

**התם דיבור ודיבור הוא –**

**There it is a statement following a statement.**

**OVERVIEW**

There is a dispute in our גמרא whether the גט may be reused after the בעל was מבטל the גט. ר"נ maintains that the גט may be reused. It is not clear if he maintains that the גט may be reused in all circumstances, even if the בעל specifically stated that he is being מבטל the גט itself. Or does he maintain that the גט may be reused only if it was a general ביטול and it was not sufficiently clear if he was מבטל only the שליחות or if he was מבטל the גט itself. תוספות will be discussing this issue whether the בעל has the ability to be מבטל the גט itself, so that it may not be reused.

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מתוך הלשון משמע דאפילו ביטלו בפירוש אינו מבוטל -

**From the syntax of the גמרא it would seem that even if he explicitly nullified the גט, not only the שליחות, nevertheless the גט itself is not nullified, and it may be reused.**

גמרא will now explain how this is indicated in the תוספות:

**מדקאמר התם דיבור ודיבור הוא -**

**Since the גמרא says that the reason why ר"נ maintains by קידושין that she may retract, is because there by קידושין it was a דיבור that followed a previous דיבור. Therefore the latter דיבור can nullify the former.**

**משמע דהכא לאו דיבור ודיבור הוא אלא דיבור ומעשה -**

**This indicates that here by a גט, it is not one דיבור following another דיבור but rather it is a דיבור that follows an action of writing the גט לשמה; therefore there can be no ביטול of a מעשה through דיבור (alone).**

תוספות offers an additional proof that even a specific ביטול will not be effective:

**וגם מדקאמר גט גופיה מי קא בטיל משמע דאין לו כח לבטל -**

**And additionally we may infer that the ביטול הגט is ineffective, since the גמרא states 'was he מבטל the גט itself?!' This indicates that he does not possess the ability to nullify the גט itself. If he would have the power to be מבטל the גט, then how can the גמרא claim 'גט גופיה מי קא בטיל'; he was indeed מבטל the גט for he said גט זה בטל. Therefore we are to understand the phrase 'גט גופיה מי קא בטיל' to mean 'can he be מבטל the גט!?'**

presents an opposing view:

**אבל בקידושין בריש האומר (דף נט, א) אין שם כל זה האריכות -**

**However in פרק האומר in the beginning of מסכת קידושין this lengthy answer does not appear there.** The גמרא in קידושין asks the same contradiction as here between ר"נ and ר"י and the גמרא there does not answer as we do here, 'התם דיבור, ודיבור הוא והכא וכו' גיטא גופיה מי קא בטיל' The גמרא does not mention either of the two phrases (גיטא גופיה מי קא בטיל or דיבור ודיבור הוא) which we used to prove that he cannot be מבטל the גט itself), but rather –

**וכתוב בכל הספרים נהי דבטליה מתורת שליחות מתורת גט לא בטליה -**

**It is written in the text of all the גמרות in קידושין 'granted that he annulled him from being a שליח, but he did not annul the legality of the גט'. This last phrase –**

**משמע דאם ביטלו בפירוש מודה רב נחמן דבטל -**

**Indicates that if he indeed nullified the גט specifically, then ר"נ would agree that the גט is בטל and may not be reused.<sup>1</sup>**

offers his view:

**וכן צריך לומר דגט לא חשיב מעשה כל זמן שלא הגיע ליד האשה -**

**And it is necessary to agree to this latter opinion; that one can be מבטל the גט itself for a written גט itself is not considered an accomplished deed (which would prevent a דיבור to be מבטל it) as long as it did not reach the woman's 'hand'; therefore it itself can be nullified.**

**דאי לאו הכי תיקשי לרב ששת כדפירשנו לעיל -**

**For if it is not so; but rather the writing of the גט is considered a מעשה, there will be a difficulty to רב ששת who maintains that the גט itself is בטל, as we explained previously<sup>2</sup>. If a written גט is considered a מעשה then everyone would agree that it cannot be בטל. The only way we can explain רב ששת is if we maintain that a written גט is not a מעשה.<sup>3</sup>**

anticipates that there may be additional support for this opinion, and rejects it.

