



Pogemet Ketubatah - Complications

The *Mishnah* (9:7) teaches that if a woman is *pogemet* her *ketubah* then she must make a *shevuah* (oath) before she can collect the remainder. The next *Mishnah* explains that this case is where the woman admits that she has received a partial payment for her *ketubah*. We shall try to understand this law.

The *Bartenura* explains, citing the *Gemara*, that the obligation to make the *shevuah* is rabbinic and also applies to partially paid loans. A sign of this is that one who makes a biblically required *shevuah* usually does so to exempt themselves from payment. In this case however the woman would be collecting money after making the *shevuah*. The *Bartenura* explains that the reason from the *shevuah* is that a creditor is less aware of the amount paid than the borrower. It is possible that the entire sum was already paid. The requirement to make a *shevuah* will ensure that the creditor is more certain with his claim before demanding the remaining funds.

The *Pnei Yehoshua* notes, that from the language of our *Mishnah* it would seem that if she is unable to make a *shevuah*, then she would not be able to collect the remainder of the *ketubah*. An example of this is if there are grounds to suspect she makes false *shevuot* (*chashud*). He cites *Rashi* (*Gittin* 34b, s.v. *nimneu*) that this indeed the case.

The *Pnei Yehoshua* however explains that the *Tosfot* disagree. Another similar case in the *Mishnah* is where there is only one witness that can testify that the *ketubah* has been paid. The *Gemara* understands that since she still has her *ketubah* in hand, she would really be able to collect her *ketubah* without a *shevuah*. The *Chachamim* however require a *shevuah* to set the husband's mind at ease (considering that he has one witness). The *Gemara* continues that the husband could engineer a situation such that it would require her to make a *shevuah* required on a biblical level (see the *Gemara* for more details). *Rashi* explains that a

biblically required *shevuah* is more severe in that it is made using *Hashem's* name while hold a *kadosh* object.

The *Tosfot* however explain that the difference is that in a case of a biblical *shevuah*, where the *shevuah* is exempting payment, and the person is not able to make the *shevuah*, then the other party demanding the funds can instead make a *shevuah* to collect the funds. If however, the other party is also not able to, then the payment would need to be made. In the case of a rabbinic *shevuah*, as in our case, even if she cannot make a *shevuah* she would still be able to collect the *ketubah*.

This appears to be also debated between the *Rambam* and *Raavad*. The *Rambam* (*Toen veNitan* 2:5) rules that in a case where the person required to make the *shevuah* is a *chashud*, the other party can simply make a *shevuah* instead and exempt themselves from payment. The *Raavad* however argues that on a biblical level the person is not required to make a *shevuah* and should be able to collect the funds. How can this rabbinic requirement to make the *shevuah* invalidate the contract that is in their hand? The *Magid Mishnah* explains that the *Raavad* understands that the *Chachamim* only instituted the extra requirement where it was possible for them to make a *shevuah*, thereby preserving the biblical law. The strange result however is that a *chashud* is in a better position than one that is not *chashud*. The *Rambam* however would maintain that the requirement to make the *shevuah* takes away from the legal force of the contract.

Interesting the *Derisha* (82:11) notes that when it comes to partially paid contracts the *Tur* rules like the position of the *Raavad*, yet when it comes to our case he rules like the *Rambam*. The *Derisha* therefore differentiates between these two cases. The *Tur* is stricter in the case of the wife. Given that she was present and dealing with household matters, there is a concern that she may have retained some of the property. Consequently a *shevuah* is required to ensure the full value of the *ketubah* was not collected. Such a concern however is not present in a case of a partially paid loan.

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Revision Questions

כתובות ט' ד' – י"א ב'

- If a wife is placed in charge of components of a business can the husband demand a *shvuah* from her (as in normal business partnerships)? (ט' ד')
- What is the impact of the following statements made by a husband prior to marriage: (ט' ה')
 - "נדר ושבועה אין לי עליך"
 - "נדר ושבועה אין לי עליך ועל יורשיך הבאים ברשותיך"
 - "נדר ושבועה אין לי ולא ירושי ולא לבאים ברשותי עליך ועל יורשיך הבאים ברשותיך"
- If the widow is made custodian of her late husband's property, can the *yorshim* demand a *shvuah* from her? (ט' ו')
- In which five cases must a widow vow prior to collecting her *ketubah*? (ט' ז')
- Explain the following cases: (ט' ח')
 - *Pogemet ketubah*.
 - Claiming a *ketubah* from *nechasim meshubadim*.
 - Claiming a *ketubah shelo befanav*.
- Can a lender claim money from the borrower if his has the loan contract, but claims he lost the *pruzbul*? (ט' ט')
- What can a woman collect if she presents the following: (ט' י')
 - Two *ketubot* and two *gittin*?
 - Two *ketubot* and one *get* – with the *ketubot* dated before the *get*?
 - One *ketubah* and two *gittin*?
- If a man married two women, when is the *ketubah* of the first wife collected first and when is the *ketubah* of the second wife collected first? (י' א')
- In a case where a man had two wives, and he and his wives die, how is the *yerusha* divided if: (י' ב')
 - The value of the estate is equal to the value of the two *ketubot*.
 - The value of the estate is slightly more than the value of the two *ketubot*.
- Regarding the previous question, what are the two opinions regarding how the estate is valued? (י' ג')
- If a man has three wives, one with a *ketubah* 100 *dinar*, another with a *ketubah* of 200 *dinar* and another with a *ketubah* of 300 *dinar* – how is the property divided if: (י' ד')
 - The estate is valued at 100 *dinar*?
 - The estate is valued at 200 *dinar*?
 - The estate is valued at 300 *dinar*?
- What is the order of *ketubah* collection in a case where there are four wives? (י' ה')
- According to the *Tana Kama* what is different about the way the final wife collects her *ketubah*? (י' ו')
- What is the law in a case where the first of two wives writes "*din u'dvarim ein li imach*" to the purchaser of her husband's field? (י' ז')
- With respect to an *almanah* are the *yorshim* required to: (י"א א')
 - Support her?
 - Bury her?
- According to *R' Shimon* what is the difference between the manner in which a widow sells property to collect her *ketubah* if she is widowed from *eirusin* and if she is widowed from *nisuin*? (י"א ב')

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
11 February ב' אדר	12 February ג' אדר	13 February ד' אדר	14 February ה' אדר	15 February ו' אדר	16 February ז' אדר	17 February ח' אדר
Ketubot 11:3-4	Ketubot 11:5-6	Ketubot 12:1-2	Ketubot 12:3-4	Ketubot 13:1-2	Ketubot 13:3-4	Ketubot 13:5-6

