

**For instance when he lowered his hand below three טפחים from the ground and he received it. כגון ששלשל ידו למטה מג' וקבלה –**

### **OVERVIEW**

אבהו answered that the משנה is discussing a case where the item was received (for the הנחה) within three טפחים from the ground. At that point we consider the hand as if it is resting on the ground, and therefore there is a הנחה on a מקום ד'. Our תוספות qualifies this answer that it is valid only if we maintain אגד יד שמיה אגד.<sup>1</sup>

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**וקסבר רבי אבהו דאגד יד שמיה אגד –**

**And** it is necessary to assume that רבי אבהו - who limits the משנה to a situation where the receiver's hand is below three טפחים – **maintains that the binding of the hand to the body is considered binding**, meaning that even when one's hand is below three טפחים and it is therefore considered as if it is actually on the ground (and a מקום ד'), 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.

תוספות explains how he arrived at this conclusion:

**דאי לא הוי שמיה אגד מאי איריא דנטל עני מתוכה<sup>2</sup> –**

**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 that only** when the עני **took the object from** the hand of the רה"י in the רה"ב, and withdrew it to the רה"ר, only then is the עני חייב? If we maintain that אגד יד לא שמיה אגד, it is not necessary for the עני to take the object from the רה"ב hand to be חייב, for -

**אפילו נתן בעל הבית לתוכה יהא חייב העני כשהוציא –**

**Even if the רה"ב put the object into the עני's hand, the עני should also be חייב when he withdraws** his hand from the רה"י to the רה"ר.

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<sup>1</sup> There is a מחלוקת in (א,צב – א,צא) concerning the concept of אגד, which means 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 exclusive רשות; do we say that אגד יד שמיה 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 לא שמיה אגד, 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'.

<sup>2</sup> See 'Thinking it over' # 5.

יד responds to the anticipated question: The עני seemingly did not make an עקירה from the תוספות explains: rather the בעה"ב placed the object into the יד העני; there is no עקירה?

כיון דיד העני מיירי נמי דהוה למטה מג' –

Since the situation is that the s'hand is also below ג' טפחים from the ground. – למטה מג' is יד העני we assume that we explain תוספות

דמסתמא יד בעל הבית ויד עני איירי בענין אחד –

For it is to be assumed that the יד בעה"ב as well as the יד העני are in the same position. To ascertain their positions, let us go back to the actual case of the משנה, where the עני is הוצאה for חייב –

דהא כי נטל מתוך ידו של בעל הבית דהוי למטה מג' הויא יד עני נמי למטה מג'<sup>3</sup> –

When the עני removed the object from יד בעה"ב which – the יד בעה"ב – was below חייב the עני would not be למעלה מג' otherwise, if the יד בעה"ב would be ג', טפחים for הוצאה, because there was no ד' מקום; we can therefore assume that the יד עני was obviously also below ג' טפחים –

ובכהאי גוונא אפילו נותן בעל הבית לתוך יד העני יהא חייב –

and in such an instance where the יד עני is below ג' טפחים (ויד בעה"ב) even if the יד עני places the object into the יד עני and the עני withdraws the object to the רה"ר, the יד עני will be חייב if we hold יד לא שמיה אגד, because by definition the יד עני will be considered totally at rest in the רה"י, and when he picks up his hand from למטה מג' it will be considered an עקירה from its resting place in the רה"י,<sup>4</sup> and when the עני withdraws his hand from the רה"י to the רה"ר he will be חייב for הוצאה. Therefore it is necessary to assume that רבי אבהו maintains that אגד יד שמיה אגד and when the hand and the body are in two different רשויות the hand is not considered at rest in the רשות where it is. Now we understand that if the בעה"ב placed the object in the יד העני ברה"י even if it was למטה מג', 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. The only time that למטה מג' would be considered at rest is if גופו וידו are in the same רשות.

## SUMMARY

לא שמיה אגד, then the רבי אבהו maintains that אגד יד שמיה אגד. For if he would hold יד עני would be, not only when the עני was עוקר the object from יד

<sup>3</sup> it would be most unusual to say that the יד בעה"ב was immediately below the ג' טפחים level and the יד עני which removed it from יד בעה"ב was immediately above the ג' טפחים level (especially since the משנה states שנטל מתוכה; indicating that he took to item from within the hand of the בעה"ב, which is למטה מג' [see אברהם]). It is more natural to assume that both their hands were below the ג' טפחים level

<sup>4</sup> Compare to the גמרא ג,א עקירה גופו כעקירת חפץ ממקומו דמי

למטה מג' טפחים which is ביד העני placed the object בעה"ב, but even when the בעה"ב

### **THINKING IT OVER**

1. Why is תוספות proof that אגד יד שמיה אגד, only according to רבי אבהו?
2. Does רבי אבהו maintain that we need a ד' ברה"י?
3. How do we reconcile the שיטה of אגד יד לא שמיה אגד with the (ג,א) גמרא that states <sup>5</sup>ידו לא נייה?
4. Is there any room for attempting to refute תוספות proof?<sup>6</sup>
5. Why did not תוספות prove his point<sup>7</sup> from the case in the משנה which states: פשט עני אגד יד לא שמיה אגד, and if העני וכו' או שנתן לתוכה והוציא שניהם פטורים should be חייב.<sup>8</sup>

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<sup>5</sup> See the גמרא and רש"י later on צ"ב,א (immediately preceding the משנה [and אות יז]).

<sup>6</sup> See ח' הרמב"ן (and מנחת איש).

<sup>7</sup> See footnote # 2.

<sup>8</sup> See אשי ישראל and תוה"ר.