

לא מחייב רבי אלא ברשות היחיד מקורה –

was not unless the רה"י was covered

OVERVIEW

is only by a זרק מרה"ר לרה"ר ורה"י באמצע רבי מחייב דין of say that the רב ושמואל Otherwise רבי agrees that he is פטור because a ד' מקום is required for עקירה והנחה. Our תוספות explains how רב ושמואל derived this, since in the itself the idea of a מקורה רה"י is not mentioned at all.

נראה לרבינו שמשון בן אברהם דמשמע ליה –

It is the opinion of the רשב"א that רב ושמואל derived their דין, that לא מחייב רבי - ברייתא presented in the מחלוקת was presented in the manner in which the ברה"י מקורה

מדלא נקיט מרשות היחיד לרשות הרבים באמצע –

Since it was not presented in a situation where the object was thrown מרה"י - מרה"י לרה"י ורה"י באמצע, which is the way it should have been presented -

כמו בפלוגתא דרבי עקיבא ורבנן –

as it was presented **in the argument between ר"ע ורבנן**, which we had previously. Why do we change the situation? Therefore רב ושמואל derive that רבי would not be מחייב in a situation where it passed over a רה"ר, because he does not agree with ר"ע regarding קלוטה רבי. מחייב, only when it passes over a רה"י, where we can say that he is רה"י even though we do not maintain קלוטה. This can only be, if he threw it into a רה"י מקורה, where רבי maintains the concept דמי. ביטא כמאן דמליא דמי, so there was a proper עקירה רה"י שאינה מקורה or רה"ר in any case, i.e. in any regular ד' מקום is required for עקירה והנחה.

anticipates the following question:

והיה דגיטין פרק הזורק (דף עט,א ושם) –

And concerning that which we have learnt **in מסכת גיטין** - פרק הזורק

גבי היתה עומדת בראש הגג וזרקו לה כולי –

in the case of the משנה where the women was standing on the roof and he threw the גט to her on the roof, etc. the משנה continues that if the husband was on the roof and the woman was below in the courtyard, and he threw the גט from the roof to the courtyard, the דין is that as soon as the גט clears the airspace of the roof and enters the airspace of the courtyard, even before it lands, she is considered divorced. The גמרא there asks how she can be divorced; the גט when it entered the airspace of the חצר was not

'protected' by the walls of the חצר¹. To which the גמרא replies, that the walls of the חצר were so high that they extended above the walls of the roof, so the גט was in the 'protective' walls of the חצר as soon as it left the roof. The גמרא there continues -

וקאמר כמאן כרבי דאמר קלוטה כמי שהונחה דמי -

And states that our משנה, that says that she is divorced before the גט lands, **agrees with רבי who maintains דמי קלוטה כמי שהונחה דמי**, referring to our דין of רבי, where באמצע זרק מרה"ר לרה"ר ורה"י באמצע², and therefore she is divorced even before it actually landed².

It is apparent that the גמרא in גיטין assumes that רבי is מחייב because of קלוטה and not because of דמי, which is in contradiction to what רב ושמואל say – therefore we are forced to say that the גמרא there –

לא סברי דרב ושמואל הכא דאמרי דלא חייב רבי אלא ברשות היחיד מקורה –

does not agree with what רב ושמואל say here³ for they maintain the רבי was מחייב only in a מקורה, רה"י מקורה, and therefore we cannot apply it to the case in מסכת גיטין where it was not a מקורה.

The question arises however, according to רב ושמואל who maintain that רבי disagrees with תוספות, so why is the woman divorced even before it landed? תוספות continues:

ולדידהו צריך לשנויי דהתם משום אינטורי –

and according to רב ושמואל, it will be necessary to explain⁴ that the reason why she is divorced, is not related to, whether the גט, when it enters the airspace of the חצר, is considered as if it landed, for there is no requirement for the גט to land on the floor of the חצר, rather what is required **there**, is that the גט be under her **protective** custody, and if the walls of the חצר extend above the walls of the roof, then as soon as the גט leaves the airspace of the roof, it is immediately in her protective airspace of the חצר, and therefore she is divorced.

כדמשני התם אליבא דרבנן אפילו תימא רבנן -

As the גמרא there explains the משנה according to the רבנן, who disagree

¹ Therefore we cannot be sure that it will remain in the חצר, it may be blown away by a wind, etc.

² It would seem that the גמרא there originally held that there are two distinct requirements to be met; a) that the גט be in the protective custody of the women, that is accomplished by the extended walls of the חצר, and b) that the גט be at rest, which is accomplished by קלוטה.

³ See מרה"ר לרה"ר דרך which is מחלוקת. See תוספות גיטין ע"א ד"ה כמאן רה"י. See 'Thinking it over' # 4.

⁴ The aforementioned תוספות in גיטין (footnote # 3) maintains that we cannot say that the משנה there is according to ר"ע דסבר קלוטה, because then it would not be necessary for the courtyard walls to extend above the roof's walls. Therefore the question is according to ר' אלעזר who maintain that רבי does not maintain קלוטה, according to whom is the משנה. See 'Thinking it over' # 3.

with קלוטה, nevertheless the גמרא says that **you may say that the משנה goes even according to the רבנן** -

כי פליגי רבנן לענין שבת אבל הכא משום אינטורי כולי:

When do the רבנן argue with רבי, only **concerning שבת**, where a proper הנהגה is required **but here** by גט there is no requirement for a הנהגה, there is only a requirement that the גט be in her **protective custody**, and that condition was met, by the extended walls, therefore the רבנן agree that she is divorced.

SUMMARY:

רב ורבנן are in a case of מחלוקת between רבי and רבנן from the fact that the גמרא is in a case of זרק מרה"י לרה"י ורה"ר לרה"ר and not in a case of זרק מרה"ר לרה"ר ורה"י לרה"י, that is to emphasize that רבי is מחייב only when there is a באמצע, since then we can say דמי, in the event of a מקורה.

The גמרא in גיטין argues with רב ושמואל and assumes that רבי maintains קלוטה, even if it is not a מקורה. רב ושמואל will maintain (like the רבנן, who argue with רבי by שבת), that for a גט to be valid there is no need for it to be at rest, only that it should be in the protective custody of the woman..

THINKING IT OVER

1. What connection can be found between the רשב"א's initial statement and subsequent question?⁵
2. Why was תוספות concerned how רב ושמואל would explain the משנה in גיטין, when the גמרא there explicitly says that the משנה can be understood even according to the רבנן who argue with רבי?
3. Why did not the גמרא in גיטין say that the משנה is according to ר"ע, who maintains קלוטה?⁶
4. Why is it necessary to assume that the גמרא in גיטין argues with רב ושמואל?⁷ Perhaps ר"ע require a מקורה only by שבת where a מקום ד' is needed, but not by גיטין where a מקום ד' is not required!⁸

⁵ See שבת של מי

⁶ See Footnote # 4 and מנחת איש.

⁷ See footnote # 3.

⁸ See שפ"א.