**ומדקאמר בפרק ב' (לעיל יח, א) גבי נכתב ביום ונחתם בלילה -**

**And from that which the גמרא states in the second פרק concerning a גט that was written by day and signed the following night -. The משנה there**

<sup>1</sup> The phrase מתורת גט לא בטליה indicates a fact, that he was not מבטל the גט. He only intended to be מבטל the שליחות. If however he would be specifically מבטל the גט it would be בטל. The phrase גיטא גופיה מי קא בטיל, on the other hand, indicates a ruling that he cannot be מבטל the גט.

<sup>2</sup> תוספות ד"ה רב ששת.

<sup>3</sup> See 'Thinking it over # 2.

states that such a גט is פסול; however רבי שמעון maintains that it is כשר. Concerning the opinion of ר"ש the גמרא there qualifies –

**דלא הכשיר רבי שמעון מיכן עד עשרה ימים דחיישינן שמא פייס -**

**that ר"ש did not say that** such a גט is כשר if the time between the כתיבה and the חתימה extended **from now until ten days** later. In this case ר"ש would agree that the גט is פסול. The reason is **for we are concerned** that during such an extended period of time **perhaps he was appeased** –

**- פירש שמא ביטל את הגט כדפירש רבינו תם -**

**The explanation** of שמא פייס is that **perhaps he was מבטל the גט as the ר"ת explained** the meaning of 'שמא פייס'. We see that, according to the ר"ת, he can be מבטל the גט itself.

תוספות rejects this proof:

**אין ראיה כדפרישית בפרק ב' -**

**This is no proof** that he can be מבטל the גט itself, **as I explained in the second פרק<sup>4</sup>**

תוספות offers an additional rejection of this proof:

**ועוד דשמא התם דלא נחתם לא חשיב גמר מעשה -**

**And furthermore perhaps** we can say that **since the גט was not signed yet it is not considered as a completed deed** and therefore one can be ביטול הגט. However where the גט was already signed, there can be no מבטל such a גט.

## SUMMARY

There are two opposing viewpoints whether according to ר"נ the בעל has the ability to be מבטל the גט.

Those who maintain that he does not have the ability, find support from the text of our גמרא which states: a) 'התם דיבור ודיבור הוא'; this indicates that our גמרא is דיבור ומעשה and all agree that דיבור ומבטל מעשה; and b) 'גיטא' גופיה מי קא בטיל', which indicates he does not have to power to be מבטל the גט.

Those who maintain he can be מבטל the גט itself should he so desire, find proof from the גירסא in קידושין which states: 'נהי דבטליה בתורת שליחות מתורת גט'; indicating that he was not מבטל the גט, but not that he cannot be

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<sup>4</sup> See תוספות יח,ב ד"ה שמא. There תוספות explains that the meaning of הגט את הביטול is that he was מבטל the appointment of the עדים to sign the גט. The גט itself may still be valid and he may appoint other witnesses to sign it, עיי"ש.

מבטל.

The crux of the issue is whether כתיבת הגט is a מעשה or not. תוספות states that he has already proven that it is not a מעשה since ר"ש maintains אינו חוזר ומגרש בו.

The proof from שמא פייס was rejected, either because there he is only being מבטל the עדים, not the גט; or there it is not a מעשה since the גט was not signed.

### **THINKING IT OVER**

1. Would the explanation concerning the dispute between ר"נ and רב ששת, if רב ששת or not, be the same, whether we maintain that according to ר"נ he cannot be מבטל the גט at all regardless, or if we maintain that even according to ר"נ, if ביטלו בפירוש then it is בטל?

2. How is תוספות proving the opinion of ר"נ from the opinion of ר"ש?<sup>5</sup> Perhaps the dispute between ר"נ and ר"ש is whether a written גט is considered (גמר) מעשה?<sup>6</sup>

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<sup>5</sup> See footnote # 3.

<sup>6</sup> See גזלת משה.