# It entered, he searched – על ובדק ולא אשכח פלוגתא דרבי מאיר ורבנן and did not find; this is a dispute between רבנן and the רבנן

#### <u>Overview</u>

The גמרא states that in a case where we saw a mouse bring גמרא into a house (that was already searched for המץ) and the owner searched for this קדם and could not find it, the ruling depends on the dispute between המץ and the ממא the ממא the ממא the ממא buried there), and this pile became intermingled with two other piles and we do not know which one is the original אמט pile. The הכמים maintain that if all three piles are thoroughly searched and nothing is found, they are all שהור (we assume that the שומאה was somehow removed by an animal). However מומאה אם שומאה status unless we can verify that the שומאה is elsewhere. It would seem that by בדיקת המץ בדיקת המץ אומאה since the house was searched and nothing was found, we assume that the mouse ate up or removed the אבריקת המץ אומאה. However according to the המץ הומץ אומאה is still in the house. The question that house; however, what is the solution to declare the house house?!

**♦** 

asks: תוספות

תימה אפילו לרבי מאיר דאמר לעולם היא בחזקת טומאה וכולי – It is astounding! Even according to ר''מ who maintains it is always presumed to be טמא, etc. -

- ונפקא מינה לטהרות שנעשו על גביו

And the outcome of this presumption of טומאה will be concerning שהרות which were performed upon this pile; (that they will all be טמא, since we cannot establish where the טומאה is), nevertheless -

הכא גבי בדיקה כיון שבדק ולא מצא מה יעשה –

Here, concerning בדיקה, since he already searched for this חמץ and did not find it, what can he do?!

− 2 אם יצריכוהו לבדוק פעם שניה נמי לא ימצא

<sup>&</sup>lt;sup>1</sup> Concerning the case of טומאה, there the ruling of ר"מ has practical ramifications; one is not permitted to place טהרות on these piles and if he does they become אט. The question poses is what practical ramification will there be if we judge this house not to be בחזקת בדוק ב. See 'Thinking it over' # 4.

<sup>&</sup>lt;sup>2</sup> We can assume that the first בדיקה was a thorough בדיקה (not a cursory one); otherwise it would not be referred to

If the הכמים will require him to search a second time he will also not find the המץ what should the ruling be here by בדיקת המץ מכסילוים?!

תוספות presents s'י" interpretation:

– דבדיקת חמץ אינו אלא מדרבנן

Since בדיקת המץ מדרבנן, therefore even ר"מ is lenient. ר"מ is only טומאה by שומאה by שומאה where it is ספק דאורייתא. ספק דאורייתא

תוספות disagrees with פירש"י:

וקשה דהא בהדיא אמר פלוגתא דרבי מאיר ורבנן - 5

And it is difficult to accept פירש"י that concerning בדיקת חמץ (in the case of על ובדק (ולא אשכח (ולא אשכח agree that בדיקה is not required, for the גמרא גמרא the בדיקה is dependent on the dispute between על בדק ולא אשכח and the מין and the על בדק ולא אשכח is dependent on the dispute between ב"בן and the רבנן; and not that there is an agreement between them. The original question remains; what should the ruling be according to "רבנן ולא אשכח ...

מוספות answers:

ויש לומר דמיירי בשלא בטלה וקאמר דלרבי מאיר לא סגי בבדיקה –

And one can say; that the case of על ובדק ולא אשכח is occurring in a situation where the owner was not אמרא (which the mouse brought in<sup>6</sup>), and the אמרא states that according to בדיקה (which turned up nothing) is insufficient -

כיון דלא אשכח והוי בספק לאו דלא ימצא וצריך לבטלו -

Since he did not find the המץ, and there is the possibility that the owner may be transgressing the אלא ימצא of אימא should not be found in your possession), and it is therefore necessary to be מבטל this המץ (which the mouse brought in) -

וסגי אפילו לרבי מאיר דלא איירי אלא בספק טומאה דאורייתא –

And the ביטול is **sufficient even according to ר"מ, for** when "stated that if it is not found we assume that it is still there, **he was only discussing a מדאורייתא** -

<sup>4</sup> Others amend this to read 'אמרינן'.

as 'ובדק'. Therefore a second בדיקה is useless. (See however מהרש"ל.)

מתות ד"ד בל 3

<sup>&</sup>lt;sup>5</sup> See 'Thinking it over' # 1.

<sup>&</sup>lt;sup>6</sup> See footnote # 13.

<sup>&</sup>lt;sup>7</sup> See 'Thinking it over # 2

## אבל הכא דבדיקת חמץ דרבנן שרי<sup>8</sup>:

However here, where the בדיקת המץ is merely מדרבנן (the איסור דאורייתא was removed through the בדוק), then it is **permitted.** The house is considered פסה for הסס.

### **SUMMARY**

According to על ובדק וכו' is where the owner performed על ובדק מחל is where the owner performed ביטול and agrees with the ruling). According to תוספות the case is where he was not מבטל and according to חוספות he must be מבטל.

### THINKING IT OVER

- 1. תוספות asks $^9$  how can רש"י maintain there is no מחלוקת here between אין and the concerning על ובדק וכו', when the גמרא states clearly פלוגתא דר"מ ורבנן. Previously in the case of מרא (which the גמרא compares to גמרא (also) states $^{10}$  that the רבנן will also agree that דיקה is not necessary. Why did not תוספות מחלוקת מחלוקת there as well; how can רש"י maintain there is no אמרא states clearly מרא ורבנן ובפלגתא דר"א ורבנן  $^{11}$ !
- 2. תוספות mentions<sup>12</sup> that according to ה"ר there is a חיוב ביטול. What is the ruling according to the ר"מ ורבנן; if they also require ביטול, then what is the לוגתא asked on "ר"ר asked on "ר"ר.
- 3. תוספות concludes that ביטול is sufficient (even) according to רוספות, since it is only a sufficient. Seemingly תוספות did not have to say this but rather that ביטול sufficient, for what else can he do!! $^{15}$
- 4. The option that, according to ר"מ (who maintains that unless otherwise proven we presume the טומאה to be there), no one is permitted to live in this house on ספה, is not discussed in תוספות. <sup>16</sup> Why?!

 $^{10}$  בד"ה וחכמים בסופו.

<sup>&</sup>lt;sup>8</sup> See 'Thinking it over' # 3.

<sup>&</sup>lt;sup>9</sup> See footnote # 5.

<sup>&</sup>lt;sup>11</sup> See מהרש"א הארוך קובץ ע"י הערה and מהרש מ"ב מ"ת מ"ב מ"ת.

<sup>&</sup>lt;sup>12</sup> See footnote # 7.

<sup>&</sup>lt;sup>13</sup> See (ובהערות לשם) מהרש"א מהרש" and מהרש"ם.  $\pi$ 

<sup>&</sup>lt;sup>14</sup> See footnote # 8.

 $<sup>^{15}</sup>$  See דבר שמואל and ח"ב אות ק.

<sup>&</sup>lt;sup>16</sup> See footnote # 1.