

In a case where he lowered his hand below 3 טפחים from the ground and he received it. – כגון ששלשל ידו למטה מג' וקבלה

Overview:

There is a מחלוקת in (א,ב,א – צ,ב,א) concerning the concept of אגד meaning bound or tied. What concerns us is the concept of אגד יד. In a case where the hand and the body are in two different רשויות and, more specifically, the hand is למטה מג' in its רשות, do we say that אגד יד שמייה אגד, that the hand is bound and drawn to the body, and therefore, notwithstanding that it is למטה מג', it is not considered at rest in that רשות, or do we say אגד יד, that in this case, the hand is not considered bound to the body, but rather we consider it totally at rest in the רשות where it is למטה מג'.

and we need to say that רבי אבהו – who limits the משנה to a situation where the receiver's hand is below 3 טפחים – **maintains**

that the binding of the hand to the body is considered binding, meaning that even when one's hand is below 3 טפחים and it is therefore considered as if it is actually on the ground (and a 'ד' (מקום), however if the person's body is in a different רשות from his hand, we do not consider that person's hand totally at rest in the רשות where the hand is, rather we say that the hand is attached to the body and is drawn to the רשות of the body.

for if we were to say that רבי אבהו **does not consider** the hand **to be bound** to the body, but rather we view it as being totally at rest in the רשות where it is, there would be a difficulty;

why did the משנה **teach us previously, that only** when the עני **took** the object **from** the hand of the רה"י in the בעה"ב and withdrew it to the רה"ר, only then is the עני חייב? If we maintain that אגד יד לא שמייה אגד, it is not necessary for the עני to take the object from the בעה"ב's hand to be חייב, for –

even if the בעה"ב put the object into the עני's hand – אפילו נתן בעה"ב בתוכה **the עני should also be חייב when he withdraws** his hand from the רה"י to the רה"ר. **יהא חייב העני כשהוציא**

How can this be? The עני seemingly did not make an עקירה from the בעה"ב, rather the עני placed the object into the רה"ר, so where is the עקירה? תוספות explains:

since the situation is that the עני's hand is also below ג' טפחים from the ground. How do we know this? – כיון דיד העני מיירי נמי דהוה למטה מג'

for it is to be assumed that the יד בעל הבית ויד עני איירי בענין אחד – דמסתמא יד **as well as the עני יד are in the same position.** To ascertain their positions, let us go back to the actual case of the משנה, where the עני is חייב for הוצאה –

when the עני removed the object from יד – דהא כי נטל מתוך ידו של בעל הבית **בעה"ב**

'ג' טפחים **was below** – יד בעה"ב – **which** – דהוי למטה מג' for otherwise, if the **יד** would be **מג'** למעלה **the** **עני** would not be **חייב** for הוצאה, because there was no **עקירה** מעל גבי מקום ד'

'ג' טפחים **was obviously also below** **the יד עני** – הויא יד עני נמי למטה מג' for it would be most unusual to say that the **יד בעה"ב** was immediately below the **ג' טפחים** level and the **יד עני** that removed it from his hand was immediately above the **ג' טפחים** level. It is more natural to assume that both their hands were below the **ג' טפחים** level –

and in such an instance – **ובכהאי גוונא אפילו נותן בעה"ב לתוך יד העני יהא חייב** where the **יד עני** is below **ג' טפחים** **even if the בעה"ב** places the object **into the יד עני** and the **עני** withdraws the object to the **רה"ר**, the **עני** **will be חייב** if we hold **אגד** יד לא שמיה **אגד**, because *by definition* the **יד העני** will be considered totally at rest in the **רה"י**, and when he picks up his hand from **מג'** למטה it will be considered an **עקירה** from its resting place in the **רה"י**¹, and when he withdraws his hand from the **רה"י** to the **רה"ר** he will be **חייב** for הוצאה. Therefore we have to say that **רבי אבהו** maintains that **אגד** יד שמיה **אגד** that when the hand and the body are in two different **רשויות** the hand is not considered at rest in the **רשות** where it is, therefore we understand that if the **בעה"ב** placed the object in the **יד העני ברה"י** even if it was **מג'** למטה, but since **יד שמיה** **אגד**, the **יד העני** is not at rest in the **רה"י**, therefore when he withdraws his hand from the **רה"י** there was no **עקירה** and the **עני** is **פטור** (אבל אסור). The only time that **מג'** למטה would be considered at rest is if **גופו וידו** are in the same **רשות**.

Summary:

We must say that **רבי אבהו**, who explains that the **משנה** is in a case where the receiver received the object while his hand was below 3 **טפחים** from the ground, maintains that **אגד** יד שמיה **אגד**. For if he would hold **אגד** יד לא שמיה, then the **עיוק** for the **עני** would be, not only when the **עני** was **עוקר** the object from **יד בעה"ב**, but even when the **בעה"ב** placed the object **ביד העני** which is **למטה מג' טפחים**.

Thinking it over

1. Understand why **תוספות** proof that **אגד** יד שמיה **אגד** is only according to **רבי אבהו**.
2. Does **רבי אבהו** maintain that we need a **ברה"י**?
3. How do we reconcile the **שיטה** of **אגד** יד לא שמיה **אגד** with the **גמרא** (ג,א) that states **לא נייה**?
4. Is there any room for attempting to refute **תוספות** proof?
5. Why did not **תוספות** prove his point from the case in the **משנה** which states: **אגד** יד לא שמיה **אגד**, and if **פשט העני וכו'** או שנתן לתוכה והוציא שניהם **פטורים**, then the **עני** should be **חייב**.

¹ Compare to the **גמרא** ג,א **עקירה** גולפו **כעקירת חפץ** ממקומו **דמי**