to greet him now, for this is רבית דברים. He is greeting him to acknowledge and thank him for the loan. Similarly here the ברכה of the לווה will be considered רבית דברים if the מלוה is not קונה the משכון. See following footnote # 4.

⁴ If we assume that בע"ח קונה משכון it may be considered as if the loan was already paid with the משכון (with the qualification that the לווה has a right to redeem it), therefore there is no more loan, and when the לווה blesses the מלוה it cannot be considered רבית, since there is no more loan. However if the מלוה is not קונה the משכון (it is merely a security) then the loan is still in force and the ברכה of the לווה will be considered רבית דברים. Alternately; if the מלוה is קונה the משכון, he is then granting the לווה an object that belongs to the מלוה, and the לווה may thank him and it is not רבית דברים for he is thanking him for giving the לווה an object which

offers an alternate solution:⁵

ויש מפרשים שלא מיקרי צדקה אלא הנותן משלו כמו צדק משלך ותן לו (בבא בתרא פח, ב):
And others explain that it is not considered צדקה unless one gives from his own, as the גמרא states⁶, 'do צדק from what is yours and give it to him'. Therefore if קונה משכון בע"ה it is considered צדקה, ולך תהיה צדקה, however if he is not קונה משכון, the תורה would not have written צדקה, since he is doing a favor with something which does not belong to him.

SUMMARY

We derive that קונה משכון בע"ה from the fact that the תורה writes וברכך; if the רבית דברים would be considered ברכה, משכון קונה בע"ה would not be. Alternately, צדקה is only when it is from something that one owns.

THINKING IT OVER

1. Is מדרבנן or מדאורייתא forbidden רבית דברים?⁷
2. What is the difficulty with second answer (that it is placed second)?

belongs to the לוי. However if the לוי is not קונה משכון; it still belongs to the לוי, then the only reason the לוי blesses him is because of the loan; otherwise why would he bless him if he is returning to the לוי that which belongs to the לוי, therefore this is considered רבית דברים. See (also) footnote # 147.

⁵ The difficulty with the first answer is readily apparent. The גמרא states that we derive קונה משכון בע"ה from צדקה, ולך תהיה צדקה, and from תוספות it appears that we derive it from וברכך. In defense of the first answer it may be that the גמרא is saying if the בע"ה is not קונה משכון, how does the פסוק say that by returning the משכון, the לוי will bless and this will be considered a צדקה for you; on the contrary if you return it and the לוי will bless you, then you are causing an איסור of רבית דברים! How can that be considered צדקה? See also footnote # 146.

⁶ The גמרא in ב"ב derived (initially) from the (תצא, כה, טו) that the seller is required to give the buyer (slightly) more than the agreed upon weight. The word צדק is interpreted to mean give from what is yours. Therefore whenever the תורה uses the term (ה) צדק it is referring to a case where one gives something which belongs to him, and not merely doing a favor to someone (where it is not coming from his pocket). The latter is referred to as גמילת חסדים but not צדקה.

⁷ See footnote # 153 and onwards.